

TEMPORARY ORDINANCE NO. 1-19

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, 2017 through December 31, 2018 as listed in the Comparative Section Table, are hereby approved and adopted as printed in the 2018 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

- 301.53 Waste Collection Vehicle. (Added)
- 303.06 Freeway Use Restricted. (Amended)
- 303.991 Committing an Offense While Distracted Penalty. (Added)
- 313.01 Obedience to Traffic Control Devices. (Amended)
- 313.09 Driver's Duties Upon Approaching Ambiguous Traffic Signal. (Amended)
- 331.01 Driving Upon Right Side of Roadway; Exceptions. (Amended)
- 331.02 Passing to Right When Proceeding in Opposite Directions. (Amended)
- 331.03 Overtaking, Passing to Left; Driver's Duties. (Amended)
- 331.04 Overtaking and Passing Upon Right. (Amended)
- 331.05 Overtaking, Passing to Left of Center. (Amended)
- 331.06 Additional Restrictions on Driving upon Left Side of Roadway. (Amended)
- 331.07 Hazardous or No Passing Zones. (Amended)
- 331.08 Driving in Marked Lanes or Continuous Lines of Traffic. (Amended)
- 331.09 Following Too Closely. (Amended)
- 331.10 Turning at Intersections. (Amended)
- 331.12 "U" Turns Restricted. (Amended)
- 331.13 Starting and Backing Vehicles. (Amended)
- 331.14 Signals Before Changing Course, Turning or Stopping. (Amended)
- 331.15 Hand and Arm Signals. (Amended)
- 331.16 Right of Way at Intersections. (Amended)
- 331.17 Right of Way When Turning Left. (Amended)
- 331.18 Operation of Vehicle at Yield Signs. (Amended)
- 331.19 Operation of Vehicle at Stop Signs. (Amended)
- 331.20 Emergency or Public Safety Vehicles at Stop Signals or Signs. (Amended)
- 331.22 Driving Onto Roadway From Place Other Than Roadway: Duty to Yield. (Amended)

- 331.23 Driving Onto Roadway From Place Other Than Roadway: Stopping at Sidewalk. (Amended)
- 331.24 Right of Way of Funeral Procession. (Amended)
- 331.26 Driving Upon Street Posted as Closed for Repair. (Amended)
- 331.27 Following and Parking Near Emergency or Safety Vehicles. (Amended)
- 331.28 Driving Over Fire Hose. (Amended)
- 331.29 Driving Through Safety Zone. (Amended)
- 331.30 One-Way Streets and Rotary Traffic Islands. (Amended)
- 331.31 Driving Upon Divided Roadways. (Amended)
- 331.33 Obstructing Intersection, Crosswalk or Grade Crossing. (Amended)
- 331.37 Driving Upon Sidewalks, Street Lawns or Curbs. (Amended)
- 331.40 Stopping at Grade Crossing. (Amended)
- 333.03 Maximum Speed Limits. (Amended)
- 333.031 Approaching a Public Safety Vehicle. (Amended)
- 333.04 Stopping Vehicle. (Amended)
- 333.05 Speed Limitations Over Bridges. (Amended)
- 337.16 Number of Lights. (Amended)
- 337.28 Use of Sunscreening, Nontransparent and Reflectorized Materials. (Amended)
- 371.01 Right of Way in Crosswalk. (Amended)
- 371.02 Right of Way of Blind Person. (Amended)
- 371.07 Right of Way on Sidewalk. (Amended)
- 373.03 Attaching Bicycle or Sled to Vehicle. (Amended)
- 373.04 Riding Bicycles and Motorcycles Abreast. (Amended)
- 373.07 Riding Bicycle on Right Side. (Amended)
- 373.11 Paths Exclusively for Bicycles. (Amended)

General Offenses Code

- 513.01 Drug Abuse Control Definitions. (Amended)
- 513.05 Permitting Drug Abuse. (Amended)
- 545.10 Misuse of Credit Cards. (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 Law Committee

I, Teresa Lee Sandy, Clerk of Council do hereby certify that on _____, 2019 in the Lancaster Eagle Gazette published the summary of this ordinance in accordance with Ohio Revised Code 731.24.

Clerk of Council

262 pages

INSTRUCTIONS FOR INSERTING
2018 REPLACEMENT PAGES
FOR THE
CODIFIED ORDINANCES OF LANCASTER

All new replacement pages bear the footnote "2018 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

Discard Old Pages

Insert New Pages

PRELIMINARY UNIT

Cover and Certification Page	Cover and Certification Page
3, 4	3, 4
17, 18	17, 18
23 through 28	23 through 28
33, 34	33, 34
50G	50G
60C, 60D	60C, 60D
66A	66A
78A	78A
83, 84	83, 84
110C	110C

PART ONE - ADMINISTRATIVE CODE

Table of Contents Page	Table of Contents Page
75, 76	75, 76
157 through 165	157 through 255

PART THREE - TRAFFIC CODE

3, 4	3, 4
11 through 16	11 through 16
19, 20	19 through 20B
29, 30	29, 30
35, 36	35, 36
39 through 58B	39 through 58D
78A through 78F	78A through 78F
103, 104	103, 104
113 through 118	113 through 118
155, 156	155, 156
159, 160	159, 160
167 through 170	167 through 170

PART FIVE - GENERAL OFFENSES CODE

23 through 34D4	23 through 34D4
102A through 104	102A through 104
110A, 110B	110A, 110B

Discard Old Pages

Insert New Pages

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

9, 10

89 through 96

9, 10

89 through 96A

PART THIRTEEN - BUILDING CODE

15 through 26M

43, 44

15 through 26N

43, 44

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

Complete to December 31, 2018

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, 2018.

/s/ David Scheffler
Mayor

/s/ Teresa Sandy
Council Clerk

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

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LANCASTER, OHIO
ROSTER OF OFFICIALS
(2018)

COUNCIL

David Uhl
Corey Schoonover
John Baus
Jerry Woodgeard
Melody Bobbitt
Don McDaniel
Randy Groff
Thomas Stoughton
Holly Miller-Downour
Becky Tener
Teresa 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 Ullom
Robert Wolfinger
Paul Martin
Mitch Noland
Adam Pillar
David Ward
James Fields
David Landefeld
Trevor Innocenti

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

The publisher
expresses his appreciation
to

RANDALL T. ULLOM
Law Director

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

DRIVER'S LICENSE (Cont.)

suspended, driving under 335.074
 temporary, licensed
 driver required 335.03

DRIVEWAY

construction material 905.03
 parking in front of 351.03
 penalty 905.99
 permit
 fee 905.02
 required 905.01
 right of way
 entering 331.17
 leaving 331.22, 331.23
 turning into 331.11

DRIVING

accident (see ACCIDENT)
 allowing another
 to drive illegally 335.05
 approaching stationary public
 safety vehicle 333.031
 assured clear distance 331.09, 333.03
 backing vehicle 331.13
 bicycle path use prohibited 373.13
 cell phone use prohibited 335.032
 cemeteries, in 933.14
 certificate of title required 335.08
 change of course 331.14, 331.34
 closed road, on 331.26, 331.47
 construction zone,
 vehicular assault in 537.021
 control of vehicle 331.34, 333.08
 crosswalk, obstructing 331.33
 distracted driving penalty 303.991
 divided street 331.31
 drag racing 333.07
 driver's view, control 331.25, 337.21
 drunk or drugged 333.01
 earplugs prohibited 331.43
 electronic wireless communication
 device use prohibited
 while driving 335.032
 entering or crossing
 roadway from other than roadway
 duty to yield 331.22
 stopping at sidewalk 331.23
 exhaust noises 331.36

DRIVING (Cont.)

fire hose, over 331.28
 following
 emergency or safety vehicle 331.27
 too closely 331.09
 grade crossing 331.39, 331.40
 hazardous zones 331.07
 immobilization order 333.10
 intersection
 obstructing 331.33
 right of way 331.16
 shortcutting 331.41
 turning at 331.10
 lanes, within 331.08
 lane-use control
 signal indications 313.04
 left side of street 331.06
 one-way street 331.30
 operate defined 301.201
 OVI suspension, under 335.071
 passing
 left of center 331.05
 left side 331.03
 no passing zones 331.07
 right side 331.02, 331.04
 racing motor 331.36
 reckless
 failure to control 331.34, 333.08
 full time and attention 331.34
 prohibited 333.09
 willful, wanton disregard 333.02
 right of way
 funeral procession 331.24
 intersections 331.16
 public safety
 vehicle 331.21, 331.211
 turning left 331.17
 right side of street 331.01
 rotary traffic island, around 331.30
 safety zone, through 331.29
 shortcutting 331.41
 sidewalk, street lawn, curb; on 331.37
 signals for turning
 or stopping 331.14, 331.15
 speed (see SPEED)
 squealing tires 331.36

DRIVING (Cont.)

starting vehicle	331.13
stopping vehicle	333.04
stop signs	
emergency or public	
safety vehicle	331.20
operation at	331.14, 331.19
street racing	333.07
street under repair	331.26
suspended license	335.074
texting prohibited	333.11
traffic signal indications	313.03
turning	
driveway, alley	
or building	331.11
intersection, at	331.10
left, right of way	331.17
right of red	313.03(c)
signals	331.14, 331.15
U turns	331.12
unsafe vehicle	337.01
water covered street, on	331.47
weaving	331.34
willful, wanton disregard	333.02
wrongful entrustment	
of a motor vehicle	335.05
yellow line	331.07
yield signs, operation at	331.18

DRUG ABUSE

adulterated food	537.13
attempt	501.09(e)
Comprehensive Drug Penalty Act,	
property accepted from	131.04
controlled substance test;	
offender to pay	513.14
counterfeit controlled	
substances	513.13
definitions	513.01
disorderly conduct	509.09
driving under influence	333.01
drug paraphernalia	513.12, 513.121
drug samples	513.08

DRUG ABUSE (Cont.)

hypodermic, possession	
and dispensing	513.04, 513.10
instruments	513.04
intoxicants, harmful	
possession or use	513.07
trafficking	513.11
labels, prescription	513.09
marihuana	
gift	513.02
illegal cultivation	513.06
paraphernalia	513.121
possession or use	513.03
medical marijuana	
cultivating, processing,	
dispensing	
prohibited	709.02, 1123.21
definitions	709.01
penalty	709.99
permitting	513.05
possession or use	513.03
steroids, anabolic	513.03
walking on street	
under influence	371.09
weapon use while intoxicated	549.03
DRUNK DRIVING	333.01
DUI	333.01
DWELLING (see also BUILDING)	
definitions	1161.01
group residential facility	1123.18
one single-family dwelling	
per lot of record	1123.08
street frontage required	1123.07
E CIGARETTES	537.16
ELECTRIC PERSONAL ASSISTIVE	
MOBILITY DEVICE (see also	
WHEELCHAIR)	
regulations	371.12
ELECTRONIC WIRELESS	
COMMUNICATION DEVICE	
texting while driving prohibited	333.11
use prohibited while driving	335.032

