

TEMPORARY ORDINANCE NO. 1-18

PERMANENT ORDINANCE NO. _____

AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF LANCASTER, OHIO, AND TO DECLARE AN EMERGENCY

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

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Lancaster, State of Ohio.

SECTION 1. That the editing, arrangement and numbering of those ordinances and resolutions enacted by Council from December 31, 2016 through December 31, 2017 as listed in the Comparative Section Table, are hereby approved and adopted as printed in the 2017 Replacement Pages to the Codified Ordinances so as to achieve uniformity of style and classification. A copy of such Replacement Pages is attached to this ordinance and incorporated as a part hereof.

SECTION 2. That the following sections of the Traffic and General Offenses Codes, as amended, are hereby approved and adopted as amended or enacted so as to conform to enactments of the Ohio General Assembly:

Traffic Code

- 303.04 Road Workers, Motor Vehicles and Equipment Excepted. (Amended)
- 313.09 Driver's Duties Upon Approaching Ambiguous Traffic Signal. (Amended)
- 331.03 Overtaking, Passing to Left; Driver's Duties. (Amended)
- 333.01 Driving Under the Influence. (Amended)
- 335.09 Display of License Plates. (Amended)
- 351.07 Unattended Vehicles: Duties. (Amended)

General Offenses Code

- 501.01 General Definitions. (Amended)
- 513.09 Controlled Substance or Prescription Labels. (Amended)
- 525.05 Failure to Report a Crime, Injury or Knowledge of Death. (Amended)
- 529.07 Open Container Prohibited. (Amended)
- 529.08 Hours of Sale or Consumption. (Amended)
- 537.15 Temporary Protection Order. (Amended)
- 537.18 Contributing to Child Delinquency. (Amended)
- 541.02 Arson. (Amended)
- 549.01 Weapons Definitions. (Amended)
- 549.02 Carrying Concealed Weapons. (Amended)
- 549.04 Improperly Handling a Firearm in a Motor Vehicle. (Amended)

SECTION 3: That the complete text of the sections listed above are set forth in full in the current replacement pages to the Codified Ordinances which are hereby attached to this ordinance as Exhibit A. The listing above of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

SECTION 4: That this ordinance is hereby declared to be an emergency measure necessary for the 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.

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

Approved: _____

President of Council

Clerk: _____

Mayor

Offered by: _____

Second by: _____

Requested by Council of the Whole

I, Teresa Lee Sandy, Clerk of Council do hereby certify that on _____, 2018 in the Lancaster Eagle Gazette published the summary of this ordinance in accordance with Ohio Revised Code 731.24.

Clerk of Council

**INSTRUCTIONS FOR INSERTING
2017 REPLACEMENT PAGES**

**FOR THE
CODIFIED ORDINANCES OF LANCASTER**

All new replacement pages bear the footnote "2017 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

Discard Old Pages	Insert New Pages
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Discard Old Pages

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CERTIFICATION

We, David Scheffler, Mayor, and Teresa Sandy, Council Clerk, of Lancaster, Ohio, pursuant to Ohio Revised Code Sections 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of Lancaster, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of Lancaster, Ohio, 1967, as amended to December 31, 2017.

/s/ David Scheffler
Mayor

/s/ Teresa Sandy
Council Clerk

**CODIFIED
ORDINANCES
OF THE
CITY OF
LANCASTER
OHIO**

Codified, edited and prepared for
publication by
THE WALTER H. DRANE COMPANY
Cleveland, Ohio

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Complete to December 31, 2017

2017 Replacement

LANCASTER, OHIO
ROSTER OF OFFICIALS

(2017)

COUNCIL

Robert Hedges
David A. Uhl
Jon Hale
John Baus
Melody Bobbitt
Mike Fracassa
Randy Groff
Thomas Stoughton
Harry Hiles
Becky Tener
Teresa L. Sandy

President
At Large
At Large
At Large
First Ward
Second Ward
Third Ward
Fourth Ward
Fifth Ward
Sixth Ward
Clerk

OFFICIALS

David Scheffler
Patricia Nettles
Randall T. Ullom
Robert Wolfinger
Paul Martin
Brad Fagrell
David Ward
James Fields
David Landefeld

Mayor
Auditor
Law Director
Treasurer
Service-Safety Director
City Engineer
Police Chief
Fire Chief
Municipal Court Judge
Municipal Court Judge

2017 Replacement

The publisher
expresses his appreciation
to

RANDALL T. ULLOM
Law Director

who gave his
able assistance, cooperation and counsel
to this Codification

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COMPARATIVE SECTION TABLE

Ord. No.	Date	C.O. Section	Ord. No.	Date	C.O. Section
1-17	5-22-17	182.013			
11-17	4-10-17	1303.01(a), 1525.02			
12-17	4-10-17	1303.01(b)			
13-17	4-10-17	1303.01(e)			
14-17	4-10-17	1303.01(g)			
15-17	4-10-17	1303.01(d)			
18-17	5-8-17	911.07(2)			
19-17	5-8-17	1327.01 to 1327.24, 1327.99			
22-17	6-26-17	1101.02			
27-17	9-11-17	131.07			
28-17	9-11-17	1123.01 to 1123.21, 1125.01			
		1133.01 to 1133.05, 1139.01			
		to 1139.05, 1153.01 to 1153.09, 1161.01			
38-17	12-11-17	Repeals 145.01 to 145.17, 145.19 to 145.24			
40-17	12-11-17	111.06.1			
41-17	12-11-17	1327.04			

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TABLES OF SPECIAL ORDINANCES

Ord. No.	Date	Description
12-14	8-11-14	Accepts an easement from Retriev Technologies, Inc, necessary for the construction of a sanitary sewer.
13-14	8-25-14	Accepts an easement from the Lancaster City School District Board of Education, necessary for the construction of gas and water lines.
17-14	10-6-14	Vacates a portion of public utility easement right-of-way on the Rock Mill Corporate Park.
19-14	12-8-14	Accepts an easement necessary for the construction fo a sanitary sewer from the Lancaster City School District Board of Education.
20-14	12-8-14	Accepts an easement necessary for the construction of a storm sewer from the Lancaster City School District Board of Education.
21-14	12-8-14	Accepts an easement necessary for the construction of a sanitary sewer from Renkas Properties, LLC.
22-14	12-8-14	Accepts an easement necessary for the construction of sanitary sewer from Lancaster Motor Speedway Inc.
9-15	6-22-15	Vacates a portion of a public gas utility easement right of way.
15-15	11-9-15	Authorizing an access easement to AEP.
27-15	12-7-15	Accepts ingress and egress easement through Parcel No. 0333800500 from Fairfield County Land Reutilization Corporation in Section 30, Township 1, Range 18.
19-16	5-9-16	Accepts easements necessary for the construction of the CSO 1014 sanitary sewer project.
21-16	6-27-16	Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a sanitary sewer line and appurtenances.
26-16	9-26-16	Accepts an easement necessary for the construction of a gas line.
27-16	10-10-16	Accepts an easement necessary for access to a pump station and vacate an existing easement.
39-16	12-12-16	Grants an easement necessary for the installation of a pipeline by Columbia Gas Transmission.
5-17	2-13-17	Grants an easement necessary for the provision of electric services by Ohio Power Company, a unit of American Electric Power.
9-17	3-27-17	Accepts an easement necessary for a sanitary sewer constructed by the developer of the Moo Moo Car Wash to serve a 4.334 acres property at the northwest corner of Pierce Avenue and River Valley Boulevard.
16-17	4-10-17	Approves an easement for H & W Investment Properties LLC nka The Mithoff Companies, Ltd.
17-17	4-10-17	Grants a temporary easement to Columbia Gas Transmission, LLC for temporary work space and/or a temporary road access easement to perform service on their gas line B105 as part of the B-Systems Modernization Project from Lancaster to Columbus.
23-17	7-17-17	Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a gas line and appurtenances.
25-17	9-11-17	Accepts an easement necessary to construct, maintain, operate, tap into, replace or remove one or more municipal gas lines.

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TABLE B - EASEMENTS (Cont.)

TABLE C - VACATING STREETS AND ALLEYS (Cont.)

Ord. No.	Date	Description
26-17	9-11-17	Accepts an access easement necessary for use as a vehicle turnaround.
32-17	11-13-17	Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a gas line and appurtenances.
33-17	11-13-17	Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a gas line and appurtenances.

Ord. No.	Date	Description
26-00	9-25-00	Vacates a 15 foot wide public alley right of way dedicated in the Daugherty's Addition and known as Mercury Drive.
14-02	5-13-02	Vacates part of a twelve-foot public alley right of way dedicated on the Thomas Ewing 1st Addition Plat.
49-03	11-24-03	Vacates the unimproved portion of a 25 foot public alley right of way abutting Lots 6, 7, 8, 36, 37 and 38 of the Colonial Heights Addition.
4-04	1-25-04	Vacates a portion of the Pershing Drive right-of-way.
58-05	9-12-05	Vacates part of the unimproved portion of Lane Street as dedicated to the public on the Floyd E. Terry's Meadowview Addition Revised Plat.
90-05	12-19-05	Vacates part of the unimproved portion of Chestnut Street as dedicated to the public on the Brooks Addition Plat.
91-05	12-19-05	Vacates part of the unimproved portion of an alley as dedicated to the public on the Brooks Addition Plat.
2-07	2-12-07	Vacates part of the Graf St. public right of way as dedicated on the Avondale Addition and the W. F. Wacker's Skyline View Addition plats.
44-07	9-24-07	Vacates the northern portion of Harmon Avenue.
45-07	9-24-07	Vacates a 14 foot wide alley to the east of Harmon Avenue and south of Lot 12 of the Charles W. and Rena Good Addition.
7-09	4-13-09	Vacates the eastern portion of West Main St.
32-09	12-14-09	Vacates portion of 15 foot wide alley running east to west between Lot 60 of Wm. Coe's Seventh Addition and Lot 3 of DeLancy's Edgemont Sub-Division.
18-11	11-28-11	Vacates the right-of-way of a 15 foot public alley in the Rising Park Addition.
13-13	8-26-13	Vacates the unimproved public right-of-way dedicated on the Colonial Heights Addition Plat.
24-17	7-17-17	Vacates a portion of unimproved public alley known as Zane Alley.

TABLE D - DEDICATION OF PROPERTY (Cont.)

Ord. No.	Date	Description
49-05	6-27-05	Accepts the final plat for West View Heights Addition No. 3.
50-05	7-18-05	Accepts the final plat for the Overlook Section 1.
54-05	8-22-05	Accepts the final plat for Misty Meadows Section 3.
57-05	8-22-05	Dedicates property described in Exhibit A for public alley way and utility purposes.
71-05	11-14-05	Accepts the final plat for River Valley Highland Section 12, Phase 1.
14-06	4-10-06	Accepts the final plat for the Woods Section 1.
29-06	8-14-06	Accepts the final development plan for Primrose of Lancaster.
31-06	8-14-06	Accepts the final plat for Ewing Run Estates Phase 2A.
33-06	8-28-06	Accepts the final plat for Ety Pointe Centre.
40-06	9-11-06	Accepts the final plat for Ety Pointe Centre North.
47-06	11-27-06	Accepts the dedication plat for Countryside Drive.
27-07	4-23-07	Accepts the final plat for Creekside Phase 3.
28-07	4-23-07	Amends the final plat for Ety Pointe Centre.
30-08	9-8-08	Accepts the revisions to the Lancaster Industrial Park final plat.
15-09	9-14-09	Accepts final plat for River Valley Highlands Section 12 Phase 2A.
6-10	4-12-10	Restores the right of one direct access driveway onto West Fair Avenue from Reserve D of the Overlook Section 1 Development.
9-10	6-28-10	Accepts the final plat for the Election House Road relocation.
23-12	12-10-12	Accepts the final plat for River Valley Highlands Section 12 Phase 2B.
24-12	12-10-12	Accepts the final plat for River Valley Highlands Section 12 Phase 3A.
11-13	4-8-13	Amends the approved Planned Unit Development Plan for an undeveloped 17 acre +/- tract in Hunter Trace Estates lying north of the Northern Termini of Trace Drive and Linda Lane, to allow for the construction of a school.
10-14	6-23-14	Accepts the final plat for River Valley Highlands Sections 13 Phase 1.
10-15	7-13-15	Accepts the final plat for River Valley Highlands Section 13 Phase 2.
13-16	4-11-16	Accepts the final plat for River Valley Highlands Section 13 Phase 3.
24-16	9-26-16	Accepts the final development plan for the Primrose Memory Care Facility.
3-17	1-9-17	Accepts the final plat for Ewing Street Business Park.
20-17	6-12-17	Accepts a permanent right-of-way on Sheridan Drive for the turn lane widening and sidewalk project in front of Medill Elementary.

TABLE F - PURCHASE OF PROPERTY FOR CITY USE (Cont.)

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

TABLE E - PURCHASE OF PROPERTY FOR CITY USE (Cont.)

Ord. No.	Date	Description
24-86	6-23-86	Appropriation for roadway purposes along Pierce Ave. and State Route 33 in River Valley project area.
01-87	1-26-87	Accepts gift of land from Raymond L. Cramblit.
31-87	9-14-87	Accepts gift of land for right-of-way purposes on Sells Rd. from Raymond L. and Stephanie Jo Cramblit.
17-91	4-8-91	Appropriation for detention of impounded waters from the Tarhe Dam.
18-92	6-8-92	Appropriation of permanent easement and right-of-way interests for levee and fill behind levee at Tarhe Dam.
38-98	6-15-98	Authorizes the Community Development Department to purchase property at 113 West Walnut St.
3-03	2-10-03	Authorizes purchase of 4,997 acres located at 815 Lawrence St. for \$1.00.
48-03	10-27-03	Purchase of 16.69 acres located at 403 South Ewing St. for \$1.00.
68-03	12-22-03	Purchase of 1.494 acres located at 403 South Ewing St. for \$1.00.
56-04	10-4-04	Purchase of two parcels totaling 25 acres for \$1,000,000.
60-04	10-18-04	Authorizes the purchase of 10 City lots to obtain a safe crossing point across Fair Ave. at Thomas Ewing Jr. High.
52-05	7-18-05	Authorizes the appropriation of fee simple interests in certain real property for the purpose of environmental conservation and revitalization.
75-05	11-28-05	Purchase of a 0.0052 acre parcel on West Fair Ave. for \$3,000.
28-06	7-17-06	Authorizes the purchase of 698 Lawrence St. from Wardman Investment Properties, Ltd.
60-07	12-17-07	Accepts quit claim deeds for public street right-of-way and public utility purposes for the property described in Exhibits A-1, A-2, B-1 and B-2.
26-13	12-3-13	Authorizes the Service-Safety Director to accept five (5) acres, more or less, of property situated in Section 28, Township 14 North, Range 18 from Berne Township.
6-14	4-14-14	Authorizes the Service-Safety Director to accept 0.678 acres, more or less, of property situated in Fairfield City Zane's Original Town Plat, Seventh Square, Plat Book 1, Page 2.
26-15	12-7-15	Authorizes the Service-Safety Director to accept 2.164 acres, more or less, from the Fairfield County Board of Commissioners situated in Section 30, Township 15, Range 18 of Parcel No. 0533181100 and known as the Infirmity Cemetery.
39-17	12-11-17	Authorizes the Service-Safety Director to accept approximately 26 acres, more or less, of property situated in Sections 27 and 34, Township 15 North, Range 19 West, Greenfield Township, Fairfield County, from the Fairfield County Land Reutilization Corporation.

TABLE I - ZONING MAP CHANGES (Cont.)

Ord. No.	Date	Description
11-11	9-26-11	The 10.246 +/- acres known as the Olivedale Annexation zoned Commercial Neighborhood, the same as the other Olivedale property.
11-15	8-24-15	Amends the Zoning Map subject to passage of the annexation of 3.284 acres in Greenfield Township to zone such property Commercial General (CG).
20-15	11-23-15	Amends the Zoning Map subject to the passage of the annexation of 0.838 acres in Pleasant Township.
21-15	11-23-15	Amends the Zoning Map subject to the passage of the annexation of 5.633 acres in Pleasant Township.
2-17	1-9-17	184.264 acres on the west side of Whitley Road and north of Royalton Road from CH High Intensity Commercial, RM-3 Residential Multifamily and RS-3 Single Family Residential to CH High Intensity Commercial, IH Heavy Industrial and RS-3 Single Family Residential.

111.04 QUORUM.

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

111.05 PERMISSION TO LEAVE CHAMBER.

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

111.06 PRESIDENT PRO TEMPORE AND CLERK OF COUNCIL.

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

111.06.1 STANDING COMMITTEES AND BOARDS AND COMMISSIONS.

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

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

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

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111.07 ORDER OF BUSINESS.

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

- (a) Prayer
- (b) Call to Order
- (c) Pledge of Allegiance
- (d) Roll Call
- (e) Reading and disposing of the Journal
- (f) Reports of City Officials
- (g) Reading of Communications
- (h) Reading of Petitions and Memorials
- (i) Permission of voters and taxpayers to address Council
- (j) Report of Standing Committees
- (k) Reports of Special Committees
- (l) Scheduled Public Hearings
- (m) Resolutions
- (n) Ordinances
- (o) Unfinished Business and formal presentations of information
- (p) New Business
- (q) Announcement of Scheduled Meetings
- (r) Reading of Bills
- (s) Adjournment
(Ord. 14-16. Passed 4-4-16.)

111.08 EXCEPTION TO ORDER OF BUSINESS.

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

111.09 COMMITTEE OR OFFICIAL'S REPORTS.

Any subject matter having been referred to any committee of Council or City officer shall be reported upon, in writing, by such committee or officer, and at least a majority of each and any committee to which a subject has been referred shall report thereon. Such report shall, in every instance be accompanied by the original papers upon which such report is based and be signed by such members thereof as concur therein, and the same shall be read by the Clerk, or at the Clerk's desk by the member making the report, without motion.
(Ord. 14-16. Passed 4-4-16.)

111.10 SPEAKING.

In all cases the member who shall first rise and address the chair shall speak first. However, when two or more members shall rise at once, the President shall name the member who is first to speak. No member shall be allowed to speak except from his/her own desk. No member shall speak more than twice on the same subject, nor longer than five minutes without leave, and no member shall speak more than once on the same motion until every member desiring to speak on that motion shall have had an opportunity to do so. Any member, while discussing a question, may read from books, papers or documents, any matter pertinent to the subject under consideration without asking leave.
(Ord. 14-16. Passed 4-4-16.)

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CHAPTER 131
Police Department

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

- 131.05 Appointee age limitation waiver.
- 131.06 Reserve Police Unit.
- 131.06.1 Volunteer Peace Officers' Dependents Fund.
- 131.07 Donation of unclaimed property.

CROSS REFERENCES

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

131.01 FEE FOR COPIES OF RECORDS.

- (a) There is hereby established the following fees for making and furnishing photo copies, photographs and audio tapes of Police Department records:
- (1) Photographs. Three dollars (\$3.00) for each copy (both sides) of traffic accident and other records of the Police Department.
 - (2) Photographs. Four dollars (\$4.00) for each photograph, eight by ten inches or smaller, of traffic accident and other records of the Police Department.
 - (3) Audio tapes. Three dollars (\$3.00) for each audio tape, sixty minutes maximum, both sides.

(b) In addition to the above-described fees, if a request requires a search of records to obtain the requested information, and the search requires more than fifteen minutes to complete, a fee shall also be charged for such search time at the rate of ten dollars (\$10.00) per hour, prorated to actual search time.

(c) All fees collected in accordance with the provisions of this section shall be credited to the General Fund of the City.
 (Ord. 12-16. Passed 3-28-16.)

131.02 GASOLINE ALLOWANCE FOR POLICE CHIEF.

There is hereby established a gasoline allowance of forty gallons per month for the Chief of Police for use of his private motor vehicle for police purposes.
 (Ord. 12-16. Passed 3-28-16.)

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

(a) Effective 12:01 a.m. December 24, 1984, the City of Lancaster shall, as a fringe benefit for each employee of the Police Department, pay an amount equivalent to two and one-half percent (2.5%) of his/her compensation to the Police and Firemen's Disability and Pension Fund. Such payment is to be designated as a portion of each employee's statutorily required contributions to the Police and Firemen's Disability and Pension Fund and is to be paid by the City in lieu of contributions by each employee of the Police Department.

(b) In addition to the payment described in subsection (a) hereof, effective 12:01 a.m. December 24, 1984, an amount equivalent to six percent (6%) of the compensation of each employee of the Police Department shall be withheld from his/her gross pay and shall be assumed by the City and shall be paid to the Police and Firemen's Disability and Pension Fund. Such payment is to be designated as a portion of each employee's statutorily required contributions to the Police and Firemen's Disability and Pension Fund and is to be paid by the City in lieu of contributions by each employee of the Police Department.

(c) No person subject to the pick-up enacted by this section shall have the option of choosing to receive the statutorily required contributions to the Police and Firemen's Disability and Pension Fund directly instead of having them picked-up by the City.

(d) The above-described pick-up by the City commencing December 24, 1984, is and shall be designated as employee contributions and shall be paid by the City in lieu of contributions to the Police and Firemen's Disability and Pension Fund by each employee of the Police Department.

(e) The City Auditor is hereby directed, in reporting contributions and making remittance to the Police and Firemen's Disability and Pension Fund, to implement all procedures necessary in the administration of the pay of all employees of the Police Department to effect the above-described pick-up of the statutorily required contributions to the Police and Firemen's Disability and Pension Fund so as to enable them to obtain the resulting Federal and State tax deferrals and other attendant benefits.
 (Ord. 12-16. Passed 3-28-16.)

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

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

- (1) The name and address of each board member and who elected the member;
- (2) The names of the chairperson and secretary;
- (3) A certificate indicating the current assessed property valuation of the City of Lancaster.

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

(h) The legislative authority shall provide sufficient meeting space and supplies for the board to carry out its duties and provide monetary contributions to the Fund as directed by Ohio Revised Code Chapter 143.
(Ord. 12-16, Passed 3-28-16.)

131.07 DONATION OF UNCLAIMED PROPERTY.

Council hereby authorizes the Chief of Police to donate or contribute property in the possession of the Police Department, that remains unclaimed for ninety (90) days or more, to one or more public agencies and/or nonprofit organizations pursuant to Ohio R.C. 737.32.
(Ord. 27-17, Passed 9-11-17.)

CHAPTER 145 Employees Generally

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

145.01 Withholding of contributions to PERS by elected officials.

CROSS REFERENCES

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

145.01 WITHHOLDING OF CONTRIBUTIONS TO PERS BY ELECTED OFFICIALS.

- (a) Effective 12-01 a.m. January 1, 1985, the full amount of the statutorily required contributions to the Public Employees Retirement System of Ohio shall be paid by elected officials and withheld from the gross pay of each elected official of the City of Lancaster.
- (b) The above-described withholding by the City commencing January 1, 1985, is and shall be designated as public employee contributions and such contributions made by each elected official of the City shall be paid into the fund by the City.
- (c) No person subject to this withholding shall have the option of choosing to receive the statutorily required contributions to the Public Employees Retirement System of Ohio directly instead of having them paid to the system by the City.
- (d) The City Auditor is hereby directed, in reporting contributions and making remittance to the Public Employees Retirement System of Ohio, to implement all procedures necessary in the administration of the pay of all elected officials of the City to effect the above-described withholding of the statutorily required contributions to the Public Employees Retirement System of Ohio so as to enable them to obtain the resulting Federal and State tax deferrals and other attendant benefits. (Ord. 2-01. Passed 2-12-01.)

EDITOR'S NOTE: The next printed page is page 73.