GAMBLING (Cont.)

devices	
prohibited	731.02
seizure and destruction	731.10
games of chance	
conducting	517.02(d)
records	517.11
operating house	517.03
prohibited conduct	517.02
public gaming	517.04
raffles	517.08
skill-based amusement devices	517.15

GARAGE

setback from alley	1165.12
--------------------	---------

GARBAGE AND RUBBISH

appeals	937.17
collection	
bulk pick-up; rates	937.15
business prohibited	937.06
charges a lien	937.16
rates	937.03
regulations	937.08
service discontinued;	
nuisance conditions	937.10
transfer station rates	937.12
unacceptable waste	937.14
vehicles	937.07
yard wastes	937.14(a)(3)
container regulations	937.05
definitions	937.01
dumpsters	937.11
fire hazard	
littering (see LITTERING)	
ownership of refuse	937.09
penalty	937.99
private disposal	937.04
purpose of regulations	937.02
refuse storage; failure to obey	554.05
rules and regulations	937.18
solid waste disposal fees	937.13

GAS, NATURAL (see also UTILITIES)

conditions of service	917.10
cost recovery charge	917.11
definitions	917.01
emergencies	917.17
fees	917.09
measurements	917.02
operating cost adjustment	917.16
permit	917.07
rate stabilization fund	917.15
rules and regulations	917.12

GAS, NATURAL (Cont.)

schedules	
commercial	917.04
industrial	917.05
outside City	917.06
residential	917.03
service outside City	917.14
special contracts	917.13
transportation service	917.08

GAS UTILITY (see UTILITIES)**GROUP RESIDENTIAL FACILITY**

zoning regulations	1123.18
--------------------	---------

GUN (see WEAPONS)**HALLOWEEN**

adulterated food	537.13
------------------	--------

HANDICAPPED PERSONS

blind pedestrian	371.02
definitions	1161.01
mobility device	371.12
parking	
locations	351.04
signs	351.19
spaces designated	351.18
service dog, assaulting	525.15
wheelchair, motorized	
defined	301.52
operation of	371.11

HIGHWAY (see STREETS)**HILLSIDE DEVELOPMENT (see****SUBDIVISION REGULATIONS)****HISTORIC LANCASTER COMMISSION**

established	1327.04
guidelines	1327.07
organization	1327.06
powers and duties	1327.05

HISTORIC PRESERVATION/DESIGN**REVIEW**

appeals	1327.18
certificate of appropriateness	1327.24
definitions	1327.02
demolition	1327.15
design guidelines	1327.23
Design Review Districts	1327.03
economic hardship	1327.13
enforcement	1327.22

Historic Lancaster Commission (see**HISTORIC LANCASTER
COMMISSION)**

landmarks	1327.03
listed properties	1327.03

HISTORIC PRESERVATION/DESIGN**REVIEW (Cont.)**

maintenance	
failure to maintain	1327.17
generally	1327.16
penalty	1327.99
purpose	1327.01
remedies	1327.20
severability	1327.19
stop work order	1327.21
unusual or compelling	
circumstances	1327.14
violation	
criminal	1327.99
notice of	1327.22

HITCHHIKING 371.06**HIT-SKIP (see ACCIDENT)****HOME OCCUPATIONS**

definition	1161.01
zoning regulations	1125.06

HOMICIDE

failure to report	525.05(c)
negligent	537.01
vehicular	537.02
HORN	337.19

HORSES (see ANIMALS)**HOTEL OR MOTEL**

minors engaging	
accommodations	529.02
tax (see LODGING TAX)	

HUNTING

prohibited	505.11
------------	--------

HYPODERMIC

possession, dispensing	513.04, 513.10
------------------------	----------------

IDENTIFICATION CARD

forgery	545.20
misrepresentation	529.021

IMMOBILIZATION ORDER

driving under	333.10
---------------	--------

IMPACT FEES

appeals	1345.17
chapter	
effective date	1345.20
intent and purposes	1345.03
repealer; liberal	
construction	1345.18
rules of construction	1345.04
severability	1345.19
title; applicability	1345.02
computation of amount	1345.07
credits against	1345.14
definitions	1345.05

IMPACT FEES (Cont.)

districts	
established	1345.09
review and termination	1345.15
exemption from payment	1345.13
fee schedule	Ch. 1345 Exh. A-1
imposition of fee	1345.06
legislative findings	1345.01
payment	1345.08
penalty provisions	1345.16
refunds	1345.12
trust funds established	1345.10
use of funds	1345.11

IMPERSONATION

law enforcement	
officer to defraud	545.16
peace officer, private police	
officer	525.03

IMPORTUNING 533.05**IMPOUNDING**

animals	505.02
bicycle	373.12
vehicle	
damage by removal	
or storage	303.082
expense of removal	
and storage	303.083
fee	303.085
notice to owner;	
redemption	303.084
payment of charges not release	
from prosecution	303.081
storage charges	303.085
towing rotation	303.087
traffic violation	303.08

IMPROVEMENTS**subdivision (see SUBDIVISION REGULATIONS)****INCOME TAX (see also INCOME TAX EFFECTIVE JANUARY 1, 2016)**

Administrator	
duties	181.09
investigative powers	181.10
allocation of funds	181.15
Board of Review	181.14
collection	
after chapter termination	181.18
at source	181.07
unpaid taxes	181.12
Commissioner; appointment,	
removal	121.02

INCOME TAX (Cont.)

confidential information;	
penalty	181.10
declarations	181.08
definitions	181.02
effective period	181.05
exception	181.03(e)
imposition	181.03
imposition of additional for	
fire services, providing	181.043
parks and recreation	181.04
Police and Fire	
Departments	181.041
interests; penalties	181.11
Mayor in control of	121.01
payment	181.06
performance withholding incentive	
historic district jobs	181.23
industrial/advanced	
technology jobs	181.22
purpose; levy	181.01
refunds of overpayments	181.12
registration of tenants,	
contractors, employees	181.20
relief provisions	181.16
return check or ACH charge	181.21
returns	
after last effective year	181.18
amended	181.06
consolidated	181.03(d)
failure to file; improper	181.09(c)
required; forms; filing	181.06
saving clause	181.17
violations; penalty	181.13
INCOME TAX EFFECTIVE	
JANUARY 1, 2016	
annual return	182.09
assessment	182.17
audit	182.11
authority to levy	182.01
Board of Tax Review	182.18
collection at source	182.05
confidentiality	182.14
credit	182.08
definitions	182.03
effective date	182.02
estimated tax; declaration of	182.07
fees and charges	182.10
fraud	182.15
income subject to tax	
individuals	182.04
net profit	182.06
penalty and interest	182.10

INCOME TAX EFFECTIVE

JANUARY 1, 2016 (Cont.)

rounding	182.12
rules	182.20
statute of limitations	182.19
Tax Administrator	182.13, 182.16
violations; penalty	182.99

INCOME TAX EFFECTIVE

JANUARY 1, 2018

annual return	183.09
assessment	183.17
audit	183.11
authority to levy	183.01
Board of Tax Review	183.18
collection at source	183.05
confidentiality	183.14
credit	183.08
definitions	183.03
effective date	183.02
estimated tax; declaration of	183.07
fees and charges	183.10
fraud	183.15
income subject to tax	
individuals	183.04
net profit	183.06
net profit tax, filing of	183.40 et seq.
penalty and interest	183.10
rounding	183.12
rules	183.20
statute of limitations	183.19
Tax Administrator	183.13, 183.16
violations; penalty	183.99

INDECENCY (see OBSCENITY;
SEXUAL OFFENSES)INDUSTRIAL DISTRICTS (see
also ZONING DISTRICTS)

establishment and purpose	1135.01
IH Industrial Heavy District	1135.04
IL Industrial Light District	1135.02
IM Industrial	
Moderate District	1135.03

INDUSTRIAL WASTE (see SEWERS)

INSURANCE FRAUD 545.07

INTERNATIONAL FIRE CODE

adopted	1303.01
---------	---------

INTERSECTION

defined	301.17
obstructing	331.33
parking in	351.03
right of way	331.16, 331.17
shortcutting	331.41
stop signs	313.02, 331.19
turning at	331.10

INTOXICANT, HARMFUL			JUVENILE (see also MINOR)	
possessing, using	513.07		delinquency, contributing to	537.18
trafficking	513.11		material harmful to	
INTOXICANTS			deception to obtain	533.12
consumption			displaying	533.13
hours	529.08		disseminating	533.11
motor vehicle, in	529.04		KEYS	
definitions	529.01		parking, removal	303.03, 351.07
manufacture permit	529.05		KNIFE (see WEAPONS)	
open container			LANDSCAPING	
outdoor refreshment			purpose of requirements	1139.01
areas, in	705.04		shrubby in street right of way	311.06
regulations	529.07		trees (see TREES)	
permit for sale or manufacture	529.05		yard waste (see GARBAGE	
sale			AND RUBBISH)	
hours	529.08		LAW DIRECTOR (see	
intoxicated persons, to	529.03		also PUBLIC SERVANT)	
low-alcohol beverages	529.06		annual report	123.02
minors, to	529.02, 529.06		full-time position, as	123.01
permit	529.05		LAW ENFORCEMENT (see	
purchase by			specific subject involved)	
minors	529.06, 529.021		LAW ENFORCEMENT OFFICER (see	
securing public			also POLICE OFFICER;	
accommodations	529.02		PUBLIC SERVANT)	
INTOXICATION			defined	501.01
criminal liability	501.07		dereliction of duty	525.12
disorderly conduct	509.03, 509.09		failure to aid	525.06
disturbing the peace	509.08		hampering at emergency	509.05
driving while			ignition key removal	303.03
intoxicated; testing	333.01		personating	545.16
walking on street	371.09		refusal to disclose personal information	
weapon use	549.03		to in public place	525.17
INVASION OF PRIVACY			LIABILITY	
voyeurism	533.06		criminal	
ITINERANT MERCHANTS			intoxication	501.07
defined	785.01		organizational	501.11
penalty	785.99		personal	501.07
registration			LIBRARY	
information	785.03		rights; property damage	545.04
required	785.02		spitting prohibited	521.06
JAKE BRAKES	339.13		LICENSE (see also PERMIT)	
JAYWALKING	371.03		amusement device, mechanical	
JUKE BOX (see MUSICAL			each device	731.03
INSTRUMENTS,			exhibitor	731.02
MECHANICAL)			arcades	715.01
JUNK AND SALVAGE YARDS			auction	711.01
definition	1161.01		driving (see DRIVER'S LICENSE)	
JUNK MOTOR VEHICLE			fees (see FEES)	
impounding	303.08		liquidation sale	721.01
public or			musical instrument, mechanical	741.02
private property	343.01 et seq.		scrap metal dealers	781.02 et seq.
JURISDICTION	501.05		sexually oriented	
			business	707.04 et seq.

LICENSE (Cont.)	
sign installation	1317.12
trucked waste operators	914.02 et seq.
LICENSE PLATES	
display	335.09
expired or unlawful; out of state	335.10
illegal	
impounding vehicle	303.08
use of	335.11
rear, illumination	337.04
registration within thirty days	
of residency	335.111
unobstructed	335.10
LIGHTS, VEHICLE (see VEHICLE LIGHTS)	
LIMITATION OF PROSECUTION	501.06
LIQUIDATION SALES	
definitions	721.02
examiners	721.07
exceptions	721.12
information confidential	721.04, 721.07
legislative findings	721.01
license	
application	721.04
application investigation	721.06
bond	721.05
denial	721.06
fee	721.11
information confidential	721.04
inventory required	721.04
issuance and conditions	721.08
renewal	721.10
required	721.03
revocation	721.09
penalty	721.99
LIQUOR (see INTOXICANTS; INTOXICATION)	
LITTERING	
motor vehicle, from	331.42
LOADING ZONES (see also VEHICLE LOADS)	
authorized users	353.06
courtesy loading zone	353.07
parking in	353.05
permit	
application; inspection	353.01
cancellation or renewal	
of present permits	353.04
credit to present permit	
holders for signs	353.03
fees; exceptions	353.02
signs; maintenance	353.02

LODGING TAX	
actions to collect	185.10
application	185.03
collection after	
chapter termination	185.14
definitions	185.02
effective period	185.01
failure to report and collect	185.09
interest on unpaid	185.11
penalty	185.99
purpose	185.01
records	185.05
refunds	185.08
returns	
failure to file	185.09
filing	185.07
rules and regulations	185.12
separately stated and charged	185.06
transient guest	
failure to pay	185.13(b)
to pay	185.04
violations	185.13
LOITERING	
solicitation, to engage in	533.091
unlawful congregation on sidewalks, public grounds	509.10
LOTS (see also specific district involved)	
definitions	1105.15, 1161.01
demolition, after	1301.08
district regulations	
Agriculture District	1127.06
Office Districts	1131.05
PUD Districts	1147.05
RE District	1129.02(e)
RM District	1129.04(e)
RMH District	1129.05(e)
RS District	1129.03(e)
division of	1123.06
nonconforming	1153.05
one single-family dwelling	
per lot of record	1123.08
street frontage required	1123.07
Subdivision Regulations	1109.07
top soil unimproved or unseeded	521.04
MANHOLE COVER	
tampering with	313.08
MANSLAUGHTER, VEHICULAR	537.02
MANUFACTURED HOME	
definition	1161.01

- MANUFACTURED HOME (Cont.)
 occupying moving 331.35
 MARIHUANA (see DRUG ABUSE)
 MASSAGE
 advertising, unlawful 533.14
 MAYOR (see also PUBLIC SERVANT)
 income tax, control of 121.01
 member of
 Planning Commission 1101.02
 Safety Service Board 130.01
 Taxicab Board 771.02
 MEETINGS, OPEN (see
 also specific subject involved)
 definitions 109.02
 disturbing lawful 509.04
 general provisions 109.07
 notice of
 news media, to 109.05
 organizational meetings 109.03
 regulations meetings 109.03
 special meetings 109.04, 109.05
 specific types of business 109.06
 purpose of regulations 109.01
 MENACING (see also THREATS)
 aggravated 537.05
 physical harm 537.06
 stalking, by 537.051
 MINI-BIKE (see
 ALL PURPOSE VEHICLE)
 MINOR (see also JUVENILE)
 cemeteries, in 933.13
 contributing to delinquency of 537.18
 criminal child enticement 537.17
 curfew 335.031, 509.11
 day care home regulations 1123.17
 distributing to
 cigarettes, tobacco, nicotine
 products 537.16
 harmful intoxicants 513.11
 endangering 537.07
 firearm purchase 549.07
 games in streets 311.04
 MINOR (Cont.)
 hotel, campsite, etc., engaging 529.02
 intoxicant sales 529.02, 529.06
 play streets designated 311.05
 scrap metal dealer, dealing
 with prohibited 781.10
 unlawful sexual conduct
 with a minor 533.03
 MISDEMEANOR (see OFFENSE)
 MISSILES 549.09
 MOBILE HOME
 defined as a motor vehicle 301.20
 definition 1161.01
 occupying moving 331.35
 MOPED (see MOTORIZED BICYCLE)
 MOTORCYCLE (see also BICYCLE)
 brakes 337.18
 defined 301.19
 handle bars 373.02
 headlight required 337.03
 helmets; safety glasses 373.02
 license to operate 335.01(a)
 muffler 337.20
 races (see MOTOR VEHICLE RACING)
 rear-view mirror 337.21
 riding abreast 373.04
 seat, use 373.02
 vehicle, attaching to 373.03
 MOTORCYCLE, OFF-HIGHWAY
 accident reports 375.07
 certificate of title 375.08
 definitions 375.01
 equipment 375.02
 licensing requirements, operator 375.05
 operation
 permitted 375.04
 prohibited 375.03
 Traffic Code application 375.03
 vehicle registration 375.06
 MOTORIZED BICYCLE
 accidents 374.14, 374.15
 altering serial numbers,
 stickers or plates 374.11

**PEDDLERS, SOLICITORS AND
CANVASSERS**

charitable solicitations in roadway; permit	751.07
definitions	751.01
organizational liability	751.03
registration card; display of	751.04
registration required	751.02
street peddler	751.06

PEDESTRIAN

blind person	371.02
bridge or railroad crossing, on charitable	371.10
solicitations on streets	751.07
control signal	313.05
crosswalk, right half	371.04
crosswalk, right of way	371.01
defined	301.22
diagonal crossing of intersection	371.03
electric personal assistive mobility device	371.12(b)
freeway, on	303.06
hitchhiking	371.06
intoxicated on street	371.09
jaywalking	371.03
right of way, yielding	371.03, 371.08
sidewalk, right of way	371.07
sidewalk, use required	371.05
soliciting	371.06
street or highway, on	371.05
wheelchair, motorized	371.11
yielding to public	
safety vehicles	371.08
PEEPING TOM	533.06

**PENALTY (see also
specific subject involved)**

general	101.99
general offenses	501.99
Subdivision Regulations	1117.03
Traffic Code	303.99, 303.991
Zoning Code	1155.03

PERMIT (see also LICENSE)

boxing and wrestling	139.02
building (see BUILDING PERMIT)	
charitable solicitation in roadway	751.07
curb cut	905.01
excavation	901.01(c)
fees (see FEES)	
flood plain development	1331.14
intoxicant sale or manufacture	529.05
loading zone	353.01
motor vehicle race	791.02
parades; street assembly	311.02
septic tanks	141.02
sewage disposal, private	912.03
sewer discharge	916.09
sewer tap	913.06
signs	1317.10
street excavations	901.03
temporary driver's instruction	335.03
tire storage, outside	1535.04
trucked waste	914.01
vehicle, overweight	339.02
wastewater discharge	916.09
wireless telecommunications	1339.13
zoning	
clearance	1155.02
special exception	
use permits	1157.10
PHYSICAL CONTROL	333.01
PHYSICAL HARM	
defined	501.01
domestic violence	537.14
missiles	549.09

- PHYSICAL HARM (Cont.)
 temporary protection order 537.15
- PINBALL MACHINES (see
 AMUSEMENT DEVICES,
 MECHANICAL; ARCADES)
- PLANNED UNIT DEVELOPMENT
 administration of 1147.08
 bulk and area requirements 1147.05
 definitions 1161.01
 description 1147.01
 general provisions 1147.03
 off-street parking and loading 1147.07
 perimeter requirements 1147.06
 permitted uses 1147.04
 purposes 1147.02
- PLANNING COMMISSION
 established 1101.01
 members; term;
 no compensation 1101.02
 organization; term 1101.02
 planned unit development
 administration 1147.08
 powers and duties 1101.03
 subdivision authority (see
 SUBDIVISION REGULATIONS)
- PLAT (see SUBDIVISION
 REGULATIONS)
- POISONING
 adulterated food 537.13
 animals 505.06
- POLICE CHIEF
 gasoline allowance 131.02
 member of
 Safety Service Board 130.01
 Taxicab Board 771.02
 regulations by 305.01
- POLICE DEPARTMENT
 appointee age limitation waived 131.05
 Comprehensive Drug Penalty Act,
 property accepted from 131.04
 Disability and Pension Fund,
 pick-up of contributions 131.03
 income tax levied for 181.041
 records, copy fee 131.01
 reserve unit 131.06
 unclaimed property, donation of 131.07
 Volunteer Peace Officers'
 Dependents Fund 131.06.1
- POLICE OFFICER (see also LAW
 ENFORCEMENT OFFICER)
 auxiliary as park rangers 931.04
 false information given to 303.11
 fleeing 303.01
 ignition key removal 303.03
 traffic order, compliance with 303.01
- POOL TABLES (see ARCADES)
- PORNOGRAPHY (see OBSCENITY)
- PORT AUTHORITY
 appointment of original Board 140.04
 Board of Directors 140.03
 created 140.01
 dissolving 140.06
 notice of meetings 140.05
 territorial limits 140.02
- PRIVATE PROPERTY
 posted, parking 351.20
- PRIVATE ROAD
 right of way
 entering 331.17
 leaving 331.22, 331.23
 turning into 331.11
- PROBATION OFFICER 161.01
- PROCURING (see PROSTITUTION)
- PROPERTY (see also
 PROPERTY DESTRUCTION)
 defined 501.01
 stolen (see THEFT)
 unauthorized use 545.06, 545.08
- PROPERTY DESTRUCTION
 arson 541.01, 541.02
 cemeteries, in 933.12
 criminal damaging
 or endangering 541.03
 criminal mischief 541.04
 desecration 541.07
 library; museum;
 archival institution 545.04
 railroad vandalism 553.04, 553.05
 shrubs, trees, crops 541.06
 tampering (see TAMPERING)
 traffic signals 313.08
 vehicular vandalism 541.10
- PROSTITUTION
 defined 533.01

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>	<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
1-17	5-22-17	182.013			
11-17	4-10-17	1303.01(a), 1525.01, 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(d)(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 to 1125.07, 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			
3-18	3-12-18	183.01 to 183.39, 183.97, 183.98, 183.99			
7-18	6-11-18	1331.07			
9-18	7-16-18	937.01 to 937.18, 937.99			
19-18	10-22-18	905.01 to 905.05, 905.99			
23-18	11-26-18	1317.01 to 1317.16, 1317.99			