182.013 ALLOCATION OF FUNDS.

- (A) To provide funds for the purposes of operating, maintaining, repairing and providing capital facilities for municipal park and recreational activities and facilities, there shall be and is hereby levied an annual tax, in addition to the tax levied by Section 182.011, and any other section imposing a tax on earnings and income, for the period January 1, 2018 through December 31, 2022 upon those classes of earnings and income set forth in Section 182.011 at the rate of one and one-half tenths of one percent (0.15%). (Ord. 1-17. Passed 5-22-17.)
- (B) Of the total imposed tax of 1.6%, forty-five hundredths of one percent (0.45%) is to provide funds for the purpose of operating, maintaining, repairing and providing capital facilities for the Fire and Police Departments of the City.
- (C) To provide funds for the purpose of providing fire services within the City and acquiring equipment for such services and paying principal and interest on securities issued and public obligations incurred to finance such equipment, there is levied an additional tax of one and one-half tenths of one percent (.15%) upon those classes of salaries, wages, commissions, net profits and other compensation set forth in Section 182.011 effective July 1, 2005.
- (D) For the period beginning July 1, 2005, and continuing thereafter, the balance of those funds shall be used for the following purposes and in the respective percentages:

General Fund 96%
 Parks Bond Retirement Fund 1%
 Cemetery Fund 1%
 Law Enforcement Building Fund 2%
 (Ord. 17-15. Passed 11-23-15.)

182.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX.

- (A) Significant and wide-ranging amendments to ORC 718 were enacted by Am. Sub HB 5, passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.
- (B) As mandated by H.B. 5, municipal income tax Temporary Ordinance No. 22-15 and Permanent Ordinance 17-15, effective January 1, 2016, comprehensively amends Chapter 181 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality. (Ord. 17-15. Passed 11-23-15.)
- 182.02 EFFECTIVE DATE.**
- (A) Temporary Ordinance No. 22-15 and Permanent Ordinance 17-15, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 182 apply to taxable years beginning 2016 and succeeding taxable years.
- (B) Temporary Ordinance No. 22-15 and Permanent Ordinance 17-15 does not repeal the existing sections of Chapter 181 for any taxable year prior to 2016, but rather amends Chapter 181 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016. (Ord. 17-15. Passed 11-23-15.)

182.03 DEFINITIONS.

Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

For purposes of this Section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

As used in this chapter:

(1) "ADJUSTED FEDERAL TAXABLE INCOME" for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(D) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

(A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.

(B) Add an amount equal to five per cent of intangible income deducted under division (1)(A) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;

(C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(D) (i) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(ii) Division (1)(D)(i) of this section does not apply to the extent the federal taxable income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

(E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;

(F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

(G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;

303.04 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.

(a) The provisions of this Traffic Code do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic control devices, but apply to such persons and vehicles when traveling to or from such work.

(b) The driver of a highway maintenance vehicle owned by this state or any political subdivision of this state, while the driver is engaged in the performance of official duties upon a street or highway, provided the highway maintenance vehicle is equipped with flashing lights and such other markings as are required by law, and such lights are in operation when the driver and vehicle are so engaged, shall be exempt from criminal prosecution for violations of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 and Ohio R.C. 4511.66 and 5577.01 to 5577.09.

(c) (1) This section does not exempt a driver of a highway maintenance vehicle from civil liability arising from a violation of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 or Ohio R.C. 4511.66 or 5577.01 to 5577.09.

(2) This section does not exempt a driver of a vehicle who is not a state employee and who is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Ohio R.C. 5577.01 to 5577.09.

(d) As used in this section, "engaged in the performance of official duties" includes driving a highway maintenance vehicle to and from the manufacturer or vehicle maintenance provider and transporting a highway maintenance vehicle, equipment, or materials to and from a work location. (ORC 4511.04)

303.041 EMERGENCY, PUBLIC SAFETY AND CORONER'S VEHICLES EXEMPT.

(a) Ohio R.C. 4511.12, 4511.13, 4511.131, 4511.132, 4511.14, 4511.202, 4511.21, 4511.211, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.441, 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; 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. (ORC 4511.051)

303.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.

The provisions of this Traffic Code applicable to the drivers of vehicles shall apply to the drivers of all vehicles owned or operated by the United States, any state or any political subdivision thereof, including this Municipality, except as may be otherwise provided by law and subject to such specific exceptions as are set forth with reference to authorized emergency and public safety vehicles.

303.08 IMPOUNDING OF VEHICLES; REDEMPTION.

- (a) Police officers are authorized to provide for the removal of a vehicle under the following circumstances:
- (1) When any vehicle is left unattended upon any street, bridge or causeway and is so illegally parked so as to constitute a hazard or obstruction to the normal movement of traffic, or so as to unreasonably interfere with street cleaning or snow removal operations.

- (2) Except as otherwise provided in this subsection, whoever violates subsection (a)(2) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the third degree. (ORC 4511.17)

313.09 DRIVER'S DUTIES UPON APPROACHING AMBIGUOUS OR NON-WORKING TRAFFIC SIGNAL.

- (a) The driver of a vehicle who approaches an intersection where traffic is controlled by traffic control signals shall do all of the following, if the signal facing the driver exhibits no colored lights, or colored lighted arrows, exhibits a combination of such lights or arrows that fails to clearly indicate the assignment of right of way, or if the vehicle is a bicycle, the signals are otherwise malfunctioning, due to the failure of a vehicle detector to detect the presence of the 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. (ORC 4511.132)

313.10 UNLAWFUL PURCHASE, POSSESSION OR SALE.

- (a) As used in this section, "traffic control device" means any sign, traffic control signal or other device conforming to and placed or erected in accordance with the manual adopted under Ohio R.C. 4511.09 by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic, including signs denoting the names of streets and highways, but does not mean any pavement marking.
- (b) No individual shall buy or otherwise possess or sell, a traffic control device, except when one of the following applies:
- (1) In the course of the individual's employment by the State or a local authority for the express or implied purpose of manufacturing, providing, erecting, moving or removing such a traffic control device;
 - (2) In the course of the individual's employment by any manufacturer of traffic control devices other than a State or local authority.

- (3) For the purpose of demonstrating the design and function of a traffic control device to State or local officials;
- (4) When the traffic control device has been purchased from the State or a local authority at a sale of property that is no longer needed or is unfit for use;
- (5) The traffic control device has been properly purchased from a manufacturer for use on private property and the person possessing the device has a sales receipt for the device or other acknowledgment of sale issued by the manufacturer.

(c) This section does not preclude, and shall not be construed as precluding, prosecution for theft in violation of Ohio R.C. 2913.02 or a municipal ordinance relating to theft, or for receiving stolen property in violation of Ohio R.C. 2913.51 or a municipal ordinance relating to receiving stolen property.

(d) Whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.18)

313.11 PORTABLE SIGNAL PREEMPTION DEVICES PROHIBITED.

- (a) (1) No person shall possess a portable signal preemption device.
 (2) No person shall use a portable signal preemption device to affect the operation of a traffic control signal.
- (b) Subsection (a)(1) of this section does not apply to any of the following persons and subsection (a)(2) of this section does not apply to any of the following persons when responding to an emergency call:
 (1) A peace officer, as defined in Ohio R.C. 109.71(A)(11), (12), (14) or (19);
 (2) A State highway patrol trooper;
 (3) A person while occupying a public safety vehicle as defined in Ohio R.C. 4511.01(E)(1), (3) or (4).

(c) Whoever violates subsection (a)(1) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the first degree.

(d) As used in this section, "portable signal preemption device" means a device that, if activated by a person, is capable of changing a traffic control signal to green out of sequence. (ORC 4513.031)

(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic control devices designating certain lanes to the left of the center of the roadway for use by traffic not otherwise permitted to use the lanes, or except as permitted under subsection (a) (2) hereof.

This subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.25)

331.02 PASSING TO RIGHT WHEN PROCEEDING IN OPPOSITE DIRECTIONS.

(a) Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each operator shall give to the other one-half of the main traveled portion of the roadway or as nearly one-half as is reasonably possible.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (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, three feet or greater is considered a safe passing distance.
- (2) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and the operator shall not increase the speed of the operator's vehicle until completely passed by the overtaking vehicle.
- (3) The operator of a vehicle overtaking and passing another vehicle proceeding in the same direction on a divided street or highway as defined in Section 331.31, a limited access highway as defined in Ohio R.C. 5511.02 or a highway with four or more traffic lanes, is not required to signal audibly to the vehicle being overtaken and passed.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.27)

331.04 OVERTAKING AND PASSING UPON RIGHT.

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is making or about to make a left turn;
- (2) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(b) The driver of a vehicle may overtake and pass another vehicle only under conditions permitting such movement in safety. The movement shall not be made by driving off the roadway.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.28)

331.05 OVERTAKING, PASSING TO LEFT OF CENTER.

(a) No vehicle shall be driven to the left of the center of the roadway in overtaking and passing traffic proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made, without interfering with the safe operation of any traffic approaching from the opposite direction or any traffic overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for traffic approaching from the opposite direction before coming within 200 feet of any approaching vehicle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.29)

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 saliva divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.

- (2) No person who, within twenty years of the conduct described in subsection (a)(2)A, of this section, previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) or (B), or any other equivalent offense shall do both of the following:
- Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
 - Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A, of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(b) **Operation After Under-Age Consumption.** No person under twenty-one years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

- 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.
- 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.
- 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.
- The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(c) **One Conviction Limitation.** In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A, or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)

(d) **Physical Control.**

- 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.
- No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
 - The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - 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.
 - 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

- The signature, under oath, of any person who performed the analysis;
- 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;
- 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;
- 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. 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.

(b) 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 (b)(1)A. to E. of this section.

A. Except as otherwise provided in subsections (b)(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 (b)(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 (b)(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 (b)(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 (b)(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 addition 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 addition 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. 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).
3. 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 and 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 (b)(1)(E) of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) or (b) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law.

- E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law.
 - (2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.
 - (3) If an offender is sentenced to a jail term under subsection (b)(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 (b)(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 fifteen 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 or consecutively to the period of house arrest. As an alternative to the mandatory jail term of twenty consecutive days required by subsection (b)(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 (b)(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) or (b) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.
- (3) If the offender also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1416 and if the court imposes a jail term for the violation of subsection (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of Ohio R.C. 2929.24.
- (4) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28, in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the violation of subsection (b) of this section.
- (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.
- (q) **Definitions.** As used in this section:
- (1) "Equivalent offense" means any of the following:
 - A. A violation of division (A) or (B) of Ohio R.C. 4511.19;
 - B. A violation of a municipal OVI ordinance;
 - C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
 - D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;

- (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 and Chapter 4506 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.

335.09 DISPLAY OF LICENSE PLATES.

- (a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the front and rear of the motor vehicle a license plate that bears 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 issued under Ohio R.C. 4503.19 and 4503.191, as follows:
- A. A manufacturer of motor vehicles or dealer therein, the holder of an in transit permit, and the owner or operator of a motorcycle, motorized bicycle or moped, motor-driven cycle or motor scooter, autocycle, cab-enclosed motorcycle, manufactured home, mobile home, trailer or semitrailer shall display a license plate on the rear only.
 - B. A motor vehicle that is issued two license plates shall display the validation sticker only on the rear license plate, except that a commercial tractor that does not receive an apporportioned license plate under the international registration plan shall display the validation sticker on the front of the commercial tractor.
 - C. An apporportioned vehicle receiving an apporportioned license plate under the international registration plan shall display the license plate only on the front of a commercial tractor and on the rear of all other vehicles.
- (2) All license plates shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs their visibility.

- (3) No person to whom a temporary license placard or windshield sticker 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 license placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, or fail to display the windshield sticker in plain view on the rear window of the motor vehicle. No temporary license placard or windshield sticker shall be covered by any material that obstructs its visibility.
- (b) A law enforcement officer shall only issue a ticket, citation or summons, or cause the arrest or commence a prosecution, for the failure to display a license plate in plain view on the front of a parked motor vehicle if the officer first determines that another offense has occurred and either places the operator or vehicle owner under arrest or issues a ticket, citation, or summons to the operator or vehicle owner for the other offense.
- (c) (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) of this section is guilty of a minor misdemeanor.
- (2) Whoever violates subsection (a) of this section by failing to display a license plate in plain view on the front of a motor vehicle as required under subsection (a) of this section while the motor vehicle is otherwise legally parked is guilty of a minor misdemeanor and may be fined not more than one hundred dollars (\$100.00).
- A person who is subject to the penalty prescribed in subsection (c)(2) of this section is not subject to the charging of points under Ohio R.C. 4510.036. The offense established under subsection (a) of 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 4503.21)

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.

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- (f) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.
- (2) Whoever violates subsection (b) hereof is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.
- (3) Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor. (ORC 4549.11; 4549.12)

335.11 USE OF ILLEGAL LICENSE PLATES; TRANSFER OF REGISTRATION.

- (a) No person shall operate or drive a motor vehicle upon the streets in this Municipality if it displays a license plate or a distinctive number or identification mark that meets any of the following criteria:
- (1) Is fictitious;
 - (2) Is a counterfeit or an unlawfully made copy of any distinctive number or identification mark;
 - (3) Belongs to another motor vehicle, provided that this section does not apply to a motor vehicle that is operated on the streets in this Municipality when the motor vehicle displays license plates that originally were issued for a motor vehicle that previously was owned by the same person who owns the motor vehicle that is operated on the streets in this Municipality, during the thirty-day period described in subsection (c) hereof.
- (b) Whoever violates subsection (a)(1), (2) or (3) of this section is guilty of operating a motor vehicle bearing an invalid license plate or identification mark, a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense. (ORC 4549.08)
- (c) Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle expires, and the original owner shall immediately remove the license plates from the motor vehicle. The transfer of the registration and, where applicable, the license plates from the motor vehicle for which they originally were issued to a succeeding motor vehicle purchased by the same person in whose name the original registration and license plates were issued shall be done within a period not to exceed thirty days. During that thirty-day period, the license plates from the motor vehicle for which they originally were issued may be displayed on the succeeding motor vehicle, and the succeeding motor vehicle may be operated on the streets of the Municipality.
- (d) Whoever violates subsection (c) of this section is guilty of a misdemeanor of the fourth degree. (ORC 4503.12)

335.111 REGISTRATION WITHIN THIRTY DAYS OF RESIDENCY.

- (a) Within thirty days of becoming a resident of this State, any person who owns a motor vehicle operated or driven upon the public roads or highways shall register the vehicle in this State. If such a person fails to register a vehicle owned by the person, the person shall not operate any motor vehicle in this Municipality under a license issued by another state.
- (b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.
- (2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

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(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)

In case of any parcel of land which borders on more than one street, front yard means those yards which extend along all streets which border such parcel.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (Ord. 25-13. Passed 12-16-13.)

351.04 PARKING NEAR CURB.

(a) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the curb side wheels of the vehicle parallel with and not more than twelve inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.

(b) (1) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a state route unless an unoccupied roadway width of not less than twenty-five feet is available for free-moving traffic.

(2) A. No angled parking space that is located on a state route within a municipal corporation is subject to elimination, irrespective of whether there is or is not at least twenty-five feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space.

B. Replacement, repainting or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space does not constitute an intent by the municipal corporation to eliminate the angled parking space.

(c) (1) A. Except as provided in subsection (c)(1)B, hereof, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.

B. The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.

(2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in subsection (c)(2) of this section irrespective of whether or not the space is metered.

(d) Notwithstanding any provision of this Code or any rule, air compressors, tractors, trucks and other equipment, while being used in the construction, reconstruction, installation, repair or removal of facilities near, on, over or under a street, may stop, stand or park where necessary in order to perform such work, provided a flagperson is on duty, or warning signs or lights are displayed as may be prescribed by the Ohio Director of Transportation.

351.05 MANNER OF ANGLE PARKING.

(a) Upon streets where angle parking is permitted, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway as is indicated by appropriate signs or markings.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.06 SELLING, WASHING OR REPAIRING VEHICLE UPON ROADWAY.

(a) No person shall stop, stand or park a vehicle upon any roadway for the principal purpose of:

- (1) Displaying such vehicle for sale;
- (2) Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.07 UNATTENDED VEHICLE: DUTY TO STOP ENGINE, REMOVE KEY, SET BRAKE AND TURN WHEELS.

(a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake, and, when the motor vehicle is standing upon any grade, turning the front wheels to the curb or side of the highway.

The requirements of this section relating to the stopping of the engine, locking of the ignition and removing the key from the ignition of a motor vehicle do not apply to any of the following:

- (1) A motor vehicle that is parked on residential property;
- (2) A motor vehicle that is locked, regardless of where it is parked;
- (3) An emergency vehicle;
- (4) A public safety vehicle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.661)

351.08 OPENING VEHICLE DOOR ON TRAFFIC SIDE.

(a) No person shall open the door of a vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.70(C), (D))

351.09 TRUCK LOADING ZONES.

(a) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a truck loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty minutes.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.10 BUS STOPS AND TAXICAB STANDS.

(a) No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately posted, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone, and then only for a period not to exceed three minutes, if such stopping is not prohibited therein by posted signs.

(b) The operator of a bus shall not stop, stand or park such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop so designated and posted as such, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated and posted as such. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking provisions at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

(e) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.11 PARKED VEHICLE NOT TO BLOCK RIGHT OF WAY.

(a) No person shall stop, stand or park any vehicle upon a street, other than an alley, in such manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free moving of vehicular traffic, or to require moving vehicular traffic to change lanes of traffic in the multi-lane street, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic control devices or directions of a police officer. No person shall park any vehicle upon a street other than an alley, in such manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic.
(Ord. 57-57. Passed 7-22-57.)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

351.12 PROHIBITION AGAINST PARKING ON STREETS OR HIGHWAYS.

(a) Upon any street or highway outside a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the street or highway if it is practicable to stop, park or so leave such vehicle off the paved or main traveled part of such street or highway. In every event, a clear and unobstructed portion of the street or highway opposite such standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such street or highway.

This section does not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a street or highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.66)

351.13 MAXIMUM CONSECUTIVE 48 HOUR STREET PARKING.

(a) No person shall park a motor vehicle nor shall any vehicle be parked, left standing or abandoned upon any street or alley in the City for a continuous period longer than forty-eight hours. This subsection shall not be construed as affecting any other parking regulations now in effect or than may hereafter become effective, but shall be construed as an additional parking limitation. The purpose of this subsection is to prohibit continuous long-time parking and the storage of vehicles on the streets and alleys in the City.
(Ord. 60-56. Passed 10-8-56.)

CODIFIED ORDINANCES OF LANCASTER PART FIVE - GENERAL OFFENSES CODE

CHAPTER 501

General Provisions and Penalty

501.01	Definitions.	501.08	Culpable mental states.
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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

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501.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) "Force" means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.
- (c) "Physical harm to persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (d) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.
- (e) "Serious physical harm to persons" means any of the following:
 - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
 - (2) Any physical harm that carries a substantial risk of death;
 - (3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

- (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
- (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) "Serious physical harm to property" means any physical harm to property that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (i) "Offense of violence" means any of the following:
 - (1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2903.34(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio R.C. 2907.12; 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;
 - (2) 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, purposefully or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
 - (3) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) hereof.
 - (4) "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.
 - (5) 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.

513.08 ILLEGALLY DISPENSING DRUG SAMPLES.

- (a) No person shall knowingly furnish another a sample drug.
- (b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741.
- (c) Whoever violates this section is guilty of illegal dispensing of drug samples. If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV, or V, or is marijuana, the penalty for the offense shall be determined as follows:
 - (1) Except as otherwise provided in subsection (c)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.
 - (2) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.
- (d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.36)

513.09 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.

- (a) As used in this section, "repackager" and "outsourcing facility" have the same meanings as in ORC 4729.01.
 - Whenever a manufacturer sells a controlled substance, and whenever a wholesaler, repackager, or outsourcing facility sells a controlled substance in a package the wholesaler, repackager or outsourcing facility has prepared, the manufacturer or the wholesaler, repackager or outsourcing facility, as the case may be, shall securely affix to each package in which the controlled substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person, except a pharmacist for the purpose of dispensing a controlled substance upon a prescription shall alter, deface or remove any label so affixed.
- (b) Except as provided in subsection (c) of this section, when a pharmacist dispenses any controlled substance on a prescription for use by a patient, or supplies a controlled substance to a licensed health professional authorized to prescribe drugs for use by the professional in personally furnishing patients with controlled substances, the pharmacist shall affix to the container in which the controlled substance is dispensed or supplied a label showing the following:
 - (1) The name and address of the pharmacy dispensing or supplying the controlled substance;
 - (2) The name of the patient for whom the controlled substance is prescribed and, if the patient is an animal, the name of the owner and the species of the animal;
 - (3) The name of the prescriber;
 - (4) All directions for use stated on the prescription or provided by the prescriber;

- (5) The date on which the controlled substance was dispensed or supplied;
- (6) The name, quantity and strength of the controlled substance and, if applicable, the name of the distributor or manufacturer.
- (c) The requirements of subsection (b) of this section do not apply when a controlled substance is prescribed or supplied for administration to an ultimate user who is institutionalized.
- (d) A licensed health professional authorized to prescribe drugs who personally furnishes a controlled substance to a patient shall comply with division (A) of ORC 4729.291 with respect to labeling and packaging of the controlled substance.
- (e) No person shall alter, deface, or remove any label affixed pursuant to this section as long as any of the original contents remain.
- (f) Every label for a schedule II, III or IV controlled substance shall contain the following warning:
"Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed". (ORC 3719.08)
- (g) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.07 or 3719.08 or a drug abuse offense, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 3719.99)

513.10 HYPODERMIC POSSESSION, DISPLAY AND DISPENSING.

- (a) Possession of a hypodermic is authorized for the following:
- (1) A manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, and any authorized agent or employee of that manufacturer, distributor or dealer, in the regular course of business;
 - (2) Terminal distributor of dangerous drugs, in the regular course of business;
 - (3) A person authorized to administer injections, in the regular course of the person's profession or employment;
 - (4) A person, when the hypodermic was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;
 - (5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;
 - (6) A farmer, for the lawful administration of a drug to an animal;
 - (7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.
- (b) No manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, or their authorized agents or employees, and no terminal distributor of dangerous drugs, shall display any hypodermic for sale. No person authorized to possess a hypodermic pursuant to division (a) of this section shall negligently fail to take reasonable precautions to prevent any hypodermic in the person's possession from theft or acquisition by any unauthorized person. (ORC 3719.172)
- (c) Whoever violates this section is guilty of a misdemeanor of the third degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.05, 3719.06, 3719.13, 3719.172(B) or (E), or 3719.31 or a drug abuse offense, a violation is a misdemeanor of the first degree. (ORC 3719.99)

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513.11 HARMFUL INTOXICANTS; POSSESSING NITROUS OXIDE IN MOTOR VEHICLE.

- (a) As used in this section, "motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.
- (b) Unless authorized under Ohio R.C. Chapter 3719, 4715, 4729, 4731, 4741 or 4765, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:
- (1) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking;
 - (2) While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.
- (c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.
- (d) In addition to any other sanction imposed upon an offender for possessing nitrous oxide in a motor vehicle, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. (ORC 2925.33)

513.12 DRUG PARAPHERNALIA.

- (a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or Ohio R.C. Chapter 2925. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:
- (1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
 - (2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
 - (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;
 - (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
 - (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance;
 - (6) A scale or balance for weighing or measuring a controlled substance;
 - (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
 - (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marijuana;
 - (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;

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- (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body.
- (13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.
- (b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:
- (1) Any statement by the owner, or by anyone in control, of the equipment, product or material, concerning its use;
 - (2) The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or Ohio R.C. Chapter 2925;
 - (3) The proximity of the equipment, product or material to any controlled substance;
 - (4) The existence of any residue of a controlled substance on the equipment, product or material;
 - (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom the owner or person in control of the equipment, product or material knows intends to use the object to facilitate a violation of any provision of this chapter or Ohio R.C. Chapter 2925. A finding that the owner, or anyone in control, of the equipment, product or material, is not guilty of a violation of any other provision of this chapter or Ohio R.C. Chapter 2925, does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia;
 - (6) Any oral or written instruction provided with the equipment, product or material concerning its use;
 - (7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use;
 - (8) National or local advertising concerning the use of the equipment, product or material;
 - (9) The manner and circumstances in which the equipment, product or material is displayed for sale;
 - (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise;
 - (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
 - (12) Expert testimony concerning the use of the equipment, product or material.
- (c) (1) Subject to subsection (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
- (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.