TABLE B - EASEMENTS (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
12-14	8-11-14	Accepts an easement from Retrie Technologies, Inc, necessary for the construction of a sanitary sewer.
13-14	8-25-14	Accepts an easement from the Lancaster City School District Board of Education, necessary for the construction of gas and water lines.
17-14	10-6-14	Vacates a portion of public utility easement right-of-way on the Rock Mill Corporate Park.
19-14	12-8-14	Accepts an easement necessary for the construction fo a sanitary sewer from the Lancaster City School District Board of Education.
20-14	12-8-14	Accepts an easement necessary for the construction of a storm sewer from the Lancaster City School District Board of Education.
21-14	12-8-14	Accepts an easement necessary for the construction of a sanitary sewer from Renkas Properties, LLC.
22-14	12-8-14	Accepts an easement necessary for the construction of sanitary sewer from Lancaster Motor Speedway Inc.
9-15	6-22-15	Vacates a portion of a public gas utility easement right of way.
15-15	11-9-15	Authorizing an access easement to AEP.
27-15	12-7-15	Accepts ingress and egress easement through Parcel No. 0533800500 from Fairfield County Land Reutilization Corporation in Section 30, Township 1, Range 18.
19-16	5-9-16	Accepts easements necessary for the construction of the CSO 1014 sanitary sewer project.
21-16	6-27-16	Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a sanitary sewer line and appurtenances.
26-16	9-26-16	Accepts an easement necessary for the construction of a gas line.
27-16	10-10-16	Accepts an easement necessary for access to a pump station and vacate an existing easement.
39-16	12-12-16	Grants an easement necessary for the installation of a pipeline by Columbia Gas Transmission.
5-17	2-13-17	Grants an easement necessary for the provision of electric services by Ohio Power Company, a unit of American Electric Power.
9-17	3-27-17	Accepts an easement necessary for a sanitary sewer constructed by the developer of the Moo Moo Car Wash to serve a 4.334 acres property at the northwest corner of Pierce Avenue and River Valley Boulevard.
16-17	4-10-17	Approves an easement for H & W Investment Properties LLC nka The Mithoff Companies, Ltd.
17-17	4-10-17	Grants a temporary easement to Columbia Gas Transmission, LLC for temporary work space and/or a temporary road access easement to perform service on their gas line B105 as part of the B-Systems Modernization Project from Lancaster to Columbus.
23-17	7-17-17	Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a gas line and appurtenances.
25-17	9-11-17	Accepts an easement necessary to construct, maintain, operate, tap into, replace or remove one or more municipal gas lines.

TABLE B - EASEMENTS (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
26-17	9-11-17	Accepts an access easement necessary for use as a vehicle turnaround.
32-17	11-13-17	Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a gas line and appurtenances.
33-17	11-13-17	Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a gas line and appurtenances.
11-18	9-10-18	Grants an easement necessary for the provision of electric services by Ohio Power Company, a unit of American Electric Power.
13-18	9-24-18	Approves an easement for Fairfield Homes, Inc.

TABLE C - VACATING STREETS AND ALLEYS (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
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. Cos's Seventh Addition and Lot 3 of DeLancy's Edgemont Sub-Division.
18-11	11-28-11	Vacates the right-of-way of a 15 foot public alley in the Rising Park Addition.
13-13	8-26-13	Vacates the unimproved public right-of-way dedicated on the Colonial Heights Addition Plat.
24-17	7-17-17	Vacates a portion of unimproved public alley known as Zane Alley.
14-18	10-8-18	Vacates an alley within M.A. Daugherty's Addition.

TABLE D - DEDICATION OF PROPERTY (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
49-05	6-27-05	Accepts the final plat for West View Heights Addition No. 3.
50-05	7-18-05	Accepts the final plat for the Overlook Section 1.
54-05	8-22-05	Accepts the final plat for Misty Meadows Section 3.
57-05	8-22-05	Dedicates property described in Exhibit A for public alley way and utility purposes.
71-05	11-14-05	Accepts the final plat for River Valley Highland Section 12, Phase 1.
14-06	4-10-06	Accepts the final plat for the Woods Section 1.
29-06	8-14-06	Accepts the final development plan for Primrose of Lancaster.
31-06	8-14-06	Accepts the final plat for Ewing Run Estates Phase 2A.
33-06	8-28-06	Accepts the final plat for Ety Pointe Centre.
40-06	9-11-06	Accepts the final plat for Ety Pointe Centre North.
47-06	11-27-06	Accept the dedication plat for Countryside Drive.
27-07	4-23-07	Accepts the final plat for Creekside Phase 3.
28-07	4-23-07	Amends the final plat for Ety Pointe Centre.
30-08	9-8-08	Accepts the revisions to the Lancaster Industrial Park final plat.
15-09	9-14-09	Accepts final plat for River Valley Highlands Section 12 Phase 2A.
6-10	4-12-10	Restores the right of one direct access driveway onto West Fair Avenue from Reserve D of the Overlook Section 1 Development.
9-10	6-28-10	Accepts the final plat for the Election House Road relocation.
23-12	12-10-12	Accepts the final plat for River Valley Highlands Section 12 Phase 2B.
24-12	12-10-12	Accepts the final plat for River Valley Highlands Section 12 Phase 3A.
11-13	4-8-13	Amends the approved Planned Unit Development Plan for an undeveloped 17 acre +/- tract in Hunter Trace Estates lying north of the Northern Termini of Trace Drive and Linda Lane, to allow for the construction of a school.
10-14	6-23-14	Accepts the final plat for River Valley Highlands Sections 13 Phase 1.
10-15	7-13-15	Accepts the final plat for River Valley Highlands Section 13 Phase 2.
13-16	4-11-16	Accepts the final plat for River Valley Highlands Section 13 Phase 3.
24-16	9-26-16	Accepts the final development plan for the Primrose Memory Care Facility.
3-17	1-9-17	Accepts the final plat for Ewing Street Business Park.
20-17	6-12-17	Accepts a permanent right-of-way on Sheridan Drive for the turn lane widening and sidewalk project in front of Medill Elementary.
5-18	5-7-18	Accepts the right of way dedication on North Columbus Street (for the turn lane widening project near the intersection of North Columbus Street/Bush Hill Drive/Fairfield Medical Center - Health and Wellness Center Entrance).
10-18	8-13-18	Accepts the final plat for the General Sherman Junior High School Subdivision.

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

<u>Ord. Book & Page</u>	<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
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 retarding structure.
	30-85	9-23-85	Appropriation from Helber of land at SW corner of Main and Ewing Sts. for street purposes.
	31-85	9-26-85	Appropriation of part of Lot 12 of Carpenter Lands Subdivision for a flood water retarding structure.
	34-85	11-11-85	Accepts Lot 15, Jordan's Subdivision from Dorothy Schneider for public park purposes.
	35-85	11-11-85	Accepts 1.788 acres from Mary M. Gorsuch for public park purposes.
	15-86	4-14-86	Accepts 8.193 acres from Fox Foundation for public park purposes.

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

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

TABLE I - ZONING MAP CHANGES (Cont.)

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
11-11	9-26-11	The 10.246 +/- acres known as the Olivedale Annexation zoned Commercial Neighborhood, the same as the other Olivedale property.
11-15	8-24-15	Amends the Zoning Map subject to passage of the annexation of 3.284 acres in Greenfield Township to zone such property Commercial General (CG).
20-15	11-23-15	Amends the Zoning Map subject to the passage of the annexation of 0.838 acres in Pleasant Township.
21-15	11-23-15	Amends the Zoning Map subject to the passage of the annexation of 5.633 acres in Pleasant Township.
2-17	1-9-17	184.264 acres on the west side of Whiley Road and north of Royalton Road from CH High Intensity Commercial, RM-3 Residential Multifamily and RS-3 Single Family Residential to CH High Intensity Commercial, IH Heavy Industrial and RS-3 Single Family Residential.
18-18	10-22-18	The 4.971 acre property at the southwest corner of the Canal Street and South Maple Street intersection with Parcel Number 0535026000 from IH Industrial Heavy to IL Industrial Light.

CODIFIED ORDINANCES OF LANCASTER

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

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

TITLE THREE - Legislative

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

TITLE FIVE - Administrative

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

TITLE SEVEN - Judicial

- Chap. 161. Municipal Court.

TITLE NINE - Taxation

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

TITLE NINE - Taxation

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

CHAPTER 181
Income Tax

Effective for taxable years through taxable year 2015.

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| <p>181.01 Purpose; levy.
 181.02 Definitions.
 181.03 Imposition of tax.
 181.04 Imposition of tax for parks and recreation.
 181.041 Imposition of tax for fire and police.
 181.043 Imposition of tax for operations of fire services.
 181.05 Effective period.
 181.06 Return and payment of tax.
 181.07 Collection at source.
 181.08 Declarations.
 181.09 Duties of the Administrator.
 181.10 Investigative powers of the Administrator; penalty for divulging confidential information.
 181.11 Interest, penalties and late charges.</p> | <p>181.12 Collection of unpaid taxes and refunds of overpayments.
 181.13 Violations; penalty.
 181.14 Board of Appeal.
 181.15 Allocation of funds.
 181.16 Relief provisions.
 181.17 Saving clause.
 181.18 Collection of tax after termination of chapter.
 181.19 Municipal contracts.
 181.20 Registration of tenants, contractors and employees.
 181.21 Return check or ACH Clearing House charge.
 181.22 Performance withholding incentive for industrial and advanced technology jobs.
 181.23 Performance withholding incentive for historic district jobs.</p> |
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CROSS REFERENCES

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

181.01 PURPOSE; LEVY.

To provide funds for the purpose of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Lancaster, Ohio, there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided. (Ord. 38-00. Passed 11-27-00.)