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- (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.

- (4) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.

- (2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

- (e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12.

- (f) (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
- (2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
- (3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
- (4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

- (g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38, (ORC 2925.14)

513.121 MARIHUANA DRUG PARAPHERNALIA.

- (a) As used in this section, "drug paraphernalia" has the same meaning as in Section 513.12.

- (b) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in subsection (b) of Section 513.12.

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(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 marijuana.

(d) This section does not apply to any person identified in subsection (d)(1) of Section 513.12 and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.

(e) Subsection (c) of Section 513.12 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(f) Whoever violates subsection (c) of this section is guilty of illegal use or possession of marijuana drug paraphernalia, a minor misdemeanor.

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.141)

513.13 COUNTERFEIT CONTROLLED SUBSTANCES.

(a) No person shall knowingly possess any counterfeit controlled substance.

(b) Whoever violates this section is guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree. (ORC 2925.37)

(c) The court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.37)

513.14 OFFENDER MAY BE REQUIRED TO PAY FOR CONTROLLED SUBSTANCE TESTS.

In addition to the financial sanctions authorized or required under Ohio R.C. 2929.18 and 2929.28 and to any costs otherwise authorized or required under any provision of law, the court imposing sentence upon an offender who is convicted of or pleads guilty to a drug abuse offense may order the offender to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution all of the costs that the state, municipal corporation, or county reasonably incurred in having tests performed under Ohio R.C. 2925.51, or in any other manner on any substance that was the basis of, or involved in, the offense to determine whether the substance contained any amount of a controlled substance if the results of the tests indicate that the substance tested contained any controlled substance. No court shall order an offender under this section to pay the costs of tests performed on a substance if the results of the tests do not indicate that the substance tested contained any controlled substance.

The court shall hold a hearing to determine the amount of costs to be imposed under this section. The court may hold the hearing as part of the sentencing hearing for the offender. (ORC 2925.511)

513.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

(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.

(EDITOR'S NOTE: This page is intentionally left blank.)

- (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 (c) 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:
- Second or third degree burns;
 - Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;
 - Any burn injury or wound that may result in death;
 - Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by Ohio R.C. 3743.01.
- (2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

- (3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (4) No person who is required to report any burn injury under subsection (e)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the State Fire Marshal. The report shall comply with the uniform standard developed by the State Fire Marshal pursuant to Ohio R.C. 3737.22(A)(15).
- (5) Anyone participating in the making of reports under subsection (e) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under subsection (e) of this section.

- (f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.
- (2) Notwithstanding Ohio R.C. 4731.22, the physician-patient privilege or advanced practice registered nurse-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.

(g) Subsections (a) and (d) of this section do not require disclosure of information, when any of the following applies:

- (1) The information is privileged by reason of the relationship between attorney and client; physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.

- (2) The information would tend to incriminate a member of the actor's immediate family.
- (3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.
- (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy by a person seeking the aid or counsel of that member of the clergy.
- (5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to Ohio R.C. 5119.36.
- (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration, in violation of former Ohio R.C. 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.
- (b) 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.

- (k) Whoever violates subsection (b) hereof shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (b) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed. (ORC 4301.99)

529.07 OPEN CONTAINER PROHIBITED.

- (a) As used in this section:
- (1) "Chauffeured limousine" means a vehicle registered under Ohio R.C. 4503.24.
- (2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.
- (b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:
- (1) In a State liquor store;
- (2) Except as provided in subsection (c) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;
- (3) In any other public place;
- (4) Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;
- (5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
- (c) (1) A person may have in the person's possession an opened container of any of the following:
- A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2(f), A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D8, E, F, F-2, F-5, F-7 or F-8 permit;
- B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2 permit holder or S permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
- C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;
- D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.
- E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.

- (2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.
- (3) A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain pre-designated areas of the premises during the period for which the D-2 permit is issued.
 B. 1. As used in subsection (c)(3)A. of this section:
 "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.
 "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.
 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 pre-designated 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 pre-designated 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.
- (6) As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.
 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 a qualified 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 motor vehicle is stationary and is not being operated in a lane of vehicular travel or unless the possession is otherwise authorized under subsection (d) or (e) of this section.
 (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) 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)
- (b) 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 liquor 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-5E, D-5F, D-5G, D-5I, D-5J, D-5L, D-5m, 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.)

537.14 DOMESTIC VIOLENCE.

(a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(b) No person shall recklessly cause serious physical harm to a family or household member.

(c) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

(d) (1) Whoever violates this section is guilty of domestic violence.
 (2) Except as otherwise provided in subsection (d)(3) to (5) of this section, a violation of subsection (c) of this section is a misdemeanor of the fourth degree, and a violation of subsection (a) or (b) of this section is a misdemeanor of the first degree.

(3) Except as otherwise provided in subsection (d)(4) of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to domestic violence, a violation of Ohio R.C. 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the second degree.

(4) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in subsection (d)(3) of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the first degree.

(5) Except as otherwise provided in subsection (d)(3) or (4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate State law, and a violation of subsection (c) of this section is a misdemeanor of the third degree.

(e) Notwithstanding any provision of law to the contrary, no court or unit of local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or in connection with the prosecution of any charges so filed.

(f) As used in this section:

(1) "Family or household member" means any of the following:

A. Any of the following who is residing or has resided with the offender:

(EDITOR'S NOTE: This page is intentionally left blank.)

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) Whoever violates this section is guilty of violating a protection order. Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.
- (3) Violating a protection order is a felony and shall be prosecuted under State law if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:
- A. A violation of a protection order issued or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;
 - B. Two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 or any combination of those offenses that involved the same person who is the subject of the protection order or consent agreement;
 - C. One or more violations of this section.
- (4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.
- (5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the

court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent and subject to the maximum amount allowable and the rules promulgated by the Attorney General under Ohio R.C. 2903.214, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds from the reparations fund created pursuant to Ohio R.C. 2743.191. The total amount paid from the reparations fund created pursuant to Ohio R.C. 2743.191 for electronic monitoring under this section and Ohio R.C. 2151.34 and 2903.214 shall not exceed three hundred thousand dollars per year.

(c) It is an affirmative defense to a charge under subsection (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this State or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).

(d) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.

(e) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child. (ORC 2919.27)

537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS.

- (a) As used in this section:
- (1) "Age verification" means 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 eighteen years of age or older.
 - (2) A. "Alternative nicotine product" means, subject to subsection (a)(2)B, of this section, an electronic cigarette 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.
B. "Alternative nicotine product" does not include any of the following:

1. Any cigarette or other tobacco product;
2. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
3. Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);
4. Any product that is a "combination product" as described in 21 U.S.C. 353(g).

"Child" has the same meaning as in Ohio R.C. 2151.011.

"Cigarette" includes clove cigarettes and hand-rolled cigarettes.

"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.

A. "Electronic cigarette" means, subject to subsection (a)(6)B. of this section, any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo or electronic pipe.

B. "Electronic cigarette" does not include any item, product or device described in subsections (a)(2)B.1. to 4. of this section.

"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.

"Tobacco product" means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco or snuff.

"Vending machine" has the same meaning as "coin machine" in Ohio R.C. 2913.01.

(b) 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:

- (1) Give, sell or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any child;
- (2) 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 sign stating that giving, selling or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under eighteen years of age is prohibited by law;
- (3) Knowingly furnish any false information regarding the name, age or other identification of any child with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that child;
- (4) 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;
- (5) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;

(6) 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.

(c) 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:

- (1) An area within a factory, business, office, or other place not open to the general public;
- (2) An area to which children are not generally permitted access;
- (3) Any other place not identified in subsection (c)(1) or (2) of this section, upon all of the following conditions:

A. 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 other 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.

B. The vending machine is inaccessible to the public when the place is closed.

(d) The following are affirmative defenses to a charge under subsection (b)(1) of this section:

- (1) The child was accompanied by a parent, spouse who is eighteen years of age or older, or legal guardian of the child.
- (2) The person who gave, sold or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a child under subsection (b)(1) of this section is a parent, spouse who is eighteen years of age or older, or legal guardian of the child.

(e) It is not a violation of subsection (b)(1) or (2) of this section for a person to give or otherwise distribute to a child cigarettes, other tobacco products, alternative nicotine products or papers used to roll cigarettes while the child is participating in a research protocol if all of the following apply:

- (1) The parent, guardian or legal custodian of the child has consented in writing to the child participating in the research protocol;
- (2) An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol;
- (3) The child is participating in the research protocol at the facility or location specified in the research protocol.

(f) Whoever violates subsection (b)(1), (2), (4), (5) or (6) or (c) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, 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 (b)(1), (2), (4), (5) or (6) or (c) of this section, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

- (2) Whoever violates subsection (b)(3) of this section is guilty of permitting children to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, permitting children 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 (b)(3) of this section, permitting children to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- (g) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold or otherwise distributed to a child in violation of this section and that are used, possessed, purchased or received by a child 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)

537.17 CRIMINAL CHILD ENTICEMENT.

- (a) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice or lure any child under fourteen years of age to accompany the person in any manner, including entering into any vehicle, or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:
- (1) The actor does not have the express or implied permission of the parent, guardian or other legal custodian of the child in undertaking the activity;
 - (2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of any Board of Education, or the actor is any of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.
- (b) No person, with a sexual motivation, shall violate subsection (a) of this section.
- (c) No person, for any unlawful purpose other than, or in addition to, that proscribed by subsection (a) of this section, shall engage in any activity described in subsection (a) of this section.
- (d) It is an affirmative defense to a charge under subsection (a) hereof that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety or welfare of the child.
- (e) Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section or Ohio R.C. 2905.05, 2907.02, or 2907.03, or former Section 2907.12, or Ohio R.C. 2905.01 or 2907.05 when the victim of that prior offense was under seventeen years of age at the time of the offense, criminal child enticement is a felony and shall be prosecuted under appropriate State law.
- (f) As used in this section:
- (1) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.
 - (2) "Vehicle" has the same meaning as in Ohio R.C. 4501.01.
 - (3) "Vessel" has the same meaning as in Ohio R.C. 1546.01. (ORC 2905.05)

537.18 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.

- (a) As used in this section:
- (1) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.
 - (2) "Unruly child" has the same meaning as in Ohio R.C. 2151.022.
- (b) No person, including a parent, guardian or other custodian of a child, shall do any of the following:
- (1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child or a delinquent child;
 - (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child or a delinquent child;
 - (3) Act in a way that contributes to an adjudication of the child as a delinquent child based on the child's violation of a court order adjudicating the child an unruly child for being an habitual truant;
 - (4) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.
- (c) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense. (ORC 2919.24)

537.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 541
Property Offenses

541.01	Determining property value in arson.	541.06	Destruction of shrubs, trees or crops.
541.02	Arson.	541.07	Desecration.
541.03	Criminal damaging or endangering.	541.08	Ethnic intimidation.
541.04	Criminal mischief.	541.09	Advertising on public property.
541.05	Criminal trespass.	541.10	Vehicular vandalism.
541.051	Aggravated trespass.	541.11	Trespass on a place of public amusement.
		541.99	Penalty.

(EDITOR'S NOTE: This page is intentionally left blank.)

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.

(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 (1)(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.

(m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cord-dead detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.

(n) (1) "Concealed handgun license" or "license to carry a concealed handgun" means, subject to subsection (n)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

(2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.1213 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.

- (o) "Valid concealed handgun license" or "valid license to carry a concealed handgun" means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.
- (p) "Misdemeanor punishable by imprisonment for a term exceeding one year" does not include any of the following:
- (1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;
 - (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.
- (q) "Alien registration number" means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien's permanent resident card and may also be commonly referred to as the "USCIS number" or the "alien number".
- (r) "Active duty" has the same meaning as defined in 10 U.S.C. 101. (ORC 2923.11)

549.02 CARRYING CONCEALED WEAPONS.

- (a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:
- (1) A deadly weapon other than a handgun;
 - (2) A handgun other than a dangerous ordnance;
 - (3) A dangerous ordnance.
- (b) No person who has been issued a concealed handgun license, shall do any of the following:
- (1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;
 - (2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
 - (3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

- (c) This section does not apply to any of the following:
- (1) An officer, agent or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;
 - (2) 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.
 - (3) 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;
 - (4) 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.
 - (5) Subsection (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, either is carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, unless the person knowingly is in a place described in division (B) of Ohio R.C. 2923.126.
 - (6) It is an affirmative defense to a charge under subsection (e)(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.
 - (7) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsections (f)(2), (5) and (6) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law.
- (2) Except as provided in subsection (f)(5) of this section, if a person being arrested for a violation of subsection (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that subsection. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that subsection, and the offender shall be punished as follows:
- A. The offender shall be guilty of a minor misdemeanor if both of the following apply:
1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
 2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars (\$500.00) if all of the following apply:
1. The offender previously had been issued a concealed handgun license and that license expired within the two years immediately preceding the arrest.
 2. Within forty-five days after the arrest, the offender presents any type of concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
 3. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

- C. If subsections (f)(2)A. and B. and (f)(5) of this section do not apply, the offender shall be punished under subsection (f)(1) or (6) of this section.
- (3) Except as otherwise provided in this subsection, carrying concealed weapons in violation of subsection (b)(1) hereof is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of subsection (b)(1) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed handgun license, carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128.
- (4) Except as otherwise provided herein, carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of Ohio R.C. 2923.12(B)(2) or (B)(4) or a substantially equivalent municipal ordinance, carrying concealed weapons is a felony and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a violation of subsection (b)(2) or (b)(3) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).
- (5) If a person being arrested for a violation of subsection (a)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125 and if the person is not in a place described in division (B) of Ohio R.C. 2923.126, the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than five hundred dollars (\$500.00). The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:
- A. Within ten days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, which were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.
- B. At the time of the citation, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

(6) If a person being arrested for a violation of subsection (a)(2) of this section is knowingly in a place described in division (B)(5) of Ohio R.C. 2923.126, and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:

- A. Except as otherwise provided in this subsection, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a minor misdemeanor.
- B. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree.
- C. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to two violations of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the third degree.
- D. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to three or more violations of subsection (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordinance, 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. (ORC 2923.12)

549.03 USING WEAPONS WHILE INTOXICATED.

(a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordinance.

(b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree. (ORC 2923.15)

549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

(a) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

- (1) In a closed package, box or case;
- (2) In a compartment which can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;

(4) If the firearm is at least twenty-four inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least eighteen inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(b) No person who has been issued a concealed handgun license, or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

- (1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active duty member of the armed forces of the United States and that the person then possesses or has a loaded handgun in the motor vehicle;
- (2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active duty member of the armed forces of the United States and that the person then possesses or has a loaded handgun in the commercial motor vehicle.
- (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.
- (4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

(c) This section does not apply to any of the following:

- A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this State, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.
- (2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

- A. The person transporting or possessing the handgun is either carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125.
- B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- (3) Subsection (a) of this section does not apply to a person if all of the following apply:
- A. The person possesses a valid electric-powered 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 electric-powered all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.
- C. The person is on or in an electric-powered 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, provided that the road is identified by an electric-powered all-purpose vehicle sign.
- (d) (1) The affirmative defenses authorized in Section 549.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.
- (2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.
- (e) (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (2) If a person is convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b) of this section as it existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (b) of this section on or after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction. If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (a) of this section, as the subsection existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (a) of this section on or after September 30, 2011, due to the application of subsection (b)(4) of this section as it exists on and after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

(f) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (e) of this section is a misdemeanor of the fourth degree. Except as otherwise provided in this subsection, a violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in Ohio R.C. 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of subsection (b)(1) or (b)(2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128. A violation of subsection (b)(3) or (4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(3) or (4) of this section, a felony and shall be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (b)(3) or (4) of this section, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

(g) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies.

(h) As used in this section:

- (1) "Motor vehicle", "street", and "highway" have the same meanings as in Ohio R.C. 4511.01.
- (2) A. "Unloaded" means:
1. With respect to a firearm other than a firearm described in subsection (b)(2)B, of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question and one of the following applies:
 - a. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.
 - b. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.
 2. For the purposes of subsection (b)(2)A, 1.b. of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

- a. A package, box or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;
- b. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.
3. For the purposes of subsection (b)(2)(A), of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.
- B. "Unloaded" means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(3)

(4)

"Commercial motor vehicle" has the same meaning as in Ohio R.C. 4506.25(A).

"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.

(1) Subsection (h)(2) of this section does not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in that subsection, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter or Ohio R.C. Chapter 2923. A person who is carrying a valid concealed handgun license may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter or Ohio R.C. Chapter 2923. (ORC 2923.16)

549.05 FAILURE TO SECURE DANGEROUS ORDNANCE.

(a) No person, in acquiring, possessing, carrying or using any dangerous ordnance shall negligently fail to take proper precautions:

- (1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person;
- (2) To insure the safety of persons and property.

(b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree. (ORC 2923.19)

2017 Replacement

549.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

- (a) No person shall:
- (1) 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, sandbag, switchblade knife, springblade knife, gravity knife or similar weapon;
 - (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
 - (3) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.
- (b) Whoever violates this section is guilty of unlawful transactions in weapons. 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. (ORC 2923.20)

549.07 UNDERAGE PURCHASE OF FIREARM.

- (a) No person under eighteen years of age shall purchase or attempt to purchase a firearm.
- (b) No person under twenty-one years of age shall purchase or attempt to purchase a handgun, provided that this subsection does not apply to the purchase or attempted purchase of a handgun by a person eighteen years of age or older and under twenty-one years of age if either of the following apply:

(1) The person is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.

(2) The person is an active or reserve member of the armed services of the United States or the Ohio national guard, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio national guard, and the person has received firearms training from the armed services or the national guard or equivalent firearms training.

(c) Whoever violates subsection (a) hereof is guilty of underage purchase of a firearm, a delinquent act that would be a felony of the fourth degree if it could be committed by an adult. Whoever violates subsection (b) hereof is guilty of underage purchase of a handgun, a misdemeanor of the second degree. (ORC 2923.21)

549.08 DISCHARGING FIREARMS.

- (a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality.
- (b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

2017 Replacement

- (c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
- 549.09 THROWING OR SHOOTING MISSILES.**
 (a) No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction not when otherwise lawfully authorized.
- (b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
- 549.10 CARRYING CONCEALED WEAPONS PROHIBITED.**
 (a) No person shall carry on or about his person any weapon known or designated as brass knuckles, billy, slingshot, sandbag, blackjack or other weapon of similar character, or any knife fitted with a mechanical device for automatic release of the blade, opening the knife and locking the knife in the open position, commonly known as a switch or automatic spring knife.
- (b) This section does not apply to any such weapons designated for use by officers of the law.
- (c) Whoever violates this section is guilty of a misdemeanor of the second degree.

549.11 POSSESSING 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) Subsection (a) hereof does not apply to premises upon which home schooling is conducted. Subsection (a) hereof also does not apply to a school administrator, teacher, or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher, or employee, or any other person who with the express prior approval of a school administrator possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, reenactment, or other dramatic presentation, or a ROTC activity or another similar use of the object.
- (c) Whoever violates subsection (a) hereof is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this subsection, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of Ohio R. C. 2923.122, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony and shall be prosecuted under appropriate State law.

- (d) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section and subject to subsection (d)(2) of this section, if the offender has not attained nineteen years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the State Board of Education prescribes minimum standards under Ohio R. C. 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit, or probationary commercial driver's license that then is in effect from the range specified in division (A)(4) of Ohio R. C. 4510.02 and shall deny the offender the issuance of any permit or license of that type during the period of the suspension.
- (2) If the offender is not a resident of this State, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in division (A)(4) of Ohio R. C. 4510.02.
- (e) (1) If the offender shows good cause why the court should not suspend one of the types of licenses, permits, or privileges specified in subsection (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in that subsection, the court in its discretion may choose not to impose the suspension, revocation, or denial required in that subsection, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.
- (2) 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.
- 549.12 DEFACING IDENTIFICATION MARKS OF A FIREARM;
 POSSESSING A DEFACTED FIREARM.**
- (a) No person shall do either of the following:
- (1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer's serial number, or other mark or identification on a firearm.
 - (2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.
- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this subsection, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(1) of this section, defacing identification marks of a firearm is a felony and shall be prosecuted under appropriate State law.
- (2) Whoever violates subsection (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this subsection, possessing a defaced firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, possessing a defaced firearm is a felony and shall be prosecuted under appropriate State law. (ORC 2923.201)

549.99 PENALTY.
(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CODIFIED ORDINANCES OF LANCASTER
PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE ONE - Streets and Sidewalks

- Chap. 901. Excavations.
- Chap. 903. Sidewalks.
- Chap. 905. Curbs and Driveways.

TITLE THREE - Public Utilities

- Chap. 910. Potable Water Supply Well Code.
- Chap. 911. Water.
- Chap. 912. Use of Public and Private Sewers.
- Chap. 913. Drainage Generally.
- Chap. 914. Trucked Waste.
- Chap. 915. Sewer Rates.
- Chap. 916. Wastewater Pretreatment.
- Chap. 917. Natural Gas Service.
- Chap. 918. Storm Water Utility Program.
- Chap. 919. Storm Water Sediment and Soil Erosion Protection.
- Chap. 920. Electricity.
- Chap. 921. Utilities Installation in Developments.

TITLE FIVE - Other Public Services.

- Chap. 931. Parks.
- Chap. 933. Cemeteries.
- Chap. 935. Lancaster-Fairfield County Joint Hospital.
- Chap. 937. Waste Removal.
- Chap. 939. Trees.

CODIFIED ORDINANCES OF LANCASTER

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE ONE - Streets and Sidewalks

- Chap. 901. Excavations.
- Chap. 903. Sidewalks.
- Chap. 905. Curbs and Driveways.

**CHAPTER 901
Excavations**

- 901.01 General provisions.
- 901.02 Form of permit application.
- 901.03 Permit plans.
- 901.04 Restoration.
- 901.05 Emergency repairs.
- 901.06 Inspections.
- 901.07 Fees and deposits.
- 901.08 Traffic control.
- 901.09 Excavation in new pavement.
- 901.10 Failure to perform required work/stop work order.
- 901.11 Steel roadway plates.
- 901.12 Emergency phone number posting.
- 901.13 Dumpsters/containers.
- 901.14 Haul routes.
- 901.15 Oversized loads and overweight loads.
- 901.16 Special duty police officers.
- 901.17 Right to decline.
- 901.18 Placing injurious material or obstruction in street.
- 901.19 Pavement protection during unloading.
- 901.20 Littering of streets, alleys or public grounds.
- 901.21 Littering of streets by contractors.
- 901.22 Removal of traffic control devices and or warning barricades.
- 901.23 Utility relocation in public right-of-way.
- 901.24 Stop Work Order.
- 901.99 Penalty.

CROSS REFERENCES

Power to establish and care for streets - see Ohio R.C. 715.19, 717.01, 723.01
 Openings by the City - see Ohio R.C. 723.02
 Surface treatment - see Ohio R.C. 723.23, 723.31
 Excavation liability - see Ohio R. C. 723.49 et seq.
 Compulsory service connections - see Ohio R. C. 729.06, 743.23, 743.37
 Digging, excavating and piling earth on streets - see Ohio R. C. 5589.10
 Littering by contractors - see GEN. OFF. 533.05
 Subdivision improvements - see P. & Z. Ch. 1109
 Permit to obstruct with building materials - see BLDG. 1311.02 et seq.

901.01 GENERAL PROVISIONS.

(a) Authority. Chapter 901 of the Lancaster City Code requires any person or agency desiring to excavate in or to occupy Public Right-of-way for any purpose whatsoever to first obtain a permit. Such permits are issued by and through the Service-Safety Director or designee in accordance with the provisions of this regulation.

(b) Type of Permits. There are three types of permits: Excavation, Occupancy and Blanket.

- (1) Excavation permits: This type of permit is required when excavating within the right-of-way of any public street or alley. The work covered by this permit include excavation in street or alley pavement, sidewalk or driveway, or the non-paved area within the right-of-way for any purpose whatsoever.
- (2) Occupancy permits: This type of permit is required when it is necessary to occupy, limit access to, or close the right-of-way of any public street or alley with vehicle, equipment or material for an extended period of time for the purpose of providing services to any privately owned utility, building or property. Planned activities, demonstrations or similar event requiring the partial or complete closure of the right-of-way under Section 311.02.
- (3) Blanket permits: This type of permit is only available to applicants that routinely utilize public right-of-way for the maintenance, repair, or service of privately owned and operated utilities. Any significant expansion of or repair to an existing private utility system requires a separate excavation permit. Blanket permits may be issued at the discretion of the City to other businesses, e.g. tree planting/trimming operations, street light installations etc., which frequently work within the right-of-way in multiple locations and over an extended period of time with minimal impact to traffic. Blanket permits require the establishment of a minimum fifteen thousand dollars (\$15,000) bond, letter of credit, or

CHAPTER 903
Sidewalks

- 903.01 Sidewalks responsibility of the property owner.
- 903.02 Encumbering streets or sidewalks.
- 903.03 Sidewalks to be cleaned of ice and snow.
- 903.04 Riding on sidewalks.
- 903.05 Sidewalks construction specifications.
- 903.06 Duty to keep sidewalks in repair.
- 903.07 Notice of violation.
- 903.08 Right to appeal.
- 903.09 Enforcement.
- 903.10 Remedies not exclusive.
- 903.99 Criminal penalty.

CROSS REFERENCES

Construction or repair at owner's expense - see Ohio R. C. 729.01 et seq.
Notice to construct or repair - see Ohio R. C. 729.03 et seq.

903.01 SIDEWALKS RESPONSIBILITY OF THE PROPERTY OWNER.

(a) The owner of any lot or land abutting upon any street shall be responsible for the maintenance, repair, and if necessary replacement of the sidewalk in front of such lot or land; provided, however, that such owner shall not be responsible for the maintenance, repair or replacement of any existing curb ramp or curb ramp structure required for crossing streets and alleys, including the inclined ramp, detectable warnings, landing area and transition section of sidewalk.

(b) The maintenance, repair or replacement of sidewalk in the public right of way shall require a permit in accordance with Chapter 901.
(Ord. 4-16. Passed 2-22-16.)

903.02 ENCUMBERING STREETS OR SIDEWALKS.

(a) No person shall encumber any street or sidewalk, nor shall the owner, occupant or person having care or control of any building or lot of land bordering on any street or sidewalk permit the same to be encumbered, either temporarily or permanently so as to cause an obstruction of the travel path measured thirty-six inches (36") wide by eighty inches (80") high.

(b) Any person or entity wishing to use or occupy any portion of the sidewalk within the public right of way for the placement of amenities, including but not limited to artwork, seating or dining, removable railings, flower boxes, movable planters, benches, temporary signage or other barricades must comply with the requirements of Chapter 901.
(Ord. 4-16. Passed 2-22-16.)

2017 Replacement

903.03 SIDEWALKS TO BE CLEANED OF ICE AND SNOW.

It shall be the duty of the owner of each and every parcel of real estate in the City abutting upon any sidewalk to keep such sidewalk abutting his or her premises free and clear of snow and ice, and to remove therefrom all snow and ice accumulated thereon within a reasonable time, which will ordinarily not exceed twelve hours after the abatement of any storm from which such snow and ice may have accumulated.
(Ord. 4-16. Passed 2-22-16.)

903.04 RIDING ON SIDEWALKS.

(a) No person shall ride a bicycle or skateboard upon a sidewalk within a Commercial District.

(b) Whenever a person is riding a bicycle or skateboard upon the sidewalk, such person shall yield the right of way to any pedestrian and shall give an audible signal before attempting to overtake and pass any pedestrian.
(Ord. 4-16. Passed 2-22-16.)

903.05 SIDEWALK CONSTRUCTION SPECIFICATIONS.

All public and private sidewalks, curbing and handicap ramps shall be designed and constructed in conformance with the standards adopted by the City Engineer, and shall furthermore be in conformance with the guidelines set forth in the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.
(Ord. 4-16. Passed 2-22-16.)

903.06 DUTY TO KEEP SIDEWALKS IN REPAIR.

(a) No owner of any lot or land abutting upon any street shall refuse, fail or neglect to repair or keep in repair the sidewalk in front of such land or lot. The following criteria shall be used to determine whether a sidewalk is in a state of repair:

- (1) Adjoining sections or parts thereof whose edges differ vertically by more than one-half inch (1/2");
- (2) Adjoining sections with open joints greater than five-eighths of an inch (5/8") in width;
- (3) Sections that are cracked so that pieces are missing or loose;
- (4) Sections sloping away from the street unless so constructed by design;
- (5) Sections with cross slopes exceeding three-fourths of an inch (3/4") vertical per one foot (1') horizontal;
- (6) Sections that cause an abrupt change in the longitudinal grade of the sidewalk;
- (7) Sections with deteriorating surfaces presenting loose aggregate;
- (8) Sections containing structures such as cellar doors, grates, water boxes, meter pits or hatches, which protrude above the sidewalk more than one-half inch (1/2") so that they present a tripping hazard; and
- (9) Sidewalks constructed without the approval of the City.

(b) All bushes, hedges and trees located on private property shall be kept trimmed by the owner or occupant of that property so as to prevent interference with the normal use of the sidewalks abutting that property.

(c) Structures including but not limited to retaining walls, fences, light fixtures, or planters shall be kept in repair by the owner or occupant of that property, so as to prevent injury and allow for the normal and obstructed use of the sidewalks abutting the property.
(Ord. 4-16. Passed 2-22-16.)

2017 Replacement

903.07 NOTICE OF VIOLATION.

The Service-Safety Director or his authorized designee, upon finding that a person has violated any section of this Chapter, may order compliance by written notice of violation as set forth in Section 1303.12. Any notice issued under this section shall allow the property owner a reasonable period of time, and in any event not less than 30 days, in which to abate the violation. (Ord. 4-16. Passed 2-22-16.)

903.08 RIGHT TO APPEAL.

Any person effected by a decision of the Service-Safety Director or his authorized designee with respect to this Chapter shall have the right to appeal to the Structural Board of Appeals as set forth in Section 1303.06. Any appeal must be made, in writing, within 20 days following service of the decision, notice or order upon which the appeal is being made. (Ord. 4-16. Passed 2-22-16.)

903.09 ENFORCEMENT.

(a) Upon the failure or refusal of a property owner to remedy or abate any violation within the time period set forth in the notice of violation or, in the case of an appeal, within 30 days of the decision of the Board upholding the decision of the Service-Safety Director or his authorized designee, the Service-Safety Director or his authorized designee may institute appropriate proceedings in law or equity to restrain, correct or abate the violation, and may assess the costs of those proceedings to the property owner, including any administrative processing fees.

(b) Whenever charges for correction or abatement remain unpaid for 60 days after a statement of costs has been mailed to the property owner, Council may by resolution certify the charges to the County Auditor to be placed on the tax duplicate, to be collected in the same manner as other taxes and returned to the City. Such charges for correction or abatement expenses shall be a lien on the property from the date of entry upon the tax duplicate. (Ord. 4-16. Passed 2-22-16.)

903.10 REMEDIES NOT EXCLUSIVE.

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the Service-Safety Director or his authorized designee to seek cumulative remedies. (Ord. 4-16. Passed 2-22-16.)

903.99 CRIMINAL PENALTY.

(a) Whoever violates any provision of this Chapter is guilty of a misdemeanor of the third degree. Every day the violation continues constitutes a new offense. (Ord. 4-16. Passed 2-22-16.)

911.03 UNLAWFUL CONNECTIONS.

No person, firm or corporation shall establish, or permit to be established, or maintain, or permit to be maintained, any connection whereby a private, auxiliary or emergency water supply, other than the regular public water supply of Lancaster, may enter the supply or distributing system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent of Water and by the Ohio Environmental Protection Agency. (Ord. 30-94. Passed 10-10-94.)

911.04 SURVEYS AND INVESTIGATIONS OF PROPERTIES SERVED.

It shall be the duty of the Superintendent of Water to cause surveys and investigations to be made of industrial and other properties served by the public water supply, where actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated as often as the Superintendent of Water shall deem necessary. (Ord. 30-94. Passed 10-10-94.)

911.05 RIGHT OF ENTRY.

The Superintendent of Water shall have the right to enter at any reasonable time, any property served by a connection to the public water supply or distributing system of Lancaster for the purpose of inspecting the piping system or systems thereof. On demand, the owner, lessees or occupants of any property so served, shall furnish to the Superintendent of Water any information which he may request, regarding the piping system or systems or water use on such property. The refusal of such information, when demanded, shall, within the discretion of the Superintendent of Water, be deemed evidence of the presence of improper connections, as provided in this chapter. (Ord. 30-94. Passed 10-10-94.)

911.06 SERVICE DISCONTINUANCE AND RESTORATION.

The Superintendent of Water is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this chapter is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions shall have been eliminated or corrected, in compliance with the provision of chapter. (Ord. 30-94. Passed 10-10-94.)

911.07 CAPACITY CHARGE FOR WATER.

(a) The City Engineer is hereby authorized and directed to collect a water system capacity charge whenever application is made for the issuance of a water tap permit to provide water service to a structure, whenever such property is either inside or outside the corporate limits of the City and as provided elsewhere in the City code.

(b) When City forces do not perform actual installation of the main water line or a service connection, the City Engineer is hereby authorized and directed to collect a water system capacity charge whenever an application is made for the issuance of a sewer permit to provide sanitary sewer service to a structure, whenever such property is or will be tributary, directly or indirectly, to any trunk sewer built by the City, either inside or outside the corporate limits of the City and as provided elsewhere in the City codes.

(c) When City forces do not perform actual installation of the main water line or a service connection, or applicant does not apply for a sewer permit, the City Engineer is hereby authorized to collect a water system capacity charge when an application for a building permit is approved by the City Engineering Department.

(d) The charge shall be determined in accordance with the following:

TABLE 1
PROPERTY INSIDE CORPORATE LIMITS
DOMESTIC USE ONLY

(1)	<u>Water Meter Size</u>	<u>Capacity Fee</u>
	5/8 or 3/4 inch	\$ 3,690
	1 inch	6,149
	1 1/2 inch	12,299
	2 inch	19,678
	4 inch	61,493
	6 inch	112,986
	8 inch	221,375
	10 inch	356,660
	12 inch	528,840

Fees for meters larger than 12 inch will be determined on an individual basis.
(Ord. 47-04. Passed 8-23-04.)

TABLE 2
PROPERTY INSIDE CORPORATE LIMITS
FIRE PURPOSES ONLY-NO WATER METER

(2)	<u>Tap Size</u>	<u>Capacity Fee</u>
	1 inch	\$ 778
	1 1/2 inch	1,750
	2 inch	3,111
	4 inch	12,445
	6 inch	28,000
	8 inch	49,750

Fees for taps larger than 8 inch will be determined on an individual contract basis. If domestic line is used also with fire line, Section (3) is also applicable.

The capacity charge for water, for fire purposes only, may be waived by the Service-Safety Director for existing structures located in a Historic District, listed on the National Register of Historic Places, designated as a Designated Landmark, or within the Downtown Lancaster Special Improvement District when a sprinkler system is added on each floor as an incentive to preserve existing structures from the threat of fire by the addition of fire suppression. The approval of the sprinkler plans and completion of the plans are conditions of the waiver. (Ord. 18-17. Passed 5-8-17.)

CODIFIED ORDINANCES OF LANCASTER
PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Subdivision Regulations
 Chap. 1101. Planning Commission.
 Chap. 1105. Subdivision Procedures.
 Chap. 1107. Obligations of Developer and City.
 Chap. 1109. Minimum Design Standards and Requirements.
 Chap. 1111. Site Improvements.
 Chap. 1112. Hillside Regulations.
 Chap. 1113. Application Requirements.
 Chap. 1115. Variances.
 Chap. 1117. Enforcement.
 Chap. 1118. Validity.

CHAPTER 1101
City Planning Commission

1101.01 City Planning Commission 1101.03 Powers and duties.
 established.
 1101.02 Organization; term; no compensation.

CROSS REFERENCES
 Planning Commissions - see Ohio R.C. Ch. 713
 Powers and duties - see Ohio R.C. 713.02, 713.06
 Planning Commission to be Planning Commission - see Ohio R. C. 713.03
 Approval of plat required - see P. & Z. 1105.02

1101.01 CITY PLANNING COMMISSION ESTABLISHED.
 There shall be established a City Planning Commission in accordance with Ohio R.C. 713.01.
 (1939 R.O., 9:04)

1101.02 ORGANIZATION; TERM; NO COMPENSATION.

The City Planning Commission shall consist of seven (7) members as follows: the Mayor, the Safety-Service Director, the president of the Board of Park Commissioners of the City or his/her designee, and four (4) citizens of the Municipality who shall serve without compensation and who shall be appointed by the Mayor for terms of six (6) years, except that the term of two (2) members of the first Commission shall be for three (3) years. (Ord. 23-17, Passed 6-26-17.)

1101.03 POWERS AND DUTIES.

Whenever such Commission is appointed it shall have all the powers conferred in Ohio R.C. 735.15 and all the powers and duties conferred upon it by Ohio R. C. 713.02 to 713.14 and 713.21 to 713.27, inclusive, and all other Ohio R.C. sections appertaining thereto. (1939 R.O., 9:04)

**CHAPTER 1123
General Provisions**

1123.01	Zoning and Overlay Zoning Districts established.	1123.11	Screening walls or fences. Platting requirement.
1123.02	Official Zoning Map established.	1123.12	Major street plan.
1123.03	District boundary description and interpretation.	1123.13	Structure setback from abutting streets.
1123.04	Limitation on land use.	1123.14	Display for sale, storage and parking of vehicles and portable storage units.
1123.05	Similar uses.	1123.15	Essential services.
1123.06	Division of lots.	1123.16	Family day care and family child care homes.
1123.07	Street frontage required.	1123.17	Group residential facilities.
1123.08	One single-family dwelling per lot of record.	1123.18	Convict Pre-release and/or Correctional Community Treatment Centers.
1123.09	Height exceptions.	1123.19	Location of cemeteries.
1123.10	Existing building encroachment on front yards or building setbacks.	1123.20	Medical marijuana cultivators, processors and retail dispensaries.
		1123.21	

1123.01 ZONING AND OVERLAY ZONING DISTRICTS ESTABLISHED.
The Zoning Districts and Overlay Zoning Districts set forth below are hereby established:

- AG Agriculture District
- RE Residential Single-Family Estate District
- RS-1 Residential Single-Family Low Density District
- RS-2 Residential Single-Family Medium Density District
- RS-3 Residential Single-Family High Density District
- RS-4 Residential Single-Family Highest Density District
- RM-0 Residential Multifamily Lowest Density District
- RM-1 Residential Multifamily Low Density District
- RM-2 Residential Multifamily Medium Density District
- RM-3 Residential Multifamily High Density District
- RMH Residential Manufactured Home District
- OM Office Medium Intensity District

- CN Commercial Neighborhood District
- CG Commercial General District
- CH Commercial High Intensity District
- CBD Central Business District
- IL Industrial Light District
- IM Industrial Moderate District
- IH Industrial Heavy District
- PUD Planned Unit Development (Overlay Zoning District)
- HP Historic Preservation District (Overlay Zoning District)
- WH Wellhead Protection District (Overlay Zoning District)
- FP Flood Plain District (Overlay Zoning District)

(Ord. 28-17. Passed 9-11-17.)

1123.02 OFFICIAL ZONING MAP ESTABLISHED.

The locations and boundaries of the various districts as defined herein shall be established by ordinance and shall be shown and delineated on the Official Zoning Map of the City of Lancaster. The Official Zoning Map shall be maintained by the Engineering Office of the City of Lancaster, and may be divided into parts, and such parts may be separately employed for identification purposes when adopting or amending the Official Zoning Map or for any reference to the Official Zoning Map. (Ord. 28-17. Passed 9-11-17.)

1123.03 DISTRICT BOUNDARY DESCRIPTION AND INTERPRETATION.

District boundary lines shall be described by legal description or by a map. When a legal description is used, the boundary line shall be deemed to extend to the centerline of abutting streets and shall be so designated on the Official Zoning Map. When a map is used, district boundary lines shall be established by dimensions, property lines, recorded lot lines, or the centerline of abutting street, alley, or railroad rights-of-way, as the same were of record at the time of adoption. In all cases where there is doubt as to the exact location of district boundary lines, the same shall be determined by the Board of Zoning Appeals. (Ord. 28-17. Passed 9-11-17.)

1123.04 LIMITATION ON LAND USE.

No person, firm or corporation shall use or permit to be used any land or buildings, nor shall any person, firm or corporation make, erect, construct, move, alter, enlarge or rebuild or permit the making, erection, construction, moving, altering, enlarging or rebuilding of any building, structure or improvement, which is designed, arranged or intended to be used or maintained for any purpose or in any manner except in accordance with the use, height, area, yard, space, and other requirements established in the district in which such land, building, structure or improvement is located except as provided by Chapter 1153, Nonconformities. Nothing in this Code shall be deemed to require a change in the plans, construction, or designated use of any building, where a building permit has been lawfully issued prior to the effective date of this Code, and pursuant to such permit, construction is diligently carried to completion. Upon completion, such building or use shall be deemed nonconforming and may continue as regulated by Chapter 1153, Nonconformities. (Ord. 28-17. Passed 9-11-17.)

1123.05 SIMILAR USES.

(a) Determination as to whether a use is similar to uses permitted by right shall be considered as an expansion of use regulations of the district and not as a variance applying to a particular situation. Any use found similar shall thereafter be considered as a permitted use in that district.

(b) Applications for zoning permits for uses not specifically listed in the permitted building or use classifications of the zoning district, which the applicant feels qualify as a similar use under the provisions of this Section, shall be submitted to the Zoning Inspector.

(c) Within sixty (60) days after such submittal, the Board of Zoning Appeals shall determine whether the requested use is similar to those uses permitted in the specific district. In order to find that a use is similar, the Board of Zoning Appeals shall find that all of the following conditions exist:

- (1) Such use is not listed as a permitted use or Special Exception in another zoning district.
- (2) Such use conforms to basic characteristics of the classification to which it is to be added and is more appropriate to it than to any other classification.
- (3) Such use creates no increased danger to health and safety, creates no increased level of noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences, and does not create traffic congestion to an extent greater than normally resulting from uses listed in the classification to which it is to be added.

(Ord. 28-17. Passed 9-11-17.)

1123.06 DIVISION OF LOTS.

A lot shall not hereafter be divided into two or more lots, unless all lots resulting from such division conform to all the applicable regulations of the zoning district in which it is located. (Ord. 28-17. Passed 9-11-17.)

1123.07 STREET FRONTAGE REQUIRED.

No lot shall contain any building used in whole or in part for residential purposes unless such lot has a minimum of thirty (30) feet of frontage on a public street or dedicated and improved right-of-way. For the purposes of this regulation an alley, as defined in Chapter 1161, shall not be considered as an acceptable dedicated right-of-way. This Section shall not apply to a substandard lot of record or a lot within an approved Planned Unit Development or in the RMH District. (Ord. 28-17. Passed 9-11-17.)

1123.08 ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD.

Not more than one (1) permitted residential use shall be allowed on any single residential lot, except in the case of a lot which is within an approved Planned Unit Development. (Ord. 28-17. Passed 9-11-17.)

1123.09 HEIGHT EXCEPTIONS.

The following structures shall not be subject to the height limitations of the district in which they are located:

- (a) Farm buildings and related structures.
- (b) Chimneys, elevators, equipment penthouses, monitors, cooling towers and ventilators, provided they are not intended for human occupancy and they do not extend more than twenty (20) feet above the top of the principal structure.
- (c) Belltowers, clock towers, cupolas, domes, flag poles and spires, provided they are not intended for human occupancy and they do not exceed more than 150% of the maximum height of district in which they are located.
- (d) Signs, including outdoor advertising, provided that the height does not exceed the allowable maximum sign height in Chapter 1317.

Structures enumerated in subsections (b) and (c) above may be increased in height by the Board of Zoning Appeals as a special exception.
(Ord. 28-17, Passed 9-11-17.)

1123.10 EXISTING BUILDING ENCROACHMENT ON FRONT YARDS OR BUILDING SETBACKS.

Where an existing building or buildings on the same side of the street and within the same block encroach on the required front yard or building setback, the required front yard or building setback for new construction shall be established as follows:

- (a) If the proposed building is to be located more than 200 feet from an encroaching building, the proposed building shall conform to the front yard or setback established for the district in which the proposed building is to be located.
- (b) If the proposed building is to be located between adjacent buildings which conform to the required front yard or building setback, or between a conforming building and an intersecting street, the proposed building shall conform to the front yard or setback established for the district in which the proposed building is to be located.
- (c) If the proposed building is to be located within 200 feet of encroaching buildings on both sides and there are no intervening buildings, the front yard or building setback shall be the average of the front yard or setback of the two nearest front corners of the encroaching buildings.
- (d) If the proposed building is to be located within 200 feet of an encroaching building on one side, but not both sides, and there are no intervening buildings, the front yard or building setback shall be the average of the otherwise required front yard or setback and the setback of the nearest front corner of the encroaching building.
- (e) Cornices, canopies, eaves, fireplaces and similar architectural features may project not more than two (2) feet into a required yard.

Provided, however, that in the application of subsections (c) or (d) above, the front yard or building setback shall not be reduced to less than five (5) feet.
(Ord. 28-17, Passed 9-11-17.)

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 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.

- (1) 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.
- (2) Shall be constructed with all braces and supports on the interior, except when both sides are of the same design and appearance.
- (3) Shall be erected prior to the occupancy of the building or initiation of the use required to be screened.
- (4) Shall have consistency of design.
- (5) Shall not be topped with barbed or razor wire.
- (6) Shall 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.
- (7) When screening consisting of live plants, alone or in combination with other materials, is installed, the plants shall be selected for density of year round foliage
- (8) Shall be selected to achieve the required height and density within three (3) years of installation

(b) Shall have a minimum height of three (3) feet at time of installation and shall be maintained in a healthy, live state and replaced as needed to comply with the original site plan and the specifications herein set forth.

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

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

- (1) Be a minimum of eight (8) feet high
 - (2) Be constructed of common fencing materials, designed and arranged to provide substantial visual separation from other land uses, and from view from adjacent streets, highways and thoroughfares.
 - (3) Be uniform in height, except for significant changes in topography
 - (4) Be constructed with all braces and supports on the interior, except when both sides are of the same design and appearance.
 - (5) Be erected prior to occupancy and/or use of the site.
- The screening wall or fence shall be maintained by the owner of the lot containing the use required to construct the screening. Failure to maintain after notice by the Zoning Inspector shall constitute an offense hereunder.

- (f) The Board of Zoning Appeals, as a Special Exception, may:
- (1) Modify or remove the screening requirement where existing physical features provide for the visual separation of the uses.
 - (2) Modify the screening requirement where alternative screening will provide for the visual separation of the uses.
 - (3) Grant an extension of time to erect a screen where properties which are to be benefited by the screen are undeveloped.
 - (4) Remove the screening requirement where the purposes of the screening requirement cannot be achieved, or is prohibited by other ordinances or regulations. (Ord. 28-17. Passed 9-11-17.)