181.02 DEFINITIONS.

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

- (a) **ADMINISTRATOR** – The individual designated by the ordinance, whether appointed or elected, to administer and enforce the provisions of the ordinance, also commonly referred to as Tax Commissioner.
- (b) **ASSOCIATION** – A partnership, limited liability partnership, limited liability company, Chapter S corporation as defined in the federal tax code, or any other form of unincorporated entity, owned by two or more persons.
- (c) **BOARD OF APPEAL** – The Board created by and constituted as provided in Section 181.14.
- (d) **BUSINESS** – An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership association, corporation or any other entity.
- (e) **CORPORATION** – A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency, but not including Chapter S Corporations.
- (f) **EMPLOYEE** – One who works for wages, salary, commission or other type of compensation in the service of an employer.
- (g) **EMPLOYER** – An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.
- (h) **FISCAL YEAR** – An accounting period of twelve (12) months or less ending on any day other than December 31st.
- (i) **GROSS RECEIPTS** – The total income from any source whatsoever.
(Ord. 38-00. Passed 11-27-00.)
- (j) **NET PROFITS** – A net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary reasonable and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, federal, state, and other taxes based on income; exclusive of the amount of Ohio Franchise tax computed on the net worth basis, and in the case of a partnership without deduction of salaries paid to partners and otherwise adjusted to the requirements of this chapter. Net profits shall include ordinary gain from recaptured depreciation. A R.E.I.T. shall be taxed as an entity on net profits before deduction of distributions to owners/members. In the case of income of a sole proprietor, and pass-through or other non-wage income earned after December 31, 2000 that is subject to self-employment tax, there shall be no deduction of the one-half self-employment tax.
(Ord. 40-01. Passed 12-10-01.)
- (k) **NON-RESIDENT** – An individual domiciled outside the City of Lancaster, Ohio.
- (l) **NON-RESIDENT UNINCORPORATED BUSINESS ENTITY** – An unincorporated business entity not having an office or place of business within the City of Lancaster, Ohio.

CHAPTER 183
Municipal Income Tax Effective January 1, 2018

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| <p>183.01 Authority to levy tax; purposes of tax; rate.</p> <p>183.011 Authority to levy tax.</p> <p>183.012 Purposes of tax; rate.</p> <p>183.013 Allocation of funds.</p> <p>183.014 Statement of procedural history; state mandated changes to Municipal income tax.</p> <p>183.02 Effective date.</p> <p>183.03 Definitions.</p> <p>183.04 Income subject to tax for individuals.</p> <p>183.041 Determining Municipal taxable income for individuals.</p> <p>183.042 Domicile.</p> <p>183.043 Exemption for member or employee of General Assembly and certain judges.</p> <p>183.05 Collection at source.</p> <p>183.051 Collection at source; withholding from qualifying wages.</p> <p>183.052 Collection at source; occasional entrant.</p> <p>183.053 Collection at source; casino and VLT.</p> <p>183.054 Collection of unpaid taxes and refunds of overpayments.</p> <p>183.06 Income subject to net profit tax.</p> <p>183.061 Determining Municipal taxable income for taxpayers who are not individuals.</p> <p>183.062 Net profit; income subject to net profit tax; alternative apportionment.</p> <p>183.063 Consolidated Federal Income Tax return.</p> <p>183.064 Tax credit for businesses that foster new jobs in Ohio.</p> <p>183.065 Tax credits to foster job retention.</p> | <p>183.07 Declaration of estimated tax.</p> <p>183.08 Credit for tax paid.</p> <p>183.081 Credit for tax paid to another municipality.</p> <p>183.082 Refundable credit for qualifying loss.</p> <p>183.083 Credit for person working in Joint Economic Development District or Zone.</p> <p>183.084 Credit for tax beyond statute for obtaining refund.</p> <p>183.09 Annual return.</p> <p>183.091 Return and payment of tax.</p> <p>183.092 Return and payment of tax; individuals serving in combat zone.</p> <p>183.093 Use of Ohio Business Gateway; types of filings authorized.</p> <p>183.094 Extension of time to file.</p> <p>183.095 Amended returns.</p> <p>183.096 Refunds.</p> <p>183.10 Penalty, interest, fees and charges.</p> <p>183.11 Audit.</p> <p>183.12 Rounding.</p> <p>183.13 Authority and powers of the Tax Administrator.</p> <p>183.131 Authority of Tax Administrator; administrative powers of the Tax Administrator.</p> <p>183.132 Authority of Tax Administrator; compromise of claim and payment over time.</p> <p>183.133 Authority of Tax Administrator; right to examine.</p> <p>183.134 Authority of Tax Administrator; requiring identifying information.</p> <p>183.14 Confidentiality.</p> <p>183.15 Fraud.</p> |
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| 183.16 | Opinion of the Tax Administrator. | 183.27 | Information provided to tax administrators; confidentiality. |
| 183.17 | Assessment; appeal based on presumption of delivery. | 183.28 | Filing of annual return; remittance; disposition of funds. |
| 183.18 | Local Board of Tax Review; appeal to Local Board of Tax Review. | 183.29 | Electronic filing. |
| 183.19 | Actions to recover; statute of limitations. | 183.30 | Consolidated returns. |
| 183.20 | Adoption of rules. | 183.31 | Failure to pay tax. |
| 183.21 | Registration of tenants, contractors and employees. | 183.32 | Declaration of estimated taxes. |
| 183.22 | Municipal contracts. | 183.33 | Additional penalties. |
| 183.23 | Taxpayers' rights and responsibilities. | 183.34 | Assessments against taxpayer. |
| 183.24 | Filing net profit taxes; election to be subject to provisions of chapter. | 183.35 | Refund applications. |
| 183.25 | Definitions. | 183.36 | Amended returns. |
| 183.26 | Applicability; taxable situs; apportionment. | 183.37 | Examination of records and other documents and persons. |
| | | 183.38 | Credits. |
| | | 183.39 | Reckless violations; penalties. |
| | | 183.97 | Collection after termination of chapter. |
| | | 183.98 | Savings clause. |
| | | 183.99 | Violations; penalty. |

CROSS REFERENCES

Power to levy - see Ohio Const., Art. XII, §8

Payroll deductions - see Ohio R.C. 9.42

Municipal income taxes - see Ohio R.C. Ch. 718

City Income Tax Department control - see ADM. 121.01

183.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE.

183.011 AUTHORITY TO LEVY TAX.

(A) The tax on income and the withholding tax established by this Chapter 183 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 183 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.
(Ord. 3-18. Passed 3-12-18.)

183.012 PURPOSES OF TAX; RATE.

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

(B) Rate of tax is one and three-quarters percent 1.75%
(Ord. 3-18. Passed 3-12-18.)

183.013 ALLOCATION OF FUNDS.

(A) To provide funds for the purposes of operating, maintaining, repairing and providing capital facilities for municipal park and recreational activities and facilities, there should be and is hereby levied an annual tax, in addition to the tax levied by Section 183.011, 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 183.011 at the rate of one and one-half tenths of one percent (0.15%).

(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 183.011 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. 3-18. Passed 3-12-18.)

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

(A) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub HB 49, passed by the 132nd General Assembly, and signed by Governor Kasich requiring municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.

(B) As mandated by H.B. 49, municipal income tax Temporary Ordinance No. 3-18, effective January 1, 2018, comprehensively amends Chapter 182 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.
(Ord. 3-18. Passed 3-12-18.)

183.02 EFFECTIVE DATE.

(A) Temporary Ordinance No. 3-18, effective January 1, 2018, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2018. All provisions of this Chapter 183 apply to taxable years beginning 2018 and succeeding taxable years.

(B) Temporary Ordinance No. 3-18 does not repeal the existing sections of Chapter 181 for any taxable year prior to 2016, and Chapter 182 for taxable years 2016 and 2017 but rather amends Chapter 181 and 182 effective January 1, 2018. For municipal taxable years beginning before January 1, 2018, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as those chapters and those ordinances and resolutions existed before January 1, 2018. (Ord. 3-18. Passed 3-12-18.)

183.03 DEFINITIONS.

Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. Except as provided in Section 183.25 of the Codified Ordinances, if a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

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

Except as otherwise provided in Section 183.25 of the Codified Ordinances, as used in this chapter:

- (1) **"ADJUSTED FEDERAL TAXABLE INCOME,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(D) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - (A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
 - (B) Add an amount equal to five per cent of intangible income deducted under division (1)(A) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
 - (C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - (D)
 - (i) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - (ii) Division (1)(D)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
 - (E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
 - (F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

- (G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;
- (H) (i) Except as limited by divisions (1)(H)(ii), (iii) and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.
The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
- (ii) No person shall use the deduction allowed by division (1)(H) of this section to offset qualifying wages.
- (iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (1)(H)(i) of this section.
- (b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (1)(H)(i) of this section.
- (iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (1)(H) of this section.
- (v) Nothing in division (1)(H)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (1)(H)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (1)(H)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (1)(H)(iii)(a) of this section shall apply to the amount carried forward.
- (I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section 183.063 of this Chapter.
- (J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 183.063 of this Chapter.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(D) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

- (2) (A) **"ASSESSMENT"** means any of the following:
- (i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;
 - (ii) A full or partial denial of a refund request issued under Section 181.096 (B)(2) of this Chapter;
 - (iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 183.062(B)(2) of this Chapter; or
 - (iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 183.062(B)(3) of this Chapter.
 - (v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this Section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 183.18 of this Chapter, and shall have **"ASSESSMENT"** written in all capital letters at the top of such finding.
- (B) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under Section 183.096 (B)(3) of this Chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (2)(A) of this section.
- (3) **"AUDIT"** means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax
- (4) **"BOARD OF REVIEW"** has same meaning as "Local Board of Tax Review".

- (5) **"CALENDAR QUARTER"** means the three-month period ending on the last day of March, June, September, or December.
- (6) **"CASINO OPERATOR"** and **"CASINO FACILITY"** have the same meanings as in section 3772.01 of the Ohio Revised Code.
- (7) **"CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE,"** and similar terms include any delivery service authorized pursuant to section 5703.056 of the Ohio Revised Code.
- (8) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.
- (9) **"DISREGARDED ENTITY"** means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.
- (10) **"DOMICILE"** means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.
- (11) **"EXEMPT INCOME"** means all of the following:
 - (A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;
 - (B)
 - (i) Except as provided in division (11)(B)(ii) of this section, intangible income;
 - (ii) A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.
 - (C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.
 - (D) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
 - (E) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
 - (F) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;

- (G) Alimony and child support received;
- (H) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;
- (I) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code. Division (11)(I) of this section does not apply for purposes of Chapter 5745. of the Ohio Revised Code.
- (J) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;
- (K) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;
- (L) Employee compensation that is not qualifying wages as defined in division (34) of this section;
- (M) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.
- (N) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code
- (O) A portion of the municipal taxable income earned by individuals or a class of individuals under eighteen years of age, specifically exempting fifteen years and younger.
- (P)
 - (i) Except as provided in divisions (11)(P)(ii), (iii), and (iv) of this section, qualifying wages described in division (B)(1) or (E) of Section 183.052 of this Chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.
 - (ii) The exemption provided in division (11)(P)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
 - (iii) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of Section 183.052 of this Chapter
 - (iv) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

- (a) For qualifying wages described in division (B)(1) of Section 183.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of Section 183.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;
 - (b) The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.
- (Q)
 - (i) Except as provided in division (11)(Q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.
 - (ii) The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:
 - (a) The individual's base of operation is located in the Municipality.
 - (b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 183.052 of this Chapter.
 - (iii) Compensation to which division (11)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.
 - (iv) For purposes of division (11)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.
- (R) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.

- (S) Income the taxation of which is prohibited by the constitution or laws of the United States.
Any item of income that is exempt income of a pass-through entity under division (11) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.
- (T) Any gains or losses from federal form 4797 and definitely no deduction against any other sources of income including income from W2 wages, income or losses from federal schedule C, E or F and any other type of income.
- (12) **"FORM 2106"** means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (13) **"GENERIC FORM"** means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.
- (14) **"INCOME"** means the following:
- (A) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (23)(D) of this section.
- (ii) For the purposes of division (14)(A)(i) of this section:
- (a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (14)(A)(iv) of this section;
- (b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.
- (iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 11(N) of this Section.

- (iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.
 - (B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
 - (C) For taxpayers that are not individuals, net profit of the taxpayer;
 - (D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 183.081 of this Chapter.
- (15) **"INTANGIBLE INCOME"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701. of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.
- (16) **"INTERNAL REVENUE CODE"** means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.
- (17) **"LIMITED LIABILITY COMPANY"** means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (18) **"LOCAL BOARD OF TAX REVIEW"** and **"BOARD OF TAX REVIEW"** means the entity created under Section 183.18 of this Chapter.
- (19) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.
- (20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:
- (i) For a person other than an individual, income apportioned or situated to the Municipality under Section 183.062 of this Chapter, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.

- (ii)
 - (a) For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
 - (b) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Ohio Revised Code.
 - (iii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under Section 183.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
 - (B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.
- (21) **"MUNICIPALITY"** means the City of Lancaster.
- (22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

- (23) (A) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1)(H) of this section.
- (B) **"Net profit"** for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (C) of this section.
- (C) (i) The amount of such net operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred but in no case for more years than necessary for the deduction to be fully utilized.
- (ii) No person shall use the deduction allowed by division (C) of this section to offset qualifying wages.
- (iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (C) of this section.
- (b) For taxable years beginning in 2023 or thereafter, a person may deduct for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (C) of this section without regard to the limitation of division (C) of this section.
- (iv) Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to division (C) of this section.
- (v) Nothing in division (C)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (C)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (C)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (C)(iii)(a) of this section shall apply to the amount carried forward.
- (D) For the purposes of this chapter, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
- (E) (i) For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

- (ii) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.
 - (iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this section.
 - (iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.
 - (v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.
 - (vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.
- (24) **"NONRESIDENT"** means an individual that is not a resident of the Municipality.
- (25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

- (27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (28) **"PENSION"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
- (29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
- (30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.
- (31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.
- (32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.
- (B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.
- (33) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.
- (34) **"QUALIFYING WAGES"** means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- (A) Municipal Corporation has exempted the following:
- (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
- (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
- (iii) INTENTIONALLY LEFT BLANK

- (iv) Any amount included in wages that is exempt income.
 - (B) Municipal Corporation has not exempted the following:
 - (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
 - (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.
 - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.
 - (iv) Any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code if the compensation is included in wages.
 - (v) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - (vi) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.
 - (vii) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;
 - (b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
 - (c) For no succeeding taxable year will the amount constitute wages; and
 - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.
- (35) **"RELATED ENTITY"** means any of the following:
- (A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
 - (B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;

- (C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;
- (D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.
- (36) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.
- (37) **"RESIDENT"** means an individual who is domiciled in the Municipality as determined under Section 183.042 of this Chapter.
- (38) **"S CORPORATION"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (39) **"SCHEDULE C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (40) **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code. Further, multiple properties with "common expenses" must allocate expenses based on the number of properties filed.
- (41) **"SCHEDULE F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.
- (43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains; dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.
- (44) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:
 - (A) A municipal corporation acting as the agent of another municipal corporation;

- (B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;
- (C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.
- (D) "Tax Administrator" does not include the tax commissioner.
- (45) **"TAX COMMISSIONER"** means the tax commissioner appointed under Section 121.03 of the Revised Code.
- (46) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue CODE AND 26 C.F.R. 301.7701-15 .
- (47) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (48) (A) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.
 - (B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
 - (a) The limited liability company's single member is also a limited liability company.
 - (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
 - (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.
 - (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
 - (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
 - (ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.

- (49) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in sections 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011 , and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.
- (50) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.
- (51) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770. of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code. (Ord. 3-18. Passed 3-12-18.)

183.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS.

183.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS.

(A) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:

- (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 183.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
- (a) "Income" is defined in Section 183.03 (14) of this Chapter.
- (i) "Qualifying Wages" is defined in Section 183.03(34).
- (ii) "Net profit" is included in "income", and is defined in Section 183.03 (23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 183.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 183.062(E).
- (iii) Section 183.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).
- (iv) "Pass Through Entity" is defined in Section 183.03(27).
- (b) "Exempt Income" is defined in Section 183.03 (11) of this Chapter.
- (c) Allowable employee business expense deduction is described in (20)(B) of Section 183.03 of this Chapter, and is subject to the limitations provided in that section.
- (d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 183.03 (32) of this Chapter

(B) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:

- (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or sitused to the Municipality as provided in Section 183.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 183.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 183.03(14) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 183.03(34).
 - (ii) "Net profit" is included in "income", and is defined in Section 183.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 183.03. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.
 - (iii) "Pass Through Entity" is defined in Section 183.03(27).
 - (b) "Exempt Income" is defined in Section 183.03(11) of this Chapter.
 - (c) "Apportioned or sitused to the Municipality as provided in Section 183.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 183.062(E).
 - (d) "Allowable employee business expense deduction" as described in (20)(B) of Section 183.03 of this Chapter, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.
 - (e) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 183.03(32) of this Chapter.

(Ord. 3-18. Passed 3-12-18.)

183.042 DOMICILE.

(A) As used in this section:

- (1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.
- (2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.
- (3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.

(B) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:

- (1) The individual's domicile in other taxable years;
- (2) The location at which the individual is registered to vote;
- (3) The address on the individual's driver's license;
- (4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
- (5) The location and value of abodes owned or leased by the individual;
- (6) Declarations, written or oral, made by the individual regarding the individual's residency;
- (7) The primary location at which the individual is employed.
- (8) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;
- (9) The number of contact periods the individual has with the Municipality. For the purposes of this division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality. For purposes of this section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.

(C) All applicable factors are provided in Ohio Revised Code Section 718.012.
(Ord. 3-18. Passed 3-12-18.)

183.043 EXEMPTION FOR MEMBER OR EMPLOYEE OF GENERAL ASSEMBLY AND CERTAIN JUDGES.

(A) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

(B) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.
(Ord. 3-18. Passed 3-12-18.)

183.05 COLLECTION AT SOURCE.**183.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.**

- (A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under Section 183.052 of this Chapter or division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.
- (2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.
- (B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:
 - (a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.
 - (b) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (B)(1)(b) of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.
 - (c) An employer, agent of an employer or other payer has the option to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employee for remittance to the Municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the

Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the Municipality can be remitted to the Municipality at the same time that the federal tax withholding payment is due.

(C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the Municipality requires all resident individual taxpayers to file a tax return under Section 183.091 of this Chapter,

(D) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.

- (E) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.
- (2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.

(F) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.

(G) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Tax Administrator.

(H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every

other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

(I) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

(J) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(K) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this section.
(Ord. 3-18. Passed 3-12-18.)

183.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT.

(A) The following terms as used in this section:

- (1) "Employer" includes a person that is a related member to or of an employer.
- (2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- (3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- (4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
- (5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
- (6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.
- (7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis.

If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (B)(1)(a) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (B)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

- (B) (1) Subject to divisions (C), (E), (F), and (G) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:
- (a) The employee's principal place of work is located in the Municipality.
 - (b) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:
 - (i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 - (ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.
 - (c) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 183.051 of this Chapter.

- (d) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.
- (2) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
 - (a) Traveling to the location at which the employee will first perform services for the employer for the day;
 - (b) Traveling from a location at which the employee was performing services for the employer to any other location;
 - (c) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
 - (d) Transporting or delivering property described in division (B)(2)(c) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
 - (e) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(C) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this chapter, the exception from withholding requirements described in division (B)(1) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.

- (D)
 - (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.
 - (2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.

- (3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.

(E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 183.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(F) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 183.051 of this Chapter. (Ord. 3-18. Passed 3-12-18.)

183.053 COLLECTION AT SOURCE; CASINO AND VLT.

(A) The Municipality shall require a casino facility or a casino operator, as defined in Section 6(C)(9) of Article XV, Ohio Constitution, and section 3772.01 of the Ohio Revised Code, respectively, or a lottery sales agent conducting video lottery terminals sales on behalf of the state to withhold and remit municipal income tax with respect to amounts other than qualifying wages as provided in this section.

(B) If a person's winnings at a casino facility are an amount for which reporting to the internal revenue service of the amount is required by section 6041 of the Internal Revenue Code, as amended, the casino operator shall deduct and withhold municipal income tax from the person's winnings at the rate of the tax imposed by the municipal corporation in which the casino facility is located.

(C) Amounts deducted and withheld by a casino operator are held in trust for the benefit of the municipal corporation to which the tax is owed.

- (1) On or before the tenth day of each month, the casino operator shall file a return electronically with the Tax Administrator of the Municipality, providing the name, address, and social security number of the person from whose winnings amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the winnings from which each such amount was withheld, the type of casino gaming that resulted in such winnings, and any other information required by the Tax Administrator. With this return, the casino operator shall remit electronically to the Municipality all amounts deducted and withheld during the preceding month.
- (2) Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.

- (3) Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.
- (4) A casino operator that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.
- (5) If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:
 - (a) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
 - (b) A certificate from the Tax Administrator indicating that no amounts are due.
If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.
- (6) The failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.

(D) If a person's prize award from a video lottery terminal is an amount for which reporting to the internal revenue service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the rate of the tax imposed by the municipal corporation in which the video lottery terminal facility is located.

(E) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.

- (1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.

- (2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.
- (3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.
- (4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.
- (5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.
- (6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.

(F) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:

- (1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
- (2) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.

(G) The failure of a video lottery sales agent to deduct and withhold the required amount from a person's prize award does not relieve that person from liability for the municipal income tax with respect to that prize award.

(H) If a casino operator or lottery sales agent files a return late, fails to file a return, remits amounts deducted and withheld late, or fails to remit amounts deducted and withheld as required under this section, the Tax Administrator of a municipal corporation may impose the following applicable penalty:

- (1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;
- (2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of Section 183.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

(J) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section. (Ord. 3-18. Passed 3-12-18.)

183.054 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(A) All taxes imposed by this ordinance shall be collectible, together with any interest, penalties and late fees thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed whichever is later, provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one (1) year from the time of the final determination of the federal tax liability.