1123.12 PLATTING REQUIREMENT.

(a) For the purposes of providing a proper arrangement of streets and assuring the adequacy of open spaces for traffic, utilities, and access of emergency vehicles, commensurate with the intensification of land use customarily incident to a change in zoning, a platting requirement is established as follows:

(b) For any land which has been rezoned to a zoning classification other than AG upon application of a private party, no building permit or zoning clearance permit shall be issued until that portion of the tract on which the permit is sought has been included in a required subdivision plat or replat, as the case may be, submitted to and approved by the Planning Commission, and filed of record in the Office of the Fairfield County Recorder. Provided that the Planning Commission, pursuant to their exclusive jurisdiction over subdivision plats, may remove this platting requirement upon determining that the above purposes have been achieved by previous platting or could not be achieved by a plat or replat. (Ord. 28-17. Passed 9-11-17.)

1123.13 MAJOR STREET PLAN.

"The Official Thoroughfare Map of the City of Lancaster", hereinafter referred to as "The Major Street Plan", as adopted by the City Council of Lancaster, Ohio, as Resolution 90-04 on June 14, 2004, as may be subsequently amended. (Ord. 28-17. Passed 9-11-17.)

1123.14 STRUCTURE SETBACK FROM ABUTTING STREETS.

The structure setback from abutting streets shall be as provided for each zoning district. (Ord. 28-17. Passed 9-11-17.)

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

- (a) All motor vehicles which are designed for travel upon public streets and which are being parked, stored or displayed for sale shall be parked, stored or displayed on an all-weather material as defined in Chapter 1161 Definitions.
- (b) All recreational vehicles and portable storage units shall be parked, stored or displayed for sale in accordance with the following conditions:
- (1) On all weather material/surface as defined in Chapter 1161 of this Code;
 - (2) No closer than three (3) feet to the side property lines; and
 - (3) Not within the front yard. Furthermore, no recreational vehicle or portable storage unit shall be parked, stored or displayed for sale in a manner that blocks any sidewalk or obstructs sight lines for any vehicle entering or exiting the right of way.

- A. Recreational vehicles and Portable Storage Units may be parked on an all weather surface within the front yard for a period not to exceed 48 hours for loading or unloading.
- B. A Portable Storage Unit may be placed in any right of way without first obtaining the appropriate permit(s) from the City.
- (c) All vehicles not defined as a motor vehicle or recreational vehicle shall be parked stored or displayed for sale in accordance with the following conditions:
- (1) On an all weather material/surface as defined in Chapter 1161 of this Code;
 - (2) No closer than three (3) feet to the side property lines; and
 - (3) Not within the front yard within a residential district.
- (d) This provision shall not apply to vehicles located within junk and salvage yards or construction equipment on a site with an approved active building permit.
- (e) For the purposes of this sections, "recreational vehicle" shall have the same meaning as in Section 1161.01(96) of this Code, and the terms "vehicle" and "motor vehicle" shall have the same meaning as Chapter 301 of this Code. (Ord. 28-17. Passed 9-11-17.)

1123.16 ESSENTIAL SERVICES.

For the purposes of this Code, essential services, as defined in Chapter 1161, shall be considered a permitted use in all zoning districts. (Ord. 28-17. Passed 9-11-17.)

1123.17 FAMILY DAY CARE AND FAMILY CHILD CARE HOMES.

- (a) "Type A Family Day Care Home" and "Type A Home" mean a permanent residence of the administrator in which the day care is provided:
- (1) For seven (7) to twelve (12) children at one time, including any children under six (6) years of age who are related to a licensee, administrator or employee of the Type A home and who are on the premises of the Type A home; or
 - (2) For four (4) to twelve (12) children at one (1) time if four (4) or more of the children are under two (2) years of age, including any children under six (6) years of age who are related to a licensee, administrator or employee of the Type A home and who are on the premises of the Type A home.
- (3) Type A homes are considered Special Exceptions and require approval of the Board of Zoning Appeals.
- (4) All Type A homes must be licensed by the State of Ohio and must follow the standards set forth by the Department of Human Services.
- (b) "Type B Family Day Care Home" and "Type B Home" mean a permanent residence of the provider in which child care is provided for one (1) to six (6) children at one time and in which no more than three (3) children are under the age of two (2) years:
- (1) In counting children for the purpose of this section, any children under six (6) years of age who are related to the provider and who are on the premises of the Type B home shall be counted. Children six (6) years of age and older who are related to the provider, who are not publicly funded and who are on the premises of the Type B home shall not be included in this count.
 - (2) A "Type B Home" also includes a home which is the permanent residence of the provider and the parent.
 - (3) Type B homes are considered a permitted use in all R Districts.

- (4) Type B homes do not require a license as long as no more than six (6) children are cared for at one (1) time. Type B homes must be certified by local and/or State officials if child care is paid for with public funds.
- (5) No person shall be employed other than a member of the immediate family residing on the premises or as a substitute caregiver as required by the standards for a Type B Child Care Home, as adopted by the Ohio Department of Human Services.
- (c) All licensed Type A and Type B homes must obtain a Zoning Clearance Permit, pursuant to Chapter 1155 if established after the effective date of this Ordinance.
- (d) Any signs on the lot shall comply with the provisions of Chapter 1317 of the Codified Ordinances.
- (e) No exterior alterations of the dwelling or any customary accessory structure shall be made which would detract from the residential character of the structure.
- (f) No Type A family day care home may be located on a lot within 300 feet from any other lot containing a Type A family day care home if any boundary of said lots abut the same street.
- (g) Type A Family Day Care Homes licensed by the State of Ohio, in existence on the effective date of this amendment, but which would be prohibited by the spacing requirements herein, may continue as otherwise required herein.
(Ord. 28-17. Passed 9-11-17.)

1123.18 GROUP RESIDENTIAL FACILITIES.

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

- (a) The facility shall obtain all approvals and/or licenses as required by state and local laws.
- (b) The facility shall provide 24-hour supervision by trained and qualified professional personnel.
- (c) No exterior alterations of the structure shall be made which would be inconsistent with the residential character of the residential structures in the surrounding neighborhood.
- (d) The facility shall comply with the district regulations applicable to other properties in the zoning district in which they are located.
- (e) Such facilities shall be required to provide appropriate sleeping quarters without using normal living areas, such as living rooms, dining room or kitchen for sleeping.
- (f) Such facilities shall meet all applicable local and/or state building, safety and fire safety requirements for the proposed use and level of occupancy.
- (g) Such facilities shall be reasonably accessible, by virtue of location or transportation provided by the applicant, to medical, recreational and retail services, and employment opportunities.
- (h) The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents, including a structured procedure whereby their grievances may be filed and resolved.
(Ord. 28-17. Passed 9-11-17.)

1123.19 CONVICT PRERELEASE AND/OR CORRECTIONAL COMMUNITY TREATMENT CENTERS.

"Convict PreRelease and/or Correctional Community Centers" shall be defined and classified in Chapter 1161 of this Code. In order to provide opportunities for location of convict facilities, and to establish the suitability of the requested use at the proposed location, a convict pre-release and correctional community treatment center, to avoid over concentration of said pre-release or correctional community treatment center shall be allowed as a Special Exception only in the IL or IM Districts. No application for a Special Exception for such a facility shall be accepted for review unless accompanied by sufficient documentation by the appropriate licensing or certifying agency determining the need for such a facility at the proposed location. The applicant shall be responsible for demonstrating compliance with the requirements of this Section. The Board of Zoning Appeals shall consider the following criteria in determining whether a location is appropriate for such a facility and may attach conditions to zoning clearance consistent with the purposes of this Section.

- (a) The facility shall be occupied by not more than thirty (30) residents, exclusive of staff, limited by the size of the existing or proposed building and its allocated space for sleeping quarters.
- (b) Prior to occupancy and continuously thereafter, the applicant convict pre-release and correctional community treatment center shall:
- (1) Be licensed or certified by a federal, state, or local agency which requires screening potential residents.
 - (2) Comply with all applicable City codes.
 - (3) Agree in writing to maintain with the Lancaster Police Department a current list of all residents of the facility by name and photograph.
 - (4) Submit a copy of the B.1. License or Certificate to the Zoning Inspector initially prior to occupancy and therefore subsequent to each renewal.
(Ord. 28-17. Passed 9-11-17.)

1123.20 LOCATION OF CEMETERIES.

No person/group shall establish any cemetery or other place for the interment of dead bodies, human remains, or human ashes within the corporate limits of the City. However, nothing in this section shall prevent cemeteries existing before October 31, 2005, from acquiring land for expansion when done in accordance with the provision of the Ohio Revised Code.
(Ord. 28-17. Passed 9-11-17.)

1123.21 MEDICAL MARIJUANA CULTIVATORS, PROCESSORS AND RETAIL DISPENSARIES.

The term "medical marijuana" shall have the same meaning as in Section 3769.01(A) of the Ohio Revised Code, effective September 8, 2016.

No person shall open, establish or operate any business or commercial enterprise engaged as a cultivator, processor, or retail dispenser of medical marijuana within the corporate limits of the City. No zoning clearance, permit, or other administrative approval shall be approved or issued by any administrative official of the City, nor shall any variance be approved or granted, to any person, business, or other applicant desiring or intending to operate a business or commercial enterprise engaged as a cultivator, processor, or retail dispenser of medical marijuana within the corporate limits of the City.
(Ord. 28-17. Passed 9-11-17.)

- (3) Not encroach upon the land or airspace of any abutting property, and
 (4) Not exceed twenty-four (24) inches in width above twenty-five (25) feet in height, exclusive of guy lines.
 (Ord. 28-17. Passed 6-11-17.)

1125.05 PRIVATE SWIMMING POOLS.

A "private swimming pool" as regulated herein, means any pool or open tank not located within a completely enclosed building and containing water to a depth, at any point greater than one and one-half (1 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 storable swimming pools, shall be allowed in any residential district unless the following conditions and requirements are complied with:

- (a) The pool is intended to be used solely for the occupants of the principal use of the property on which it is located.
 (b) No pool of any kind (including storable swimming pools), including any walks, paved areas, and appurtenances thereto, shall not be located in any front yard, nor closer than five (5) feet to any property line or structure.
 (c) The area of the swimming pool, exclusive of decks, walks and other appurtenances, shall not exceed ten percent (10%) of the area of the lot or parcel.
 (d) Any private swimming pool, or the property on which the pool is located, shall be enclosed by a wall or fence constructed so as to prevent uncontrolled access. Such wall or fence shall meet the requirements established in the current version of the International Residential Code (IRC), Appendix G (Swimming Pools, Spas and Hot Tubs) and be maintained in good condition.
 (e) All lights used for the illumination of the swimming pool and adjacent areas shall be designed, located and installed so as to confine the direct beams thereof to the lot or parcel on which the pool is located.
 (f) Shall meet the requirements established in the current version of the International Residential Code (IRC), Appendix G (Swimming Pools, Spas and Hot Tubs).
 A zoning clearance permit shall be required for the construction or installation of any private swimming pool. The owner of the property, or his agent, shall certify that the pool will be constructed, installed and maintained in conformance with the above requirements.
 (Ord. 28-17. Passed 9-11-17.)

1125.06 HOME OCCUPATIONS.

Home occupations shall be considered as an accessory use as specified in the respective zoning districts of this Zoning Ordinance. The applicant requesting use of property for a home occupation shall submit evidence that the proposed home occupation will comply with the following standards:

- (a) The use shall be clearly incidental and secondary to residential use of the dwelling and not more than twenty-five percent (25%) of dwelling unit floor area is devoted to the home occupation.
 (b) The home occupation shall be performed by the occupant of the premises. Not more than one (1) person, other than immediate family residing at the premises, shall be employed in such occupation.
 (c) The home occupation shall not generate greater vehicular traffic than is normal for a residential neighborhood.
 (d) External indication of such home occupation shall be limited to one sign. Such sign shall comply with the standards in Chapter 1317 of this Ordinance.

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- (e) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to normal senses off the lot.

- (f) No home occupation shall involve the exterior storage of equipment or inventory.
 (g) No parking space associated with the home occupation shall be located within the front yard other than a paved driveway.

Generally, home occupations shall be regulated not by the specific activity performed, but rather by the presence of external impacts that may affect the residential character of the surrounding area. In particular, a home occupation shall consist primarily of rendering specific personal services. Examples would include a salesperson, member of the clergy, lawyer, engineer, architect, real estate consultant, accountant, artist, computer or telecommunications worker or private teacher.
 (Ord. 28-17. Passed 9-11-17.)

1125.07 TEMPORARY ACCESSORY TENTS.

Temporary tents shall be considered as an accessory use in commercial districts designated at Commercial Neighborhood, Commercial General, Commercial High Intensity, Central Business District and in Industrial Light, Moderate and Heavy districts when retail sales are a principal use as so specified by this chapter. Tents used for festivals, fairs and carnivals for a maximum of fifteen (15) days are exempt from application. The applicant requesting use of such tents shall submit evidence that the following standards will be met.

- (a) Tent(s) on a lot or contiguous lot in the same ownership shall have an aggregate floor area of not more than 700 square feet.
 (b) Tent(s) erected shall meet the requirements of the Ohio Building Code.
 (c) Tent(s) used for festivals, fairs and carnivals for a maximum of fifteen (15) days are exempt from zoning approval.
 (d) Tent(s) may not be erected for more than 89 days during any calendar year except when special permission is granted by the Zoning Inspector.
 (e) Tent(s) shall not cover or restrict access to any parking space.
 (Ord. 28-17. Passed 9-11-17.)

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CHAPTER 1125
Yards and Accessory Uses

- 1125.01 Yards.
- 1125.02 Accessory uses and/or structures.
- 1125.03 Residential fences and walls.
- 1125.04 Antennas, satellite dishes and supporting structures.
- 1125.05 Private swimming pools.
- 1125.06 Home occupations.
- 1125.07 Temporary accessory tents.

1125.01 YARDS.

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

- (a) Cornices, canopies, eaves, fireplaces and similar architectural features may project not more than two (2) feet into a required yard.
- (b) Fire escapes may project not more than four and one-half (4-1/2) feet into a required yard.
- (c) Fences, plant materials, berms, walls and permitted signs may be located in any yard provided that the same do not constitute a nuisance as provided in Lancaster Revised Code. Fences must meet the standards of Section 1125.03 below.
- (d) Detached accessory structures, subject to the standards of Section 1125.02 below.
- (e) Swimming pools, tennis courts, clotheslines, barbeque pits, playground equipment, portable or permanent dog run, house or kennel and similar structures customary and ancillary to the primary residential use of the property.
- (f) Antennas and supporting structures, subject to the standards of Section 1125.04 below.
- (g) Signs which are otherwise permitted as an accessory use in the specific district, may be located within any yard bounded by a public street, provided the setback requirements of Chapter 1317 are met. (Ord. 28-17. Passed 9-11-17.)

1125.02 ACCESSORY USES AND/OR STRUCTURES.

"Accessory use or structure" shall mean a use and/or structure which is located on the same lot as the principal building or use and is subordinate, secondary, and incidental to such principal building or use. Such accessory uses or structures are subject to the requirements for Accessory Uses in the district in which they are located, and the following additional requirements:

- (a) An unattached accessory structure shall be located within any side or rear yard, subject to the following:
 - (1) In the AG District, any detached accessory structure must be located not closer to the side or rear lot line than the requirement for principal structures.
 - (2) In the RE and RS Districts, a detached accessory building shall meet the bulk and area requirements of the zoning district. For lots less than 50 feet in width the structure shall be located a distance at least ten percent (10%) of the lot width, not less than three (3) feet from any lot line; provided, however, in those cases where such lot line abuts a public street, the detached accessory building shall be located not closer than twenty (20) feet from the right-of-way line.
 - (3) In the OM, C and I Districts, any detached accessory structure shall meet all building setback requirements for principal buildings in the district.
- (b) In the AG, RE and RS Districts, the height of a detached accessory structure shall not exceed eighteen (18) feet.
- (c) In R Districts, the total floor area of any single detached accessory structure shall not exceed twenty percent (20%) of the area of the rear yard. In R Districts, the total floor area of all detached structures shall not exceed sixty percent (60%) of the ground floor area of the principal residential structure on the lot. If the ground floor area of the structure is less than 1,000 square feet, the total floor area of all detached structures shall not exceed 576 square feet.
- (d) Accessory commercial uses allowed in the RMH Districts shall be designed and located for the convenience of the occupants of the multi-family structure, shall be located entirely within such structure with exterior public entrance(s) solely from the lobby of such structure, and shall occupy not more than ten percent (10%) of the gross floor area of the multi-family structure. (Ord. 28-17. Passed 9-11-17.)

1125.03 RESIDENTIAL FENCES AND WALLS.

For residential properties, fences and/or walls within or enclosing yards shall not exceed a height of eight (8) feet in a side or rear yard, and four (4) feet in a front yard. Fences or walls containing barbed wire, razor wire or charged with electrical current are prohibited unless such fences or walls are in the AG District and solely used for the enclosure of livestock. (Ord. 28-17. Passed 9-11-17.)

1125.04 ANTENNAS, SATELLITE DISHES AND SUPPORTING STRUCTURES.

(a) Antennas or towers of licensed amateur radio stations are exempt from municipal overview, but subject to licensing criteria of Part 97 of the Federal Communication Rules.

(b) Antennas, satellite dishes and their supporting structures shall comply with Chapter 1339 of the Lancaster Codified Ordinances.

(c) Structures other than a dwelling or customary accessory building which are used to support accessory antennas, including guy lines, shall:

- (1) Be located only in the rear yard, and shall be limited to one such structure.
- (2) Not exceed 65 feet in height, measured from the average ground elevation of the rear building wall of the residential dwelling to the highest horizontal plane of the antenna supporting structure.

CHAPTER 1133
Commercial Districts

1133.01 1133.02 1133.03	Establishment and purpose. (CN) Commercial Neighborhood District. (CG) Commercial General District.	1133.04 1133.05	(CF) Commercial High Intensity District. (CBD) Central Business District.
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1133.01 ESTABLISHMENT AND PURPOSE.

There are hereby established four (4) Commercial Districts. These Commercial Districts are designed to:

- (a) Encourage the provision of suitable areas for commercial growth and development within the City.
- (b) Meet the needs for commercial goods and services within the community.
- (c) Promote a range of diverse commercial environments.
- (d) Encourage a compatible relationship between commercial facilities and other land uses.
- (e) Facilitate the planning for the cost effective provision of streets, utilities, and other public facilities to serve commercial facilities.
- (f) Protecting the character of commercial districts and their unique suitability for commercial use.
- (g) Requiring off-street loading and parking facilities.
- (h) Controlling the number, area, location and types of signs.
(Ord. 28-17, Passed 9-11-17.)

1133.02 (CN) COMMERCIAL NEIGHBORHOOD DISTRICT.

(a) Purpose. The (CN) Commercial Neighborhood District is designed to provide for the orderly development of neighborhood-oriented businesses serving the regular day-to-day convenience and personal service needs of nearby residents. Because commercial establishments within the CN District are more closely associated with the residential land uses, more restrictive requirements related to size and scale, traffic control and landscaping are needed than in other commercial districts.

(b) Permitted Uses.

- (1) Single-family detached dwellings and permanently sited manufactured homes, as defined in Section 1161.01, provided such structures comply with the requirements of the RM-2 District and with all other City codes and ordinances.
- (2) Class I Type B group residential facilities

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- (3) Public or private open land uses, such as arboreums, parks, playgrounds, flood management and storm water detention areas, reservoirs and wildlife preserves.
- (4) Multi-family dwellings, subject to the requirements of the RM-2 District, including:
 - A. Single-family townhouse units, provided such structures are located on a separate lot within a townhouse development containing at least three (3) lots, are attached by a common party wall to another townhouse unit, are not located above any other dwelling unit, and comply with all other City codes and ordinances.
 - B. Apartment
 - C. Assisted Living Facility
 - D. Convent or Monastery
 - E. Rooming or Boarding House
 - F. Elderly/Retirement Housing.
 - G. Life Care Retirement Center, provided the nursing or medical facility meets all applicable licensing requirements by the State of Ohio and/or Ohio State Health Department as an intermediate care facility or as a skilled nursing home.
- (5) Type A and/or Type B Family Child Care Homes, subject to the requirements of Section 1123.17 of this Code.
- (6) Churches and similar places of public assembly.
- (7) Public or private schools.
- (8) Colleges and/or universities.
- (9) Community services, such as community centers, museums, galleries, libraries and similar facilities.
- (10) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters.
- (11) Off-street parking areas and garages as a principal use, subject to the requirements of Chapter 1151 of this Code
- (12) Administrative, business or professional offices not carrying on retail trade with the public and having no stock of goods maintained for sale to customers consisting of:
 - A. Brokers and dealers in securities, investments and associated services, not including commercial banks and savings institutions.
 - B. Insurance agents and brokers and associated services.
 - C. Real estate sales and associated services.
 - D. Medical and medical-related activities, but not including veterinary offices or animal hospitals, kennels, or facilities covered in 1123.19.
 - E. Professional, legal, engineering and architectural services, not including the outside storage of equipment.
 - F. Accounting, auditing and other bookkeeping services.
- (13) Retail Stores primarily engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of those goods; provided all storage and display of merchandise shall be within the principal structure; and not including drive-through establishments or businesses selling gasoline or similar fuels. Examples include:

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- A. Food and food products, consisting of: grocery stores, meat and fish markets, fruit and vegetable markets, and specialty stores such as bakery, candy or confectionery.
 - B. Proprietary drug and hardware stores.
 - C. Similar retail stores, consisting of: florists, gift, antique or second-hand stores, books and newspapers, sporting goods, jewelry, optical goods, and other retail stores which conform to the purpose and intent of the CN District.
- (14) Personal Services, involving the care of the person and his/her personal effects, consisting of consumer services generally involving the care and maintenance of tangible personal property, except for motor vehicles.
- Examples include:
- A. Restaurants, but not including restaurants with drive-through facilities.
 - B. Banks, savings and loans, and credit agencies, but not including establishments with drive-through facilities.
 - C. Barber and beauty shops, having no more than four work stations.
 - D. Laundromats and/or dry-cleaning facilities.
 - E. Funeral services.
 - F. Human medical and/or dental clinics.
 - G. Radio, television or small appliance repair.
 - H. Commercial photography.
 - I. On-premises duplication services.
 - J. Licensed Day Care Center

(c) Accessory Uses. Accessory uses customarily incident to a principal permitted use shall be allowed in the CN District. Accessory buildings shall meet minimum building setback requirements for principal buildings. Signs must meet the requirements of Chapter 1317 of this Code.

(d) Bulk and Area Requirements. Bulk and area requirements for the permitted and accessory uses within the (CN) Commercial Neighborhood District are shown in the following Table:

Minimum Frontage (feet)	150
Arterial or Freeway Service Road	50
Not an Arterial or Freeway Service Road	.5
Maximum Floor Area Ratio	
Minimum Setback from Property Line (feet)	50
Arterial or Freeway Service Road	25
Not an Arterial or Freeway Service Road	10*
Minimum Setback from Abutting R District (feet)	
Maximum Building Height	NA

* Plus two (2) feet for each additional foot of building height exceeding fifteen (15) feet, if abutting property is in RE or RS District.

Front yard setbacks in the CN District shall comply with Ordinance 83-41 (see APPENDIX B).

- (e) Additional Standards.
- (1) Lighting. Lighting fixtures within the CN District shall be arranged shielded and directed so as not to shine on any adjacent residential property.
 - (2) Parking and loading. Parking and loading requirements shall be as specified in Chapter 1151 of this Code. Mixed commercial centers shall require one parking space per 200 S.F. gross floor space regardless of individual unit use.
 - (3) Traffic and circulation. Traffic circulation for developments within the CN District is subject to review by the Engineering Department.
 - (4) Trash and garbage control. All trash and garbage shall be stored and managed consistent with the requirements of Chapter 1303 and Chapter 937 of the Codified Ordinances.
 - (5) Screening and landscaping. The landscaping and screening of parking and service areas is encouraged in the CN District. If side or rear yards are adjacent to any RE or RS District, landscaping shall be required in those yards to meet the standards of Section 1123.11 of this Code. (Ord. 28-17, Passed 9-11-17.)