(B) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

(C) Amounts of Ten dollars (\$10.00) or less shall not be collected or refunded.
(Ord. 3-18. Passed 3-12-18.)

183.06 INCOME SUBJECT TO NET PROFIT TAX.**183.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS.**

"Municipal Taxable Income" for a taxpayer who is not an individual for the Municipality is calculated as follows:

- (A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
- (1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.
- (i) "Net Profit" for a person other than an individual is defined in Section 183.03(23).
- (ii) "Adjusted Federal Taxable Income" is defined in Section 183.03(1) of this Chapter.
- (2) "Exempt Income" is defined in Section 183.03(11) of this Chapter.
- (3) "Apportionment" means the apportionment as determined by Section 183.062 of this Chapter.
- (4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 183.03 (32) of this Chapter.
(Ord. 3-18. Passed 3-12-18.)

183.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT.

This section applies to any taxpayer engaged in a business or profession in the Municipality unless the taxpayer is an individual who resides in the Municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.

- (A) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:
- (1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
- (2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 183.052 of this Chapter;

- (3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (B)
 - (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
 - (a) Separate accounting;
 - (b) The exclusion of one or more of the factors;
 - (c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;
 - (d) A modification of one or more of the factors.
 - (2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of Section 183.19 of this Chapter.
 - (3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 183.19 of this Chapter.
 - (4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.
- (C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
 - (1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (a) The employer;
 - (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.
 - (2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

- (3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.

(D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:

- (1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation only if, regardless of where title passes, the property meets any of the following criteria:
- (a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
 - (b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.
- (2) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.
- (3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.
- (4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.
- (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

- (F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

- (2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 183.081 of this Chapter.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 183.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

(H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity. (Ord. 3-18. Passed 3-12-18.)

183.063 CONSOLIDATED FEDERAL INCOME TAX RETURN.

(A) As used in this section:

- (1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
- (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.
- (4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
- (5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

- (B) (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year.
- (a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.
 - (b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or
 - (c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
- (2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
- (3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.
- (4) When a taxpayer makes the election allowed under Section 183.24 of the Codified Ordinances, a valid election made by the taxpayer under division (B)(1) or (2) of this section is binding upon the tax commissioner for the remainder of the five-year period.
- (5) When an election made under Section 183.24 of the Codified Ordinances is terminated, a valid election made under Section 183.30 of the Codified Ordinances is binding upon the tax administrator for the remainder of the five-year period.

(C) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated municipal income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the municipal corporation. A taxpayer that is required to file a consolidated municipal income tax return for a taxable year shall file a consolidated municipal income tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(D) A taxpayer shall prepare a consolidated municipal income tax return in the same manner as is required under the United States Department of Treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

- (E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 183.03(1) of this Chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
- (2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 183.03 of this Chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.
- (3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:
- (a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 183.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
 - (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 183.062 of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- (4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
- (a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 183.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to a municipal corporation;

- (b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 183.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(G) Each corporation filing a consolidated municipal income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by a municipal corporation in accordance with this chapter on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

(H) Corporations and their affiliates that made an election or entered into an agreement with a municipal corporation before January 1, 2016, to file a consolidated or combined tax return with such municipal corporation may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016.
(Ord. 3-18. Passed 3-12-18.)

183.064 TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO.

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer to foster job creation in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the new income tax revenue the Municipality derives from new employees of the taxpayer and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance granting a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.
(Ord. 3-18. Passed 3-12-18.)

183.065 TAX CREDITS TO FOSTER JOB RETENTION.

The Municipality, by Ordinance, may grant a refundable or nonrefundable credit against its tax on income to a taxpayer for the purpose of fostering job retention in the Municipality. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the Municipality derives from the retained employees of the taxpayer, and shall be for a term not exceeding fifteen years. Before the Municipality passes an ordinance allowing such a credit, the Municipality and the taxpayer shall enter into an agreement specifying all the conditions of the credit.
(Ord. 3-18. Passed 3-12-18.)

183.07 DECLARATION OF ESTIMATED TAX.

(A) As used in this section:

- (1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.
- (2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

(B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:

- (a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.
 - (b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
 - (c) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
 - (d) Taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.
- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.
 - (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 183.091 of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.
 - (4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth day of the fourth month after the beginning of each fiscal year or period.
 - (5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.

- (C) (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality or Tax Administrator, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:
- (a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the tax liability for the taxable year;
 - (b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the tax liability for the taxable year;
 - (c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the tax liability for the taxable year;
 - (d) For an individual on or before the fifteenth day of the first month of the following taxable year, ninety percent of the tax liability for the taxable year. For a person other than an individual, on or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.
- (2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.
- (3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 183.091 of this Chapter.
- (a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of section 5747.08 of the Revised Code.
 - (b) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.
- (4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.
- (D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 183.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
- (a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

- (b) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (d) For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

- (1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
- (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 183.091 of this Chapter for that year.
- (3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

(F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.
(Ord. 3-18. Passed 3-12-18.)

183.08 CREDIT FOR TAX PAID.

183.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(A) Limitation: Where a resident of the City of Lancaster is subject to a municipal tax or joint economic development district tax (JEDD), on or measured by income, in another municipality or JEDD either located within or without the State of Ohio, he shall receive credit of the tax paid, not to exceed one percent (1.0%) against the tax imposed by this chapter, of the earnings taxed by such municipality or JEDD with the exception of the City of Lancaster residents shall receive a credit of not to exceed one and three-quarter percent (1.75%) of the earnings taxed by the City of Lancaster against the tax imposed by this chapter.

- (1) Credits to residents: Resident individuals of the City of Lancaster who are required to pay and do pay a tax to another municipality or joint economic development district tax (JEDD) on qualifying wages, commissions or other compensation, for work done or services performed in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality or JEDD but not to exceed one percent (1.0%) of such income earned and taxed by the other municipality or JEDD. Credit for taxes paid to the City of Lancaster shall not exceed one and three-quarter (1.75%) of the income taxed by the City of Lancaster.
- (2) Method of applying for credit: No credit will be given unless the taxpayer claims such credit on his final return or other form prescribed by the Administrator, and presents such evidence of the payment of a similar tax to another municipality, as the Administrator may require.

(B) A statement satisfactory to the Administrator from the taxing authority of the municipality for which the taxes are paid, that a City of Lancaster resident or his employer is paying the tax shall be considered as fulfilling the filing requirements of this Article.

(C) If tax or withholding is paid to a municipal corporation on taxable income, and if a second municipal corporation imposes a tax on that taxable income after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such taxable income, equal to the tax or withholding paid to the first municipal corporation with respect to such taxable income. If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit shall be calculated using the tax rate in effect in the second municipal corporation.

(D) A refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss relating to a nonqualified deferred compensation plan sustained by a taxpayer during the taxable year. A "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan. The amount of credit shall be equal to the product of the qualifying loss and the qualifying tax rate. With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan. In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan. The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to the insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

- (1) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (F) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
- (2) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
(Ord. 3-18. Passed 3-12-18.)

183.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS.

(A) As used in this section:

- (1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
- (2) (a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.
- (b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
- (c) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

- (3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.
- (B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.
- (2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.
- (3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
- (4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.
- (C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.
- (2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.
- (D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:
- (1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
- (2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation. (Ord. 3-18. Passed 3-12-18.)

183.083 CREDIT FOR PERSON WORKING IN JOINT ECONOMIC DEVELOPMENT DISTRICT OR ZONE.

A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to Section 183.081 of this Chapter. (Ord. 3-18. Passed 3-12-18.)

183.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND.

(A) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 183.096 of this Chapter.

(B) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in Section 183.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 183.096 of this Chapter.

(D) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 183.081 of this Chapter regarding any limitation on credit shall prevail. (Ord. 3-18. Passed 3-12-18.)

183.09 ANNUAL RETURN.**183.091 RETURN AND PAYMENT OF TAX.**

- (A) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.
- (2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under Section 183.051(C) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.
- (3) All resident individual taxpayers, 16 years of age and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability.
- (4) No return is needed if an individual is retired with no earned income.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the Municipality in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

(E) No municipal corporation shall deny spouses the ability to file a joint return.

- (F) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.
- (2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 and with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.
- (3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

- (4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.
 - (5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.
 - (6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.
- (G)
- (1)
 - (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.
 - (b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.
 - (c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.
 - (2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

- (3) With respect to taxpayers to whom Section 183.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 183.092 of this Chapter, the provision in Section 183.092 of this Chapter prevails.
- (H) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars (\$10.00) or less.
- (2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (H)(1) of this section shall file with the Municipality an annual net profit return under division (F)(3) and (4) of this section.
- (I) This division shall not apply to payments required to be made under division (B)(1)(b) of Section 183.051 of this Chapter.
- (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
- (2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.
- (J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in Section 183.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.
- (K) Each return required by the Municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review

of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(L) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

- (N) (1) As used in this division, "worksite location" has the same meaning as in Section 183.052 of this chapter.
- (2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:
- (a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.
- (b) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year. The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

- (c) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person. (Ord. 3-18. Passed 3-12-18.)

183.092 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE.

(A) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the Municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality in accordance with this chapter during the period of the member's or civilian's duty service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

- (B) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B)(3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.
- (2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.
- (3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.

- (2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this chapter. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.
- (b) Taxes the payment of which is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year. (Ord. 3-18. Passed 3-12-18.)

183.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED.

(A) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file any municipal income tax return or, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(B) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(C) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.

(D) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. (Ord. 3-18. Passed 3-12-18.)

183.094 EXTENSION OF TIME TO FILE.

(A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(B) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(C) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.

(D) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(E) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return. (Ord. 3-18. Passed 3-12-18.)

183.095 AMENDED RETURNS.

- (A)
- (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this chapter must be altered.
 - (2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.
 - (3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.

- (B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (B)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under Section 183.19 of this Chapter has not expired for a previously filed return.
- (2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.
- (C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (A)(2) of section 183.19 of this Chapter for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in Section 183.096 of this Chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.
- (2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. (Ord. 3-18. Passed 3-12-18.)

183.096 REFUNDS.

(A) Upon receipt of a request for a refund, the Tax Administrator of the Municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:

- (1) Overpayments of more than ten dollars;
- (2) Amounts paid erroneously if the refund requested exceeds ten dollars.
- (B) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

- (2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (B)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.
- (3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 183.18 of this Chapter.

(C) A request for a refund that is received after the last day for filing specified in division (B) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

- (1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.
- (2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.
- (3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of Section 183.10 of this Chapter.

(E) As used in this section, "withholding tax" has the same meaning as in Section 183.10 of this Chapter. (Ord. 3-18. Passed 3-12-18.)