1133.03 (CG) COMMERCIAL GENERAL DISTRICT.

(a) Purpose. The (CG) Commercial General District is designed to provide for a broad range of business activity oriented toward community and/or regional markets. Such business uses, by their nature, rely on higher volumes of customer traffic and generally have higher impact levels on adjacent uses. The intent of the CG District is to encourage the most compatible relationship between permitted uses and overall traffic movement within the City, while minimizing negative impacts on adjacent land uses.

(b) Permitted Uses.

- (1) Public or private open land uses, such as arboreums, parks, playgrounds, flood management and storm water detention areas, reservoirs and wildlife preserves.
- (2) Churches and similar places of public assembly.
- (3) Public or private schools.
- (4) Colleges and/or universities.
- (5) Community services, such as community centers, museums, galleries, libraries and similar facilities.
- (6) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters.
- (7) Off-street parking areas and garages as a principal use, subject to the requirements of Chapter 1151 of this Code.
- (8) Administrative, business or professional offices, including:
 - A. Brokers and dealers in securities, investments and associated services, not including commercial banks and savings institutions.
 - B. Insurance agents and brokers and associated services.
 - C. Real estate sales and associated services.
 - D. Medical and medical-related activities, but not including facilities covered in 1123.19.
 - E. Professional, legal, engineering and architectural services, not including the outside storage of equipment.
 - F. Accounting, auditing and other bookkeeping services.
- (9) Retail Stores primarily engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of these goods.

- (11) Motor vehicle sales and servicing, (including body repair and painting) not included in Section 1133.03(b)14 above.
- (12) Intensive open air commercial recreational facilities, including arenas, race tracks, fargrounds, golf driving ranges, stadiums, and water slides.
- (13) Facilities for scientific research, development and testing, within enclosed buildings.

(d) **Bulk and Area Requirements.** Bulk and area requirements for the permitted and accessory uses within the (CG) General Commercial District are shown in the following Table:

Minimum Frontage (feet)	
Arterial or Freeway Service Road	100
Not an Arterial or Freeway Service Road	50
Maximum Floor Area Ratio	.75
Minimum Setback from Property Line (feet)	
Arterial or Freeway Service Road	50
Not an Arterial or Freeway Service Road	25
Minimum Setback from Abutting R District (feet)	10*
Maximum Building Height	NA

* Plus two (2) feet for each additional foot of building height exceeding fifteen (15) feet, if abutting property is in RE or RS District.

Front yard setbacks in the CG District shall comply with Ordinance 83-41 (see APPENDIX B).

(e) **Additional Standards.**

- (1) **Lighting.** Lighting fixtures within the CG District shall be arranged shielded and directed so as not to shine on any adjacent residential property.
- (2) **Parking and loading.** Parking and loading requirements shall be as specified in Chapter 1151 of this Code. Mixed commercial centers shall require one parking space per 200 S.F. gross floor space regardless of individual unit use.
- (3) **Traffic and circulation.** Traffic circulation for developments within the CG District is subject to review by the Engineering Department.
- (4) **Trash and garbage control.** All trash and garbage shall be stored and managed consistent with the requirements of Chapter 1503 and Chapter 957 of the Codified Ordinances. (Ord. 28-17, Passed 9-11-17.)

1133.04 (CH) **COMMERCIAL HIGH INTENSITY DISTRICT.**

(a) **Purpose.** The (CH) Commercial High Intensity District is designed to provide for large commercial and mixed commercial/industrial developments which serve primarily a regional market and/or are characterized by a particularly high level of intensity. Such projects require large volumes of traffic, high demands for access and visibility, and will usually be insulated from residential uses.

(b) **Permitted Uses.** The uses specified as Permitted Uses in the CG District shall be permitted in the CH District. In addition, the following uses shall be permitted in the CH District:

- (1) Structures containing separate small, self-serve storage facilities leased or rented to individuals or businesses, provided such facilities are located on a site with frontage on an arterial street and that any such use, when located adjacent to an R District, shall be screened by erection and maintenance of a screening wall or fence along the lot line(s) which abut such R District

(2) Restaurants and similar facilities with outside seating facilities.

(3) Self-service car washes.

(4) Temporary or seasonal outdoor sales lots having a maximum operating duration of four (4) months, provided all other permits are obtained.

(5) Trade establishments primarily providing business and household maintenance services. Such establishments could offer incidental fabricating, processing, installation and repair, including:

- A. Heating and air conditioning
- B. Appliance repair
- C. Plumbing
- D. Extermination and pest control
- E. Janitorial services
- F. Window cleaning
- G. Contract construction services

(6) Motor vehicle sales and servicing, body repair and painting, including new and used automobiles, trucks, and agricultural equipment.

(7) Manufactured home sales.

(8) Facilities for scientific research, development and testing, within enclosed buildings.

(9) Warehousing, distribution and wholesaling establishments involved with the movement and/or storage of goods, including:

- A. Warehouses used by retail stores
- B. Food and hardware distributors
- C. General freight storage
- D. Truck terminals
- E. Parcel and post office facilities

(c) **Special Exception Uses.**

(1) Multi-family dwellings, subject to the requirements of the RM-2 District, including:

- A. Single-family townhouse units, provided such structures are located on a separate lot within a townhouse development containing at least three (3) lots, are attached by a common party wall to another townhouse unit, are not located above any other dwelling unit, and comply with all other City codes and ordinances.
- B. Apartment
- C. Assisted Living Facility
- D. Convent or Monastery
- E. Rooming or Boarding House
- F. Elderly/Retirement Housing
- G. Life Care Retirement Center, provided the nursing or medical facility meets all applicable licensing requirements by the State of Ohio and/or Ohio State Health Department as an intermediate care facility or as a skilled nursing home.

(2) Type A and/or Type B Family Child Care Homes, subject to the requirements of Section 1123.17 of this Code.

(3) Class I Type A group residential facilities, subject to the requirements of Section 1123.18 of this Code.

(4) Class II Type A or Type B group residential facilities, subject to the requirements of Section 1123.18 of this Code.

(5) Adult entertainment establishments.

- (6) Intensive open air commercial recreational facilities, including arenas, race tracks, fairgrounds, golf driving ranges, stadiums, and water slides.
- (7) Manufacturing and/or industrial facilities which operate primarily within enclosed structures and have minimal adverse environmental and/or economic impact on adjacent non-industrial properties. Such uses must provide to the Board of Zoning Appeals documentation of anticipated levels of noise, dust, odor, light, glare and vibration from the proposed use and a plan for alleviation or control of such impacts.

(d) Bulk and Area Requirements. Bulk and area requirements for the permitted and accessory uses within the (CH) Commercial High Intensity District are shown in the following Table:

Minimum Frontage (feet)	NA
Arterial or Freeway Service Road	NA
Not an Arterial or Freeway Service Road	NA
Maximum Floor Area Ratio	NA
Minimum Setback from Property Line (feet)	0
Arterial or Freeway Service Road	0
Not an Arterial or Freeway Service Road	0
Minimum Setback from Abutting R District (feet)	0
Maximum Building Height	NA

Front yard setbacks in the CG District shall comply with Ordinance 83-41. (see APPENDIX B).

(e) Additional Standards.

- (1) Lighting. Lighting fixtures within the CH District shall be arranged shielded and directed so as not to shine on any adjacent residential property.
- (2) Parking and loading. Parking and loading requirements shall be as specified in Chapter 1151 of this Code. Mixed commercial centers shall require one parking space per 200 S.F. gross floor space regardless of individual unit use.
- (3) Traffic and circulation. Traffic circulation for developments within the CH District is subject to review by the Engineering Department.
- (4) Trash and garbage control. All trash and garbage shall be stored and managed consistent with the requirements of Chapter 1303 and Chapter 937 of the Codified Ordinances (Ord. 28-17. Passed 9-11-17.)

1133.05 (CBD) CENTRAL BUSINESS DISTRICT.

(a) Purpose. The Central Business District (CBD) is designed to promote and foster the economic and physical revitalization of downtown Lancaster. The standards and requirements of the CBD District are based on the following principles:

- (1) The downtown should contain a healthy mix of land uses. The marketplace - not regulations - should be the primary force driving the mix of downtown uses.
- (2) The downtown should be particularly receptive to small local-based entrepreneurship and start-up businesses.
- (3) The maintenance and improvement of the downtown physical environment is important in promoting an active and vital business environment.
- (4) Development standards and regulations should encourage the adaptive use of older structures.

(b) Permitted Uses.

- (1) Single-family detached dwellings and permanently sited manufactured homes, as defined in section 1161.01, provided such structures comply with the Residential Standards requirements, established Historic Lancaster Design Guidelines, and with all other city codes and ordinances.
- (2) Public or private open land uses, such as arboretums, parks, playgrounds, flood management and storm water detention areas, reservoirs and wildlife preserves.
- (3) Multi-family dwellings, subject to the Residential Standards requirements and the Historic Lancaster Design Guidelines. Including:
 - A. Single-family townhouse units, provided such structures are located on a separate lot within a townhouse development containing at least three (3) lots, are attached by a common party wall to another townhouse unit, are not located above any other dwelling unit, and comply with all other city codes and ordinances.
 - B. Apartment
 - C. Elderly/Retirement Housing
 - D. Life Care Retirement Center, provided the nursing or medical facility meets all applicable licensing requirements by The State of Ohio and/or Ohio State Health Department as an intermediate care facility or as a skilled nursing home
- (4) Churches and similar places of public assembly
- (5) Public or private schools exclusive of correctional school facilities
- (6) Colleges and/or Universities
- (7) Community services, such as community centers, museums, galleries, libraries and similar facilities.
- (8) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters.
- (9) Off-street parking areas and garages as a principal use, subject to the requirements of chapter 1151 of this code.
- (10) Administrative, business or professional offices, such as:
 - A. Brokers and dealers in securities, investments and associated services
 - B. Insurance agents, brokers and associated services
 - C. Real estate sales and associated services
 - D. Doctor and Dental offices, but not including Veterinary offices or animal hospitals
 - E. Professional, legal, engineering and architectural services, not including the outside storage of equipment.
 - F. Accounting, auditing and other bookkeeping services.
- (11) Performing Arts Theaters, Opera Houses, or Center for The Arts.
- (12) Personal Services, involving the care of the person and his/her personal effects, including consumer services generally involving the care and maintenance of tangible property or the provision of tangible services for personal consumption including:
 - A. Restaurants, including establishments with outside seating areas but not including drive-through facilities
 - B. Bars and/or Taverns and similar establishments whose principal activity is dispensing intoxicating beverages, including outside seating areas as long as all city codes and ordinances, such as noise, are maintained.

Minimum Lot Area (S.F.)	
Single Family Dwelling	5,000
Two Family Dwelling (Duplex)	9,000
Multi-Family Dwelling	5,000
Multi-Family located above Commercial Structure	NA
Minimum Land Area per Dwelling Unit (S.F.)	
Single Family	5,000
Two Family Dwelling (Duplex)	9,000
Multi-Family Dwelling One Bedroom or less	600
For each additional bedroom add	400
Multi-Family located above Commercial Structure	NA
Maximum Building Height	
Single Family Dwelling	30 ft
Duplex Family Dwelling	30 ft
Multi-Family Dwelling	NA
Multi-Family located above Commercial Structure	NA

B. Mandatory Front Yard

Mandatory front yards shall comply with Chapter 1123.10

When a single-family or two family lot abuts a non-arterial street or roadway on two (2) sides, the owner may select the front yard, and the other yard abutting the non-arterial street shall have not less than fifteen (15) feet; provided that any garages which access this street shall have a setback of not less than twenty (20) feet.

C. Setback from Residential Districts

Notwithstanding the above, all multi-family dwellings and their accessory buildings shall be located at least twenty-five feet from any property in the RE or RS District. All multi-family structures more than two stories in height shall be located at least seventy five (75) feet from any RE or RS District.

D. Accessory Uses

Accessory Uses shall be the same as in RS-4 District. In addition, management offices, private recreational, laundry and storage facilities for exclusive use by residents of the premises shall be allowed as accessory uses. The following accessory commercial uses shall be allowed, provided such facilities are located entirely within the multifamily structure where located, shall not occupy more than ten percent (10%) of the floor area of the building, and contain no signs or advertising visible from the outside of the lot: Cafes, cafeterias, coffee shops, delicatessens, restaurants and similar eating establishments. Retail convenience establishments including dairy and drug stores; food stores including bakeries, candy, grocery specialty foods, etc.; gift and/or novelty stores; newsstands and tobacco stores. Personal service establishments, including animal grooming, barber and beauty shops, laundry, and tanning salons. (Ord. 28-17. Passed 9-11-17.)

**CHAPTER 1139
Landscape Requirements**

1139.01	Purposes.	1139.05	Prohibited tree species for public use.
1139.02	Tree size definitions.		
1139.03	Tree locations.		
1139.04	Trees and public utility lines.		

1139.01 PURPOSES.

The purposes of the landscape requirements are:

- (a) To promote the beautification of the City of Lancaster and to enhance its aesthetic quality;
- (b) To promote reasonable preservation and replenishment of valued trees and vegetation;
- (c) To aid in establishing the ecological balance by contributing to air purification, oxygen regeneration, ground water recharge and storm water runoff retardation; and
- (d) To achieve a meaningful urban forest while permitting economically feasible urban development to occur. (Ord. 28-17. Passed 9-11-17.)

1139.02 TREE SIZE DEFINITIONS.

- (a) Large Trees—trees that will reach a mature height of 60 feet or better.
- (b) Medium Trees – trees that will reach a mature height of 30-60 feet.
- (c) Small Trees – trees that will reach a maximum height of 30 feet at maturity. (Ord. 28-17. Passed 9-11-17.)

1139.03 TREE LOCATIONS.

(a) Trees within the public right of way shall not be planted in any location where the City Engineer determines that such placement would create a safety hazard. In no case shall a street tree be planted within:

- (1) 35 feet of the point of intersection of the street right of way. If the right of way contains a radius, the measurement shall be measured from the right of way line extended.
- (2) 20 feet of the point of intersection of the alley right of way. If the right of way contains a radius, the measurement shall be measured from the right of way line extended.
- (3) 10 feet from fire hydrants

(b) Where streets are designed with planting islands, trees may be planted in the right of way provided that the bottom of the tree canopy is higher than nine feet at the time of planting.

(c) Tree size shall be based on the size of the tree lawn planting strip as follows

- Under 36 inches Not recommended
 - 36-60 inches Small Trees
 - 60-96 inches Small and Medium Trees
 - Over 96 inches Small Medium and Large Trees
- (Ord. 28-17. Passed 9-11-17.)

1139.04 TREES AND PUBLIC UTILITY LINES.

No person shall cause to be planted any species of trees under any public utility line that has a mature height greater than the height of the utility line. Trees shall not interfere with underground utilities. (Ord. 28-17. Passed 9-11-17.)

1139.05 PROHIBITED TREE SPECIES FOR PUBLIC USE.

No person shall plant or cause to be planted any tree from the list below on any public property or public rights of way in the City of Lancaster, except upon written approval of the Municipal Arborist.

- | | |
|---------------------------|---------------------------------|
| Silver Maple | Acer saccharinum |
| Box Elder | Acer negundo |
| Horsechestnut | Aesculus hippocastanum |
| Tree of Heaven | Ailanthus altissima |
| Birches | Betula sp. (except River Birch) |
| Evergreen | Comifer |
| Canalpa | Catalpa bignonioides |
| Mulberry | Morus sp. |
| American Sycamore | Platanus occidentalis |
| Poplar, Aspen, Cottonwood | Populus sp. |
| Bradford Pear | Pyrus calleryana 'Bradford' |
| Black Locust | Robinia pseudoacacia |
| Willows | Salix sp. |
| European Mountain Ash | Sorbus aucuparia |
| Siberian Elm | Ulmus pumila |
| Nut and Fruit Trees | |
| Female Ginkgo | |
- (Ord. 28-17. Passed 9-11-17.)

**CHAPTER 1153
Nonconformities**

- | | | | |
|---------|-----------------------------|---------|---|
| 1153.01 | Intent. | 1153.07 | Damage and/or destruction of a nonconforming building or use. |
| 1153.02 | Existing land or buildings. | 1153.08 | Maintenance and repair. |
| 1153.03 | Construction commenced. | 1153.09 | Nonconforming lots of record. |
| 1153.04 | Substitution. | | |
| 1153.05 | Extension. | | |
| 1153.06 | Discontinuance. | | |

1153.01 INTENT.

Within the districts established by this Zoning Ordinance, or amendments hereinafter adopted, there may exist lots, structures, uses of land and structure which were lawful before this Zoning Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Zoning Ordinance or future amendments. It is the intent of this Zoning Ordinance to permit such nonconformities to continue until they are removed and to allow reasonable expansion and/or substitution. (Ord. 28-17. Passed 9-11-17.)

1153.02 EXISTING LAND OR BUILDINGS.

Any use of land or buildings existing on the effective date of this Zoning Ordinance may be continued, even though such use does not conform to the provisions herein, so long as such building or use was existing prior to the establishment of this Zoning Ordinance. No non-conforming building, structure, or use shall be moved, extended, enlarged, reconstructed, or structurally altered, except as provided in this Zoning Ordinance. (Ord. 28-17. Passed 9-11-17.)

1153.03 CONSTRUCTION COMMENCED.

Any property purchased or acquired in good faith for any nonconforming use prior to the adoption of this Zoning Ordinance, upon which property the work of changing, remodeling or construction of such nonconforming use has been legally commenced at the time of adoption of this Zoning Ordinance, may be used for the nonconforming use for which such changing, remodeling or construction was undertaken, provided that such work is completed within two (2) years from the date of adoption of this Zoning Ordinance or amendment thereto making said use nonconforming. (Ord. 28-17. Passed 9-11-17.)

1153.04 SUBSTITUTION.

The Board of Zoning Appeals may allow the nonconforming use of a building or structure to be changed to another nonconforming use of the same or of a more restricted classification, provided no structural alterations except those required by law or ordinance are made. However, in an "R" District, no change shall be authorized by the Board of Zoning Appeals to any use which is not a permitted or conditional use in any "R" District.
(Ord. 28-17. Passed 9-11-17.)

1153.05 EXTENSION.

No nonconforming use shall be enlarged, extended, reconstructed, or structurally altered, except as follows:

- (a) The extension of a nonconforming building on the lot occupied by such building, or onto an adjacent lot if such lot is owned by the same person or persons, may be permitted on a once-only basis by the Board of Zoning Appeals, provided that such extension is necessary and incidental to such existing nonconforming use, that the extension will not increase the ground floor area of the building by more than twenty-five percent (25%); and that such extension will not result in an extension which would result in a violation of any provision of this Ordinance with respect to any adjoining premises, or which would occupy ground space required for meeting yard, setback or other requirements.
- (b) No nonconforming building or structure shall be moved in whole or in part to any other location unless such building or structure and the yard and other open spaces provided are made to conform to all of the regulations of the district in which such building or structure is to be located.
- (c) Any residential structure which is nonconforming due to the fact of its being in a non-residential zoning district may be enlarged, extended, reconstructed or structurally altered provided it meets the requirements of the adjacent or most proximate R-District.
- (d) Any structure which is nonconforming due to its location or configuration on the lot, resulting in lot coverage or yards inconsistent with the requirements of the zoning district where it is located, may be enlarged, extended or structurally altered in a manner that decreases or maintains its existing degree of nonconformity, but in no case shall such structure be enlarged, extended or structurally altered in a manner that increases its degree of nonconformity.
(Ord. 28-17. Passed 9-11-17.)

1153.06 DISCONTINUANCE.

A nonconforming use which has been discontinued or abandoned shall not thereafter be returned to a nonconforming use. A nonconforming use shall be considered abandoned whenever either of the following conditions exist:

- (a) When the use has been voluntarily discontinued for a period of two (2) years. It is the responsibility of the applicant to prove the non-conforming use has not been discontinued.
- (b) When the nonconforming use has been replaced by a conforming use.
(Ord. 28-17. Passed 9-11-17.)

1153.07 DAMAGE AND/OR DESTRUCTION OF A NONCONFORMING BUILDING OR USE.

When a building or structure, the use of which does not conform to the provisions of this Ordinance, is damaged by fire, explosion, public enemy or act of God, it may be restored or rebuilt and continued in such nonconforming use provided that the restoration or rebuilding is commenced within twelve (12) months of the time of damage, that construction is completed within twenty-four (24) months, and that such restoration or rebuilding would not extend or expand the existing use, except as may be permitted in Section 1153.05 above.

If any part of the damaged or destroyed building encroaches or intrudes on an adjacent property, the locations of the restored or rebuilt structure is subject to approval by the Board of Zoning Appeals. If the restoration or rebuilding of the structure involves extension or expansion of the use, the provisions of Section 1153.05 shall apply.
(Ord. 28-17. Passed 9-11-17.)

1153.08 MAINTENANCE AND REPAIR.

Nothing in this chapter shall be deemed to prevent normal maintenance and repair of a building or structure containing a nonconforming use. Structural alterations may be made to a building or structure containing a nonconforming use when at least one of the following conditions exist:

- (a) When required by law.
- (b) To convert to a conforming use.
- (c) A building or structure containing residential nonconforming uses may be so altered as to improve interior livability. However, no structural alterations shall be made which exceed the area or height requirements or which would extend into any yard required in the district in which such building is located.
(Ord. 28-17. Passed 9-11-17.)

1153.09 NONCONFORMING LOTS OF RECORD.

In any district where dwellings are permitted, a one-family detached dwelling (or an accessory building if the lot is already occupied by a one-family dwelling) may be erected on any lot of official record on or before April 17, 1939, even though such lot does not comply with the lot area and width requirements of the district in which it is located, provided such lot has at least thirty (30) feet of lot width with frontage on a public street; and further provided that the following conditions are complied with:

- (a) If the owner of such lot does not own adjacent property and did not own such property at the time this Ordinance became effective, each side yard shall not be less than ten percent (10%) of the width of the lot, but in no case shall such side yard be less than three (3) feet.
- (b) If the owner of such lot owns two (2) or more adjacent lots, or other adjacent property, such owner shall redivide the property in such a manner that they conform to the minimum width of such lots in the most proximate single-family district. However, if such redivision would result in lots that exceeds width requirement of lots in the most proximate district, such redivision shall provide for one (1) more building lot than would otherwise be allowed.
(Ord. 28-17. Passed 9-11-17.)

CHAPTER 1161
Definitions

1161.01 Definitions.

1161.01 DEFINITIONS.

- (1) **Abutting:** In the context of notice and a screening or enclosure requirement, abutting shall mean contiguous or separated there from only by a nonarterial street, alley or railroad right-of-way. In other instances, abutting shall mean contiguous.
- (2) **Accessory Use or Structure:** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- (3) **All-Weather Material:** A hard surface, dust-free material capable, during ordinary use, of withstanding without substantial deterioration, normal weather conditions. Gravel, rock, or screenings alone, without use of a petroleum or cement binder, does not meet the definition of an all-weather, dust-free material. All-weather material does not apply to non-residential parking areas and drive areas less than 12,000 square feet in total area that do not abut an arterial street.
- (4) **Alley:** A public right-of-way ten (10) to twenty (20) feet wide which provides only secondary means of access to abutting property.
- (5) **Animation:** The presentation of pictorials and graphics on signs displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shape.
- (6) **Arterial:** A street designated on the Major Street and Highway Plan as an arterial, thoroughfare, parkway or special traffic way.
- (7) **Assisted Living Center:** A residential facility designed to meet housing and care needs of older persons and individuals with disabilities in a residential rather than institutional environment, while maximizing independence, choice, and privacy. Assisted living programs provide personal care for persons with needs for assistance in the activities of daily living, and can respond to unscheduled needs for assistance. Services typically provided include: meals, housekeeping, laundry and linen service, medication monitoring, transportation, and activities. Assisted living settings also typically provide features that enhance resident autonomy, such as lockable doors, full bathrooms, temperature control, and single occupancy, and may provide limited cooking facilities in individual units. Assisted Living Centers exclude nursing homes and other special housing facilities as elsewhere defined.
- (8) **Average Ground Elevation:** The mid point between the highest and lowest ground elevations at the building wall.

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- (9) **Bar/Tavern:** A commercial establishment open to the general public which sells and serves intoxicating beverages (as defined herein) for consumption on the premises.
- (10) **Bed and Breakfast Inn:** Every establishment that provides four (4) or fewer guest rooms with or without meals for guests and/or transient guests who pay a fee for such services. Said structure may also be rented for special events, such as weddings, receptions, anniversaries, private dinner parties, business seminars, etc., as may be approved by the Board of Zoning Appeals.
- (11) **Board of Zoning Appeals (BZA):** The Board of Zoning Appeals of the City of Lancaster.
- (12) **Building:** A structure which is permanently affixed to the land, and has one or more floors and a roof, and is bounded by either another building with a common party wall, open air, or the lot lines of a lot.
- (13) **Building Setback:** The horizontal distance, from the point of measurement, such as the right-of-way line of an abutting street or the boundary line of an abutting zoning district to the nearest building wall.
- (14) **Bulk and Area Requirements:** The term "bulk and area requirements" as used in this code refers to lot widths, lot areas, structure heights, front, rear and side yard setbacks and floor area ratios.
- (15) **Caliper:** The diameter of the tree trunk measured at six (6") inches above ground level for a tree trunk having a diameter of four (4") inches or less and the diameter of the tree trunk measured at twelve (12") inches above ground level for a tree trunk having a diameter exceeding four (4") inches.
- (15a) **Change of Use:** means any alteration in the primary use of a lot or building on the lot from its existing use at the time of the adoption of this code or as modified by a zoning clearance, special exception or use variance issued under this code or which may entail the need for additional parking, loading, screening or other zoning restrictions.
- (16) **Changeable Copy:** A sign which, in whole or in part, provides for periodic changes in the material or message composing the sign. This definition includes both electronically and manually changeable signs.
- (17) **Character:** Any letter of the alphabet or numeral.
- (17a) **Child Day Care Center:** Any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven to twelve children at one time. In counting children for the purpose of this definition, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted.
- (18) **City Council:** The City Council of the City Lancaster.
- (19) **Commercial Mixed Use Development:** shall mean any development containing a combination of uses permitted by right or special exception in a CN zoning district. (Ord. 47-05. Passed 6-27-05.)

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(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 presheathed 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 (2) 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 (1) or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption or marriage, no such family shall contain more than five (5) persons.

(42) **Family Child Care Home (Type B):** The provider's personal residence used to house and provide supervision and care for one (1) to six (6) children, said total to include those children of the provider under six (6) years of age who reside in the residence. No more than three (3) children may be under the age of two years. A "Type B" home does not require licensing. Certification by Department of Human Services is required if child care is publicly funded.

- (43) **Family Day Care Home (Type A):** The provider's personal residence used to house and provide supervision and care for seven (7) to twelve (12) children, said total to include those children of the provider under six years of age who reside in the residence. The facility must be licensed by the Ohio Department of Human Services.
- (44) **Flashing Illumination:** A light source or other image which in whole or in part physically changes in light intensity or gives the appearance of such change.
- (45) **Floor area:** The sum of the horizontal areas of a building as measured by the outside dimensions of the building at each floor area intended for occupancy or storage, provided that for the purposes of calculating required parking spaces, basements shall not be included.
- (46) **Floor Area Ratio (FAR):** The floor area of a building or buildings on a lot divided by the lot area.
- (47) **Freeway:** A street designated as a freeway on the Major Street Plan.
- (48) **Freeway Sign Corridor:** Reserved.

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

(50) **Group Residential Facility:** A community facility, licensed and/or authorized by the State of Ohio, which provides rehabilitative or habilitative services in a residential setting. "Group residential facility" shall include the terms "adult group home", as defined in Ohio Revised Code 37722.01(A)(8) and "group home", as defined in Ohio Revised Code 3123.19(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 delinquent 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; hernia 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 livellhood of a person living in the dwelling.
- (55a) Hotel: The term "Hotel" shall have the same meaning as Lancaster Codified Ordinance 185.02(3).
- (56) Intoxicating Beverages: As used in the Ohio Revised Code, 4301.01.
- A. "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer, containing one-half of one per cent or more of alcohol by volume which are fit for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether the same are medicated, proprietary, or patented. The phrase includes wine even if it contains less than four percent (4%) of alcohol by volume, mixed beverages even if they contain less than four per cent alcohol by volume, cider, alcohol, and all solids and confections which contain any alcohol.
- B. "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origins may be, and includes synthetic ethyl alcohol.
- C. "Beer", "malt liquor", or "malt beverages" includes all brewed or fermented malt products containing one-half of one per cent or more alcohol by volume but not more than six per cent of alcohol by weight.
- D. "Cider" means all liquids fit to use for beverage purposes that contain one-half of one per cent of alcohol by volume, but not more than six per cent of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.
- E. "Wine" includes all liquids fit to use for beverage purposes containing no less than one-half of one per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume, which is made from fermented juices of grapes, fruits, or other agricultural products. "Wine" does not include cider.
- F. "Mixed beverages" such as bottled and prepared cordials, cocktails, and highballs are products obtained by mixing any type of whiskey, neutral spirits, brandy, gin, or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and/or other flavoring materials. The completed product shall contain not less than one-half of one per cent of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume.
- (57) Junk and salvage yard: An establishment providing an open area where wastes or second hand materials are bought, sold, exchanged, stored, processed or handled. Materials include but are not limited to scrap iron and other metals, paper, plastic, rags, tires, salvaged, inoperable and/or dismantled vehicles and/or parts, and bottles or cans.

- (58) Kennel: The use of land or buildings for the purpose of selling, breeding, boarding or training cats or dogs, or both.
- (59) Land Area: The area of a lot.
- (60) Land Coverage: The land area of a lot covered by building or buildings, except structural parking.
- (61) Landscaped Area: The unpaved area within a lot which contains grass, shrubs, flowers, ground cover, trees or native plant materials and which may include decorative fixtures such as rock, pools and planters.
- (62) Life Care Retirement Center: A residential facility containing dwellings designed for and principally occupied by senior citizens in a planned retirement community which includes a residential complex, an activity or community center, and a medical or nursing facility which is licensed by the State of Ohio as an Intermediate Care Facility or a Skilled Nursing Center.
- (63) Loading Berth, Off-Street: A space of at least ten (10) feet in width and thirty (30) feet in length and having a vertical clearance of at least fourteen (14) feet, designed and located on a lot for the temporary parking of commercial vehicles while loading or unloading merchandise or materials. Where a property is served by an alley, the alley may be counted as the loading space for loading and unloading where the loading or unloading occurs in less than 20 minutes.
- (64) Lot: A lot of record.
- (65) Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of the County in which the lot is located or a parcel of land, the deed of which is recorded in the office of the County Recorder of the County in which the parcel is located.
- (66) Lot Line: Any boundary of a lot.
- (67) Lot Line, Front: The boundary of a lot which abuts a public street. Where the lot abuts more than one street, the owner may select the front lot line.
- (68) Lot Line, Rear: The boundary of a lot which is most distant from and most nearly parallel to the front lot line.
- (69) Lot Line, Side: Any boundary of a lot which is not a front lot line or a rear lot line.
- (70) Lot Width: The average horizontal distance between the side lot lines.
- (71) Major Appliance: Includes, but is not limited to, washers, dryers, refrigerators, ovens/ranges, dishwashers, and other appliances not easily carried without assistance.
- (72) Major Street Plan: The City of Lancaster Thoroughfare Plan Update, as adopted by the City of Lancaster on June 14, 2004, Resolution 90-04, as may be subsequently amended.

- (73) **Manufactured home:** A building unit or assembly of closed construction that is fabricated in an off-site facility, that conforms with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the *Manufactured Housing Construction and Safety Standards Act of 1974*, and has a label or tag permanently affixed to it, certifying compliance with all applicable federal construction and safety standards.
- (74) **Manufactured Home Community:** A development constructed primarily for manufactured homes, with continuing local general management and with special facilities for common use by occupants, including such items as common recreational buildings and/or common open space.
- (75) **Mini Storage:** A building containing small partitioned storage spaces which are separately and individually rented or leased for the storage of personal goods or merchandise, excluding commercial warehousing.
- (76) **Mobile Home:** Any non-self-propelled vehicle transportable in one or more sections which, in the traveling mode, is eight (8) feet or more in width or forty (40) feet or more in length, or, when erected on the site, is 320 or more square feet, and which is built on a permanent chassis and is designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, and built in compliance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.
- (77) **Modular Home:** A non-site-built home that is certified as meeting the requirements of the State of Ohio Building Code for *modular housing*. For the purposes of this Ordinance, once certified by the State of Ohio, modular homes shall be subject to the same standards as site-built homes.
- (78) **Movement:** Physical movement or revolution of a sign or portion of a sign up or down, around or sideways.
- (79) **NA:** Not applicable.
- (80) **Nameplate:** A sign, attached flush against a building identifying the name of the building or the name of an occupant thereof.
- (81) **NEC:** Not elsewhere classified.
- (82) **Neighborhood Park-a park or open space of less than fifteen (15) acres owned either privately by an owners association or publicly by the City and whose function is to serve local residents. Neighborhood parks may include passive recreation areas and such active areas as jogging and bike paths, playgrounds and small athletic facilities. Neighborhood parks do not include intensive recreation facilities such as swimming pools, community centers, concession stands or lighted athletic facilities.**

- (83) **Night Club:** A commercial establishment open at night to the general public, usually serving intoxicating beverages, having a floor show, and providing music and a space for dancing.
- (84) **Non-Arterial:** A street designated on the Major Street and Highway Plan as a collector or minor street.
- (85) **Nursing Home:** A residential health care facility, licensed by the State of Ohio, which provides institutional lodging, nursing care, personal care and supervision to aged, chronically ill, physically infirm, or convalescent patients who are not related to the owner or administrator of the facility.
- (86) **Parking Space, Off-Street:** A space on a lot intended and reserved for the parking of an automobile.
- (87) **Parking Space, Required Off-Street:** A space on a lot reserved for parking required by this Code.
- (88) **Permanent Foundation:** A foundation which meets the requirements of the City of Lancaster regulations for one and two family dwellings.
- (89) **Permanently sited manufactured home:** A manufactured home that meets all of the following criteria:
 A. The structure is affixed to a permanent foundation and is connected to appropriate facilities;
 B. The structure, excluding any addition, has a width of at least twenty-two (22) feet at one point, and a length of at least twenty-two (22) feet at one point, and a living area of at least 900 square feet, excluding garages, porches, or attachments;
 C. The structure has a minimum 4:12 roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;
 D. The structure was manufactured after January 1, 1995;
 E. The structure is not located in a manufactured home community or manufactured home park as defined herein.
- (90) **Personal Care:** Assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person, who is incapable of maintaining a private, independent residence, or who is incapable of managing his person, whether or not a guardian has been appointed for such person.
- (91) **Planning Commission:** The Lancaster City Planning Commission (LCPC).
- (92) **Planned Unit Development (PUD):** A discretionary type of development for a tract of land under single ownership or control, based upon an approved development plan permitting flexibility of principal land uses, lot sizes, and accessory uses not otherwise available under conventional development standards.

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

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

(95) **Right-of-Way:** A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalk, lighting and drainage facilities and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges.

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

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

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

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

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

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

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

(113a) Use means as activity permitted by the zoning classification applicable to the district in which the property is situated or by a Special Exception or Variance issued by the City. Whether a particular use exists depends on the nature and purpose of the activity involved. That must be determined from the whole of the activity concerned, not merely with reference to one of its constituent's parts.

(114) **Variance:** A relaxation of a restriction of the Code, granted by the Board of Zoning Appeal, where by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary or exceptional situation, condition or circumstance of a particular property, the literal enforcement of the Code restriction, would result in unnecessary hardship.

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

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

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

- A. Any word in any language found in any standard unabridged dictionary or dictionary of slang.
- B. Any proper noun or any initial.
- C. Any separate symbol or abbreviation, such as "&", "S.T.", "%", and "INC".
- D. Any telephone number, street number or commonly used combination of numerals and/or symbols such as "\$5.00, or "50%".
- E. Any symbol or logo which is a registered trademark, but which itself contains no word or character.
- F. Otherwise, each separate character is considered to be a word.

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

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

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

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

(122) **Yard, Side:** A yard extending along a side lot line between the front yard and the rear yard.
(Ord. 28-17. Passed 9-11-17.)

**CHAPTER 1303
Technical Codes**

- 1303.01 Adoption by reference.
- 1303.02 Permit fees.
- 1303.02.1 Failure to pay reinspection fee.
- 1303.03 Permit expiration.
- 1303.04 Demolition permit.
- 1303.05 Lot regulations for removal of structure.
- 1303.06 Appeal; membership and qualifications of Appeal Board members.
- 1303.07 Reserved.
- 1303.08 Nonqualification for permit.
- 1303.09 Reserved.
- 1303.10 Reserved.
- 1303.11 Violation.
- 1303.12 Notice.
- 1303.13 Reserved.
- 1303.14 Transfer of ownership.
- 1303.15 Return to County Auditor for assessment.
- 1303.16 Administrative processing fee.
- 1303.99 Penalty.

1303.01 ADOPTION BY REFERENCE.

- (a) 2011 Lancaster Fire Code.
(Ord. 11-17. Passed 4-10-17.)
- (b) 2011 Ohio Mechanical Code.
(Ord. 12-17. Passed 4-10-17.)
- (c) (EDITOR'S NOTE: Former subsection (c) hereof was repealed by Ordinance 12-07, passed 3-12-07.)
- (d) 2015 International Property Maintenance Code.
(Ord. 15-17. Passed 4-10-17.)
- (e) 2011 Ohio Plumbing Code.
(Ord. 13-17. Passed 4-10-17.)
- (f) (EDITOR'S NOTE: Former subsection (f) hereof was repealed by Ordinance 13-07, passed 3-12-07.)
- (g) 2014 National Electric Code.
(Ord. 14-17. Passed 4-10-17.)
- (h) Standards for gas piping on customer's premises, March 15, 2007.
(Ord. 19-07. Passed 3-12-07.)

1303.02 PERMIT FEES.

That Permit Fees for all of the codes mentioned in Chapter 1303 shall be adopted by administrative action of the Mayor. All fees must be paid prior to issuance of a permit.
(Ord. 33-05. Passed 5-23-05.)

1303.02.1 FAILURE TO PAY REINSPECTION FEE.

A reinspection fee as established within the adopted Lancaster Fee Schedules may be assessed by the Code Enforcement Officer. Reinspection fees must be paid within ten days of the inspection. Failure to pay reinspection fee shall be subject to penalties of Section 1303.99.
(Ord. 17-07. Passed 3-12-07.)

1303.03 PERMIT EXPIRATION.

All permits issued under Chapter 1303 shall expire twelve months after they have been issued. The permit holder may apply for one twelve month renewal prior to the permit's expiration. (Ord. 33-05. Passed 5-23-05.)

1303.04 DEMOLITION PERMIT.

(a) **Service Connections.** Before a structure can be demolished or removed, the owner or agent shall notify all utility companies having service connections within the structure such as water, electric, gas, sewer and other connections. A permit to demolish or remove a structure shall not be issued until a release is obtained from the utility companies stating that their respective service connection and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner.

(b) **Historic Property.** The City Manager shall determine if the structure or building in issue is a listed property which is protected by the Historic Preservation Chapter 1327. If that is the case, the appropriate certificate shall be obtained from the Historic Lancaster Commission before a permit may be issued.

(c) A demolition permit expires 45 days after its issue date.
(Ord. 35-05. Passed 5-23-05.)

1303.05 LOT REGULATIONS FOR REMOVAL OF STRUCTURES.

Whenever a structure is demolished or removed, the premises shall be maintained free from all unsafe or hazardous conditions by the proper regulation of the lot, the restoration of established grades and the erection of the necessary retaining walls and fences.
(Ord. 35-05. Passed 5-23-05.)

1303.06 APPEAL; MEMBERSHIP AND QUALIFICATIONS OF APPEAL BOARD MEMBERS.

(a) **Right to Appeal.** Any person affected by a decision of a Code Official or a notice or order issued under any of the specified model codes except the Ohio Building Code shall have the right to appeal to the Structural Board of Appeals, provided that a written application for appeal is filed within twenty days after the day the decision, notice or order was served. Appeals from a decision under the Ohio Building Code shall be filed with the Industrial Compliance Commission pursuant to the requirements of the Ohio Building Code, the Ohio Revised Code, and the Ohio Administrative Code.
(Ord. 16-07. Passed 3-12-07.)

CHAPTER 1327
Historic Preservation/Design Review

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CROSS REFERENCES

Commission rules - see ADM. Ch. 143

1327.01 PURPOSES.

The City of Lancaster contains areas with unique and valuable historic, architectural and/or cultural resources. The preservation of these resources is directly linked to the cultural, social and economic well-being of the community. The purposes of this Chapter are:

- (a) To protect and preserve these resources and prevent intrusions and alterations within designated Districts or Listed Properties which would be incompatible with their established character, and
- (b) To encourage infill development and property improvement that respects the context of the existing built environment and reduces conflicts between new construction and existing development, and
- (c) To stabilize and enhance property values and economic value of identified resources, and

- (d) To promote economically viable reuse of historic buildings, structures, sites and objects within Lancaster's historic core, and
- (e) To promote and enhance revitalization of downtown Lancaster.

The standards of this Chapter are requirements which must be met in addition to the established requirements and standards of the specific zoning district or other lawfully adopted regulations.

(Ord. 19-17. Passed 5-8-17.)

1327.02 DEFINITIONS.

As used in this Chapter, the following words shall be defined as follows:

- (a) "Alteration" means any action to change, modify, reconstruct, remove or demolish any exterior feature of an existing building, structure, site or object within any District or Listed Property. For the purpose of this item, ordinary maintenance to correct any deterioration, decay or damage to a structure or premises and to restore the structure as nearly as practicable, is excluded from the definition of "alteration", provided such work does not involve a change in material, design, texture or exterior appearance, per section 1327.16.
- (b) "Architectural Change" means the exterior construction, alteration, demolition or removal of any building, structure, site or object subject to the provisions of this Chapter, but shall not include the installation, maintenance or removal of plant material.
- (c) "Architectural Character" means the style, design, and general arrangement of the exterior of a building, structure site or object, including the type of lighting fixtures, signs and other appurtenant fixtures. In the case of an outdoor advertising sign, "exterior features" means the style, material, size and location of the sign.
- (d) "Applicant" means any person, persons, association, organization, partnership, unit of government, public body, corporation or other entity, or a representative of one of the above, who applies for a Certificate of Appropriateness in order to undertake an architectural change within the District or Listed Property.
- (e) "Commission" means the "Historic Lancaster Commission." This body shall serve as the Design Review Board for the City of Lancaster as established by this charter.
- (f) "Building" means a resource created principally to shelter any form of human activity, such as a house. The term "building" shall be construed as if followed by the words "or part thereof."
- (g) "Certificate of Appropriateness" means a certificate authorizing any architectural change within any designated District or Listed Property.
- (h) "City" means the City of Lancaster, Ohio.
- (i) "Contributing property" means a building, structure, site or object that, as determined by the Commission, adds to the historic or architectural value of a designated District or Listed Property because it was present during the period of historic significance and/or it preserves such historic integrity that it yields important information about such District or Listed Property.
- (j) "Demolition" means the razing or removing of all or a substantial portion of a building, structure, or appurtenance from a Listed Property or District.
- (k) "Designated Landmark" means any improvement to real property that has historic significance and has been designated according to the provisions of this Chapter.

- (k) "District" means a designated Design Review District.
- (l) "Guidelines" means the document that is adopted by the Historic Lancaster Commission and City Council that details the architectural characteristics for any Design Review District or Listed Property therein, and that provides design guidance for appropriate maintenance, repair, construction or alteration pursuant to the provisions of this Chapter. Also commonly known as "design guidelines."
- (ll) "Historic significance" means the attributes of a designated landmark or historic district that possess integrity of design, location, setting, materials, workmanship and association and that are associated with events that have made a significant contribution to the broad patterns of the City's history, or that are associated with the lives of persons significant in the City's past, or that embody the distinctive characteristics of a type, period or method of construction, or that represent a significant and distinguishable entity whose components may lack individual distinction, or that have yielded or are likely to yield information important in prehistory or history. Cemeteries, birthplaces or graves of historic figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past fifty years, shall not be considered to be of historic significance, unless they are integral parts of the districts that meet the above criteria or if they fall within the following categories:
- (1) A religious property which is primarily significant for its architecture or secular history;
 - (2) A relocated building which has a high degree of architectural significance or which is the primary structure associated with an individual or an event;
 - (3) The birthplace or gravesite of an historical figure, if no other built feature survives which is directly associated with his or her productive life;
 - (4) A cemetery primarily important because of its age, distinctive design features or association with the graves or persons of transcendent importance, or which is associated with historic events;
 - (5) A reconstructed building when accurately represented in suitable environment as part of a restoration master plan and when no other building with the same associated has survived;
 - (6) The property primarily commemorative in intent if design, age, tradition or symbolic value have given it significance; or
 - (7) A property achieving significance within the past fifty years if it is of exceptional importance or is unique to the City.
- (m) "Listed Property" means a building, structure, site or object designated according to the provisions of this Chapter.
- (n) "Noncontributing property" means a building structure, site or object within a designated District or Listed Property that, in the determination of the Commission, does not meet the criteria cited in 1327.02 (l) above.
- (o) "Object" means a construction primarily artistic in nature or relatively small in scale, such as a monument, work of art, or milepost.
- (p) "Ordinary maintenance or repair" means any maintenance or repair to any existing building, site, structure or object that is for the limited purpose of correcting decay, deterioration or damage to an architectural feature and that does not involve a change in material, design, texture or exterior appearance, per Section 1327.16.

- (q) "Preserve" or "preservation" means the process (including maintenance) of treating an existing building, structure, site or object to arrest or slow future deterioration, stabilize it and provide structural safety, without changing or adversely affecting its character or appearance, as determined by the Commission.
- (r) "Site" means any significant historical, archaeological, or architectural property without a principal structure such as the location of a prehistoric or historic activity, or a significant event. A site may also include a property of significant landscape design. This definition of "site" shall not be construed to limit the term "site plan" or "site improvement."
- (s) "Structure" means a functional construction made for purposes other than creating shelter. It may include a work of engineering affixed to the land, the hardscape portion of landscaping, or any combination of materials to form a construction that is safe and stable, including, but not limited to stadia, tents, reviewing stands, platforms, staging, observation towers, radio towers and graphics. The term "structure" shall be construed as if followed by the words "or part thereof." The term "structure" does not include plants, trees, shrubs or other plantings that may be a part of landscaping.
- (t) "Owner" shall mean the owner of record, and the term shall include the plural as well as the singular. (Ord. 19-17. Passed 5-8-17.)

1327.03 PROPERTIES AND DESIGN REVIEW DISTRICTS, LISTED PROPERTIES AND DESIGNATED LANDMARKS

Except as otherwise indicated in this Chapter, all property located in the following designated Design Review District or any individually Listed Property shall be subject to the design review criteria and standards of this Chapter and additional guidelines as may be applicable in each District.

- (a) The following Design Review District is hereby established:
The Historic Lancaster District:
"Beginning at the intersection of Pearl Avenue and Walnut Street; go north the entire length of Pearl Street on the east to the alley between Mulberry Street and King Street; thence west to High Street; thence north to the alley between King Street and Fifth Avenue; thence west along such alley, and continuing west along the alley between Union Street and Fifth Avenue to Memorial Drive; thence south to Chestnut Street; thence east on Chestnut Street to Columbus Street; thence south on Columbus Street to Walnut Street; thence east to Pearl Street, the point of beginning."
Additional Design Review Districts may be established or existing Districts may be modified by City Council under separate Ordinance. The designation or modification of such Districts shall be made by the Council after obtaining a recommendation from the Commission, and holding a public hearing. Prior to that hearing, notification shall be given by first-class mail to all property owners within the proposed District as appearing on the current Fairfield County tax rolls.
City Council may expand any Design Review District upon receipt of a petition by any adjacent property owner requesting inclusion in such District, and recommendation for same by the Commission. Such expansion by petition of the affected property owners may occur without the public hearing as referenced above.
- (b)

- (c) Individual properties outside of the boundaries of established Design Review Districts may also be designated as Listed Properties. The procedure for listing individual properties is as follows:
- (1) The Commission shall notify the owner of any proposal to list the property and receive consent back from owner in writing. Upon receipt of such consent, the property shall be listed upon favorable recommendation by the Commission and upon approval by Council after a public hearing.
 - (d) Individual properties outside of the boundaries of established Design Review Districts may also be designated as a Designated Landmark. The process for designating individual properties is as follows:
 - (1) The Commission shall notify the owner of any proposal to designate the property and receive consent back from the owner in writing. Upon receipt of such consent, the property shall be designated upon favorable recommendation by the Commission.
 - (e) **Criteria for Designation.** In considering the designation of any building, structure, site or object as a District, Listed Property or Designated Landmark, the Commission and Council shall apply the following criteria, in addition to any other available information:
 - (1) Its character, interest or value as part of the heritage of the City, the State of Ohio or the United States.
 - (2) Its location as a site of a significant historic event.
 - (3) Its identification with a person or persons who contributed significantly to the historic development of the City.
 - (4) Its exemplification of the heritage of the City.
 - (5) Its portrayal of the environment or a group of people in an era of history characterized by a distinctive architectural style or building type.
 - (6) Its embodiment of a distinguishing historical characteristic of an architectural type or style.
 - (7) Its identification as the work of an architect or master builder whose individual work has influenced the development of the City or State.
 - (8) Its embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation.
 - (9) Its unique location or physical characteristic representing an established and familiar visual feature of a neighborhood, community or the City.
 - (10) Such other individual characteristics as shall be relevant to its designation as a District, Listed Property or Designated Landmark.

1327.04 ESTABLISHMENT OF HISTORIC LANCASTER COMMISSION.

There is hereby established the Historic Lancaster Commission in accordance with this Chapter.

- (a) The Historic Lancaster Commission shall consist of the required number of members as appointed by the Mayor with the approval of City Council, pursuant to the requirements of Sections 1327.04 (d) below. Members shall serve without compensation. The Mayor shall have the authority to appoint alternate members to the Commission, as may be determined appropriate.
- (b) Appointed members shall be subject to removal for cause by the Mayor. Vacancies for the remainder of an unexpired term shall be filled by the Mayor, within sixty (60) days from the date of vacancy. All members shall be residents of the City.

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- (c) All members shall be appointed to three (3) year terms, and the initial term appointments provided for in this ordinance shall be staggered according to the following schedule:
- (1) Two (2) members shall each be appointed to serve for an initial full term of three (3) years.
 - (2) The third and fourth members shall each be appointed for a term of two (2) years.
 - (3) The fifth member shall each be appointed for a term on one (1) year.
- All terms shall begin on January 1 of the applicable year.
- (d) **Membership.**
- (1) The Commission shall consist of five (5) voting members. The members shall be appointed by the Mayor with City Council approval. Three (3) members shall constitute a quorum, and a concurring majority vote by members present shall be necessary for official action.
 - (2) In appointing members, the Mayor shall make good faith effort to appoint persons with training in the fields of architecture, design, historic preservation, planning or related disciplines such as construction, commercial or mixed use development, or real estate. In addition, appointees should possess a demonstrated personal and/or professional interest, experience and knowledge in the preservation of historic structures.
 - (3) The Mayor shall solicit a list of potential nominees for membership on the Commission from organizations such as the Fairfield Heritage Association, Lancaster Special Improvement District, and Main Street Lancaster. Such list shall document the qualifications of potential nominees and shall be updated/revised on an annual basis. The Mayor shall review and consider such recommendations in appointing new members to the Commission (Ord. 41-17, Passed 12-11-17).

1327.05 POWERS AND DUTIES OF HISTORIC LANCASTER COMMISSION.

The Historic Lancaster Commission established in Section 1327.04 above is hereby vested with the following powers and authority.

- (a) Hear, evaluate and take action on applications for Certificates of Appropriateness, as authorized by Section 1327.08 of this Chapter.
- (b) Maintain a record of the historic, architectural and cultural resources within the City, including designated Districts, Listed Properties and Designated Landmarks. The Commission shall also maintain a list of contributing and noncontributing properties in designated Districts and Listed Properties.
- (c) Recommend to City Council the designation of Listed Properties, Designated Landmarks, and Districts or modifications to existing Districts.
- (d) Propose and recommend to City Council the establishment of design guidelines for Districts, Listed Properties and Designated Landmarks along with amendments as may be subsequently needed. Guidelines shall be adopted by both the Council and the Commission.
- (e) Make recommendations to City Council regarding potential resources and/or actions which have or may have significant impacts on historic, architectural and/or cultural resources within the City.

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- (f) Act upon application for a Certificate of Appropriateness as provided in City Council Resolution 25-05 for tax exemption, within the respective District.
- (g) Provide that a designated city official, who is responsible for managing the applications that are presented to the Commission, may administratively approve certain application requests, but only if those application requests are specifically identified by the Commission in its guidelines or by resolution of the Commission. A Certificate of Appropriateness shall be issued to the applicant upon such administrative approval. This designated city official or the applicant shall have the option of referring any application to the Commission for its full consideration. (Ord. 19-17. Passed 5-8-17.)

1327.06 ORGANIZATION OF HISTORIC LANCASTER COMMISSION.

(a) The Historic Lancaster Commission shall establish its own procedural rules and/or guidelines. The Commission shall set a regular meeting time to conduct business as may be required, provided that the Commission shall meet not less than once every calendar quarter. Meeting times, dates and locations shall be posted pursuant to Codified Ordinance 109.02(f) not less than one (1) week in advance. Notice of meeting times, dates and locations shall be sent at least one (1) week in advance of the meeting by first class mail to any owner whose real property is a matter before such Commission.

(b) The Historic Lancaster Commission shall select a Chairman, Vice-Chairman, and Secretary. The Chairman shall conduct the meetings of the Commission, determine order of such meetings, and be generally responsible for the recording of such meetings. The Vice-Chairman shall perform the duties of the Chairman in event of the Chairman's absence. The Secretary shall be responsible for maintaining adequate minutes and records of Commission proceedings, as well as other administrative duties. The position of Secretary may be delegated to a non-voting non-member, if such arrangement is approved by the Commission. (Ord. 19-17. Passed 5-8-17.)

1327.07 GUIDELINES REQUIRED.

The Commission shall prepare or amend guidelines for Districts and Listed Properties consistent with the standards of this Chapter. The Commission shall give notice to the public of the proposed or amended guidelines, shall seek comment on the proposed guidelines at a public hearing, and may consider such public comments in the final preparation of the guidelines. Final guidelines shall be adopted by the Commission and City Council. (Ord. 19-17. Passed 5-8-17.)

1327.08 CERTIFICATE OF APPROPRIATENESS REQUIRED.

No architectural change as defined shall be made to any building, structure, site or object within any District or Listed Property until a Certificate of Appropriateness has been properly applied for and issued by the Commission. No zoning permit, building permit, sign permit, or Zoning Clearance Permit shall be issued by the Building Department for any construction, reconstruction, alteration or demolition of any building, structure, site or object now or hereafter in any District or Listed Property subject to the process as specified in this Chapter, unless a Certificate of Appropriateness has been authorized by the Commission.

For the purposes of this Ordinance, a Certificate of Appropriateness shall not be required for the following activities:

- (a) Maintenance and/or repair activities pursuant to Section 1327.16 below.
- (b) Interior work on any building or structure.
- (c) Installation of private radio or television reception antennae, however the physical size and configuration of said objects as well as the location and placement of said objects on a structure or site shall be subject to review and approval.
- (d) General maintenance and/or planting of organic material.
- (e) Temporary work required for emergency stabilization of a building, structure, site or object due to damage from natural events or an act of God. (Ord. 19-17. Passed 5-8-17.)

1327.09 PROCEDURE FOR CERTIFICATE OF APPROPRIATENESS.

(a) The application for a Certificate of Appropriateness shall be made on such forms as prescribed by the Commission, along with such plans, drawings, specifications and other materials as may be needed by the Commission to make a determination. At a minimum, such information shall include the following:

- (1) A site or sketch plan showing building outlines, dimensions and landscaping.
- (2) Photographs of the building, site, structure or object as appropriate.
- (3) A complete description of the proposed architectural change, including drawings or photographs to illustrate the proposal as may be needed.
- (4) An explanation by the applicant as to how the proposed activity is consistent with the purposes and guidelines of this Chapter.

(b) Applications for a Certificate of Appropriateness shall be filed with the Secretary of the Building Department at least ten (10) days prior to the meeting of the Historic Lancaster Commission.

(c) The Commission shall determine whether the proposed architectural change will be appropriate to the preservation of the historic, environmental, or architectural character of the District or Listed Property, pursuant to the criteria specified in Section 1327.10. In making such determination, the Commission shall consider whether the proposed architectural change impacts a contributing or noncontributing property.

(d) In determining the appropriateness of a specific architectural change, the Commission may conduct a separate public meeting on the project and/or solicit input from consultants to the City.

(e) If no action is taken by the Commission within ninety (90) days from the date of submittal of the application, the Certificate of Appropriateness shall be issued as a matter of law. The tabling of an application due to incomplete information provided by the applicant or at the request of the applicant shall not be considered as "no action" for the purposes of this Section.

(f) The Certificate of Appropriateness may include conditions limiting the scope of the certificate. A violation of these conditions shall be a violation of this Section. (Ord. 19-17. Passed 5-8-17.)

1327.10 CRITERIA FOR EVALUATION OF APPLICATION FOR CERTIFICATE OF APPROPRIATENESS.

In considering the appropriateness of any proposed architectural change, the Commission shall consider:

- (a) Its adopted guidelines, and
- (b) The Secretary of the Interior's Standards (Department of Interior regulations, 36 CFR 67) that pertain to historic properties of all materials, construction types, sizes, and occupancy. The Secretary of the Interior's Standards for Rehabilitation are ten basic principles created to help preserve the distinctive character of a historic property and its site, while allowing for reasonable change to meet new needs. The Standards also encompass related landscape features and the property's site and environment as well as attached, adjacent, or related new construction. The Standards are applied to projects in a reasonable manner, taking into consideration economic and technical feasibility.
 - (1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
 - (2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
 - (3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
 - (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
 - (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
 - (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
 - (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
 - (8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 - (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
 - (10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(c) Additional Design Criteria. In addition to the criteria of 1327.10 (a) and (b) above, the Commission shall consider the following:

- (1) The consistency of the proposed work with Section 1327.10 (a) and (b), above, and its adopted design guidelines;
- (2) The degree to which the proposed work would alter or destroy all or part of a contributing property in a District or Listed Property;
- (3) The degree to which the proposed work would isolate a contributing property in a District or a Listed Property from its surroundings, or introduce visual elements that are inconsistent with the character of the District or Listed Property; and
- (4) The degree to which the proposed work is compatible with the significant characteristics of the District or Listed Property. (Ord. 19-17, Passed 5-8-17.)

1327.11 ISSUANCE OF CERTIFICATE OF APPROPRIATENESS.

After a public hearing on the application pursuant to the provisions of Section 1327.09, the Commission shall issue a Certificate of Appropriateness to the applicant if one of the following conditions is found to exist:

- (a) The architectural change is determined to be appropriate after a consideration of all provisions of this section and the adopted guidelines of the Commission; or
- (b) An unusual and compelling circumstance as defined in Section 1327.14 has been found to exist and such Certificate of Appropriateness may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this Chapter.
- (c) Failure to issue the Certificate of Appropriateness will result in a substantial economic hardship to the applicant as defined in Section 1327.13, and such Certificate of Appropriateness may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this Chapter. (Ord. 19-17, Passed 5-8-17.)

1327.12 PROCEDURES FOLLOWING DENIAL OF CERTIFICATE OF APPROPRIATENESS.

(a) If the Commission determines that a proposed architectural change is inappropriate, the Commission may deny a Certificate of Appropriateness. Within ten (10) days after its decision, the Commission shall issue a written decision setting forth the reasons for denial and send a copy of such decision to the applicant.

(b) Within ten (10) days after receipt of the denial, the applicant may apply for a rehearing, apply for mediation or appeal the decision to the Board of Zoning Appeals in accordance with the provisions of this Chapter.

- (1) Rehearing. A rehearing on the application shall only be held to consider any unusual and compelling circumstances and/or substantial economic hardship that was unaddressed in the original application or hearing. Within forty-five (45) days of the Commission's receipt of a request for a rehearing, it shall hold a public hearing at which to reconsider the applicant's evidence in response to its decision. Clear and convincing evidence shall be required for the Commission to find unusual and compelling circumstances and/or substantial economic hardship. New proposals or changes to the application shall not be subject to rehearing, but shall be presented in the form of a new application.

- (2) **Mediation.** Mediation may occur by mutual agreement between an applicant and the Commission in an attempt to find a mutual resolution to the applicant's denial. Mediation shall only be held pursuant to the voluntary agreement of both the applicant and the Commission. Within fourteen (14) days after receipt of a request for mediation, a mediator shall be appointed by the joint agreement of the applicant and the Commission. Costs for the mediator, if any, shall be divided equally and paid by the applicant and the City. Mediation towards resolution may occur during the next forty-five (45) days after selection of the mediator. As a part of mediation, the Commission and the applicant shall attempt in good faith to develop an alternative plan for approval that is appropriate under the applicable standards and criteria set forth in this Chapter. New information may be considered and application revisions can be made by the applicant. If the matter is mutually resolved in the mediation to satisfaction of both parties, a Certificate of Appropriateness containing the terms of the agreement shall be issued at the next regularly scheduled Commission meeting. If the matter is not successfully resolved, then the applicant may request a rehearing under the standards of Section 1327.12(b)(1) or may appeal to the Board of Zoning Appeals.
- (3) **Appeal.** All appeals of the Commission's denial of an application for a Certificate of Appropriateness for a proposed architectural change within a District or Listed Property shall state with particularity the grounds for the appeal. Grounds shall include:

- A. The Commission's denial of the application for a Certificate of Appropriateness was arbitrary, capricious and unreasonable.
- B. The Commission improperly denied the application for a Certificate of Appropriateness on the basis of applicant's claim of unusual and compelling circumstances.
- C. The Commission improperly denied the application for a Certificate of Appropriateness on the basis of applicant's claim of substantial economic hardship.
(Ord. 19-17. Passed 5-8-17.)

1327.13 CRITERIA TO DETERMINE SUBSTANTIAL ECONOMIC HARDSHIP.

The following criteria shall be used by the Commission to determine whether the denial of a Certificate of Appropriateness creates a substantial economic hardship on the property owner:

- (a) Denial of a certificate will result in a substantial reduction in the economic value of the property;
- (b) Denial of a certificate will result in a substantial economic burden on the property owner because the property owner cannot reasonably maintain the property in its current form;
- (c) No reasonable alternative exists consistent with the architectural standards and guidelines for the property;
- (d) The property owner has been unable to sell the property.
(Ord. 19-17. Passed 5-8-17.)

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1327.14 CRITERIA TO DETERMINE UNUSUAL AND COMPELLING CIRCUMSTANCES.

The following criteria shall be used by the Commission to determine whether the issuance of a Certificate of Appropriateness is justified by the existence of unusual and compelling circumstances:

- (a) The property has little or no historical or architectural significance.
- (b) The property cannot be reasonably maintained in a manner consistent with the pertinent architectural standards and guidelines.
- (c) No reasonable means of saving the property from deterioration, demolition or collapse other than applicant's proposal exists.
- (d) If the property owner is a nonprofit organization, it is determined by the Commission that it is financially or physically infeasible for the nonprofit organization to be able to achieve its charitable purposes while conforming to the pertinent architectural standards and guidelines.
(Ord. 19-17. Passed 5-8-17.)

1327.15 DEMOLITION.

No person shall demolish any building, structure, site or object or part thereof in a District or Listed Property until the person has received a Certificate of Appropriateness from the Commission. The application should be accompanied by a written statement containing the reasons the applicant is seeking to demolish the building, structure, site or object, along with a statement that such building, structure, site, or object or part thereof is not historically or architecturally significant or otherwise worthy of preservation. If the applicant is seeking to demolish an entire building, structure or major portion thereof, the applicant shall also submit definite plans for reuse of the site, evidence of commitment of funding for the proposal, a project timetable for both initiation and completion, as well as an evaluation of how the character and integrity of the District or Listed Property will be affected by such demolition.

In cases where an applicant applies for a Certificate of Appropriateness to demolish a building, structure, site or object or part thereof within a District or Listed Property, the Commission may issue a Certificate of Appropriateness when the applicant has submitted adequate documentation that at least one of the following conditions exist:

- (a) The building, structure, site or object or part thereof is noncontributing and/or contains no features of architectural and historic significance to the character of the District or Listed Property
- (b) There exists no reasonable economic use for the building, structure, site or object or part thereof as it exists or as it might be restored, and that there exists no feasible and prudent alternative to demolition.
- (c) Deterioration has progressed to the point where it is not economically feasible to restore the building, structure, site or object or part thereof.

The Commission shall be guided in its decision by balancing the historic, architectural, and cultural value of the building, structure, site or object or part thereof against the applicant's proof of any substantial economic hardship or unusual or compelling circumstances in retaining the building, structure, site or object or part thereof along with a full review and consideration of the proposed replacement project. (Ord. 19-17. Passed 5-8-17.)

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1327.16 MAINTENANCE.

Nothing in this Chapter shall be construed to prevent ordinary maintenance or repair of any property within a District or any Listed Property, provided such work involves no change in material, design, texture, or exterior appearance; nor shall anything in this Chapter be construed to prevent any change, including the construction, reconstruction, alteration or demolition of any feature which by order of the Building Department, Fire Department, or Code Enforcement is required for the public safety because of an unsafe, insecure or dangerous condition. Such orders of code officials do not require a Certificate of Appropriateness but shall be considered temporary repairs. The property owner must seek a Certificate of Appropriateness within 30 days after emergency repairs are made pursuant to said orders for approval of permanent repairs. Permanent repairs shall be completed pursuant to the requirements of the Certificate of Appropriateness including the time period for completion of permanent repairs. (Ord. 19-17. Passed 5-8-17.)

1327.17 FAILURE TO MAINTAIN.

(a) No owner of a building, structure, site or object in a District or Listed Property shall fail to provide sufficient and reasonable care, maintenance and upkeep appropriate to ensure such property's perpetuation and to prevent its destruction by deterioration. This provision shall be in addition to all other applicable code provisions. By resolution the Commission shall present evidence of a violation hereof to the City Attorney who shall initiate appropriate action thereon.

(b) Orders of a code official to secure windows or doors by boarding them up due to an emergency or neglect shall be considered a temporary repair requiring the Property Owner to apply for a Certificate of Appropriateness for the permanent repair as described in Section 1327.16. (Ord. 19-17. Passed 5-8-17.)

1327.18 RIGHT TO APPEAL.

Any applicant aggrieved by any decision of the Commission may appeal the decision to the Board of Zoning Appeals. Such appeal shall be taken by the filing of a written statement, setting forth the grounds for the appeal, with the Building Department within thirty (30) days of the decision of the Commission. The Board of Zoning Appeals may affirm, reverse, remand, or modify such decision and shall state the reasons therefore. (Ord. 19-17. Passed 5-8-17.)

1327.19 SEVERABILITY.

If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the invalidity shall not affect the other provisions or applications of the provision or related provisions which can be given effect without the invalid provision or application, and to this end are severable. (Ord. 19-17. Passed 5-8-17.)

1327.20 CIVIL REMEDIES.

In the event any architectural change or failure to maintain occurs that is contrary to and in violation of any of the provisions of this Chapter, then, in addition to and not in lieu of other action as may be provided in this Chapter, the Mayor, his/her agent, or other proper authority of the City, may institute injunction, mandamus or other legal proceedings as may be necessary to abate such violation and/or to cause the correction of such illegal action.

The City Attorney may additionally request that the court impose the following civil penalties.

- (a) Whoever constructs, reconstructs or alters any building, structure, site or object now or hereafter in a District or Listed Property in violation of this Chapter shall pay a civil penalty of not less than five hundred dollars (\$500.00) nor more than twenty-five thousand dollars (\$25,000.00).
- (b) Whoever demolishes or removes a substantial part or all of any building, structure, site or object now or hereafter in a District or Listed Property in violation of this Chapter shall pay a civil penalty of not less than ten thousand dollars (\$10,000.00) nor more than twenty-five thousand dollars (\$25,000.00).
- (c) Notwithstanding the civil penalty provision of this section, whoever causes, by willful action or willful neglect, any alteration of or demolition, or failure to maintain of any property now or hereafter in a District or Listed Property in violation of this Chapter shall be required to restore or reconstruct same in accordance with the pertinent guidelines and standards, as approved by the Commission. (Ord. 19-17. Passed 5-8-17.)

1327.21 STOP WORK ORDER.

A Stop Work Order may be issued by the City Code Enforcement Official upon determination that a violation of this Chapter has occurred. Failure to cease work immediately shall be a violation of this section by the contractor and/or owner of property pursuant to civil and criminal penalties of Sections 1327.20 and 1327.99. (Ord. 19-17. Passed 5-8-17.)

1327.22 ENFORCEMENT.

Notice of Violation - a Notice of Violation may be issued pursuant to Lancaster Codified Ordinance 1303.12 or the City may directly file a criminal or civil violation. (Ord. 19-17. Passed 5-8-17.)

1327.23 DESIGN GUIDELINES.

The Design Guidelines attached as Exhibit 1 to Ordinance 45-08 are hereby adopted in their entirety. (Ord. 19-17. Passed 5-8-17.)

1327.24 CERTIFICATE OF APPROPRIATENESS EXPIRATION AND EXTENSION.

(a) The approval of a Certificate of Appropriateness is invalid if construction, erection, alteration or other work upon a building or structure has not commenced within twelve months of the issuance.

(b) One extension shall be granted for an additional twelve-month period if requested by the owner at least ten days in advance of the expiration of the approval and upon payment of an extension fee.

(c) If in the course of construction work is delayed or suspended for more than six months, the approval of the Certificate of Appropriateness is invalid. Two extensions shall be granted for six months each if requested by the owner at least ten days in advance of the expiration of the approval and upon payment of a fee for each extension. (Ord. 19-17. Passed 5-8-17.)

1327.99 CRIMINAL VIOLATION.

Whoever violates any provision of this Chapter shall be guilty of a third degree misdemeanor. When a partnership or a corporation violates any of the provisions of this Chapter, the members of the partnership responsible for such violation and/or the managing officers of the corporation responsible for such violation, or who directs same to be done, shall be punished in the same manner as the punishment described for herein. Each and every day that the violation of this Chapter continues shall constitute a separate and distinct violation. (Ord. 19-17. Passed 5-8-17.)

**CODIFIED ORDINANCES OF LANCASTER
PART FIFTEEN - FIRE PREVENTION CODE**

Chap. 1525. Lancaster Fire Code.

Chap. 1530. Payment of Proceeds from Fire Insurance Policies.

Chap. 1535. Outside Tire Storage.

Chap. 1540. Fire Safety.