183.10 PENALTY, INTEREST, FEES, AND CHARGES.

(A) As used in this section:

- (1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

- (2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.
 - (3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.
 - (4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number per cent, plus five per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.
 - (5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
 - (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
 - (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
 - (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
 - (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.
- (B) (1) This section shall apply to the following:
- (a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
 - (b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016
- (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules,, as adopted from time to time before January 1, 2016 of this Municipality..

(C) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.

- (1) Interest shall be imposed at the rate defined as "interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.
- (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.
- (3) With respect to any unpaid withholding tax, a penalty not exceeding fifty percent of the amount not timely paid shall be imposed.
- (4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

(D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(E) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(F) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(G) The Municipality shall impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees. (Ord. 3-18. Passed 3-12-18.)

183.11 AUDIT.

(A) At or before the commencement of an audit, as defined in Section 183.03(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.
(Ord. 3-18. Passed 3-12-18.)

183.12 ROUNDING.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.
(Ord. 3-18. Passed 3-12-18.)

183.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.

183.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR.

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this Chapter, including without limitation:

- (A) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;
- (B) Appoint agents and prescribe their powers and duties;

- (C) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;
- (D) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;
- (E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 183.062 of this Chapter;
- (G) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
- (H) Destroy any or all returns or other tax documents in the manner authorized by law;
- (I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 183.051 of this Chapter.
(Ord. 3-18. Passed 3-12-18.)

183.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME.

(A) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.

(B) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:

- (1) Compromise a claim;
- (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

(D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.

- (E) (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.
- (2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.

(F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement. (Ord. 3-18. Passed 3-12-18.)

183.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE.

(A) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.

(C) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply.
(Ord. 3-18. Passed 3-12-18.)

183.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION.

(A) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

- (B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 183.10 of this Chapter, in addition to any applicable penalty described in section 183.99 of this Chapter.
- (2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to Section 183.10 of this Chapter.
- (3) The penalties provided for under divisions (B)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in section 183.99 of this Chapter for a violation of 183.15 of this Chapter and any other penalties that may be imposed by the Tax Administrator by law.
(Ord. 3-18. Passed 3-12-18.)

183.14 CONFIDENTIALITY.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(B) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.
(Ord. 3-18. Passed 3-12-18.)

183.15 FRAUD.

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Municipality or the Tax Administrator.
(Ord. 3-18. Passed 3-12-18.)

183.16 OPINION OF THE TAX ADMINISTRATOR.

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

- (1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.
- (2) The request relates to a tax imposed by the Municipality in accordance with this Chapter.
- (3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(C) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

- (1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;
- (2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;
- (3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance;
- (4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

- (5) The effective date of any change in the taxpayer's material facts or circumstances;
 - (6) The effective date of the expiration of the opinion, if specified in the opinion.
- (D) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.
- (2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of Section 183.15 of this Chapter 183.
- (E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:
- (1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;
 - (2) It is the duty of the taxpayer to be aware of such changes.
- (F) A Tax Administrator may refuse to offer an opinion on any request received under this section.
- (G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.
- (H) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.
- (I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.
- (J) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (F) may not be appealed.
(Ord. 3-18. Passed 3-12-18.)

183.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY.

- (A) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Ohio Revised Code.
- (2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.

- (3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.
- (B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.
- (2) If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.
(Ord. 3-18. Passed 3-12-18.)

183.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW.

- (A) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.
- (2) The Local Board of Tax Review shall consist of three members. The three members of the Local Board of Tax Review may be domiciled in the Municipality, but the appointing authority may consider membership from individuals who are not domiciled within the Municipality.

Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.

- (3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.
- (4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.
- (5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.
- (6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.
- (7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.
- (8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.

(B) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer receives the assessment.

(D) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and/or may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

(E) The board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The board shall issue a final determination on the appeal within ninety days after the board's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in section 5717.011 of the Ohio Revised Code.

(F) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing.
(Ord. 3-18. Passed 3-12-18.)

183.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS.

- (A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:
- (i) Three years after the tax was due or the return was filed, whichever is later; or
 - (ii) One year after the conclusion of the qualifying deferral period, if any.
- (b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.
- (2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

- (a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 183.18 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.
- (b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 183.096 of this Chapter.

- (D)
 - (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.
 - (2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 183.18 of this Chapter, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 183.096 of this Chapter, with interest on that amount as provided by division (D) of this section.

(E) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

- (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
 - (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.
- (Ord. 3-18. Passed 3-12-18.)

183.20 ADOPTION OF RULES.

(A) Pursuant to Section 718.30 of the Revised Code, the Municipality, pursuant to this Chapter, grants authority to the Tax Administrator to adopt rules to administer the income tax imposed by the Municipality.

(B) All rules adopted under this section shall be published and posted on the internet.
(Ord. 3-18. Passed 3-12-18.)

183.21 REGISTRATION OF TENANTS, CONTRACTORS AND EMPLOYEES.

(a) Effective October 1, 2009 and every year thereafter on or before October 1st, all owners of rental property who rent to tenants of houses, commercial property, industrial property, apartments, rooms boarding houses and other rental accommodations shall file with the Tax Administrator a report showing the full first and last name, address, last four digits of social security number and telephone number, if available, of each such tenant who presently occupies an apartment room, house or commercial property or other rental accommodation within the City, unless the tenant(s) is responsible for their own City water utility payment. Said report must also provide the date a tenant vacates an apartment, room, house, commercial property or other rental accommodation located within the City and a forwarding address, if available.

- (1) Each owner or the duly designated agent thereof, shall incur a penalty of five dollars (\$5.00) per month per tenant, up to a maximum of one thousand dollars (\$1,000.00), for failure to comply with Section (a) above.

(b) All employers, contractors or subcontractors who do work in the City shall register with the Tax Administrator. The Tax Administrator may request a list of all employees, subcontractors, contractors or others who may do work for them within the Municipality whose profits, wages or earnings are not presently subject to withholding of the City of Lancaster Income Tax (including but not limited to 1099-MISC).

(Ord. 3-18. Passed 3-12-18.)

183.22 MUNICIPAL CONTRACTS.

Effective January 1, 2001 no contract on behalf of the City of Lancaster for works or improvements of the City of Lancaster shall be binding or valid unless such contract contains the following provisions: Said hereby further agrees to withhold Lancaster income tax due or payable under the provisions of the Lancaster Income Tax Ordinance for wages, salaries, commissions and other compensation paid to its employees and further agrees that any of its subcontractors shall be required to withhold and pay such Lancaster income taxes due under the Ordinance for services performed under this contract.

(Ord. 3-18. Passed 3-12-18.)

183.23 TAXPAYERS' RIGHTS AND RESPONSIBILITIES.

"Taxpayers' rights and responsibilities" means the rights provided to taxpayers in sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Revised Code and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. Of the Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

- (a) The municipal corporation shall maintain a local board of tax review to hear appeals of the taxpayer.
- (b) Civil actions to recover municipal incomes taxes, penalties and interest have time limits.

- (c) Taxpayer has a prescribed manner to request refunds from the tax administrator.
- (d) Taxpayer has a required responsibility to allow examination of their books, papers, records, and federal and state income tax returns by the tax administrator.
- (e) At or before the commencement of an audit, the tax administrator shall inform and provide the taxpayer with certain information regarding the audit.
- (f) A taxpayer has certain recourse if aggrieved by an action or omission of the tax administrator, their employee or an employee of the municipal corporation.
- (g) The taxpayer may request an 'opinion of the tax administrator' with respect to prospective municipal income tax liability.
- (h) The taxpayer or the tax administrator may appeal a final determination.
(Ord. 3-18. Passed 3-12-18.)

183.24 FILING NET PROFIT TAXES; ELECTION TO BE SUBJECT TO PROVISIONS OF CHAPTER.

(A) A taxpayer may elect to be subject to sections 183.24 to 183.39 of the Codified Ordinances in lieu of the provisions set forth in the remainder of this chapter. Notwithstanding any other provision of this chapter, upon the taxpayer's election, both of the following shall apply:

- (1) The state tax commissioner shall serve as the sole administrator of the municipal net profit tax for which the taxpayer as defined in 183.25(C) of the Codified Ordinances is liable for the term of the election;
- (2) The commissioner shall administer the tax pursuant to sections 718.80 to 718.95 of the Revised Code, sections 183.24 to 183.39 of the Codified Ordinances, and any applicable provision of Chapter 5703. of the Revised Code.

- (B) (1) A taxpayer shall make the initial election on or before the first day of the third month after the beginning of the taxpayer's taxable year by notifying the tax commissioner and the City of Lancaster, Ohio, on a form prescribed by the tax commissioner.
- (2) (a) The election, once made by the taxpayer, applies to the taxable year in which the election is made and to each subsequent taxable year until the taxpayer notifies the tax commissioner and the City of Lancaster, Ohio, of its termination of the election.
- (b) A notification of termination shall be made, on a form prescribed by the tax commissioner, on or before the first day of the third month of any taxable year.
- (c) Upon a timely and valid termination of the election, the taxpayer is no longer subject to sections 183.24 to 183.39 of the Codified Ordinances, and is instead subject to the provisions set forth in the remainder of this chapter.

(C) The tax commissioner shall enforce and administer sections 183.24 to 183.39 of the Codified Ordinances. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:

- (1) Prescribe all forms necessary to administer those sections;
- (2) Adopt such rules as the tax commissioner finds necessary to carry out those sections;

- (3) Appoint and employ such personnel as are necessary to carry out the duties imposed upon the tax commissioner by those sections.

(D) The tax commissioner shall not be considered a tax administrator, as that term is defined in section 718.01 of the Revised Code and Section 183.03 of the City of Lancaster, Ohio, Codified Ordinances. (Ord. 3-18. Passed 3-12-18.)

183.25 DEFINITIONS.

If a term used in sections 183.24 to 183.39 of the Codified Ordinances that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall have control over the use of the term in Title LVII of the Revised Code, unless the term is defined in Chapter 5703. of the Revised Code, in which case the definition in that chapter shall control. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States related to federal income taxes. If a term is defined in both this section and section 183.03 of the Codified Ordinances, the definition in this section shall control for all uses of that term in sections 183.24 to 183.39 of the Codified Ordinances.

As used in sections 183.24 to 183.39 of the Codified Ordinances only:

- (A) "Municipal taxable income" means income apportioned or sitused to the municipal corporation under section 183.26 of the Codified Ordinances, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the municipal corporation.
- (B) "Adjusted federal taxable income," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation as described in division (D)(5) of section 718.01 of the Revised Code and section 183.03 of the Codified Ordinances, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
- (1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
 - (2) Add an amount equal to five per cent of intangible income deducted under division (B)(1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code.
 - (3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.
 - (4)
 - (a) Except as provided in division (B)(4)(b) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.
 - (b) Division (B)(4)(a) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

- (5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.
- (6) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income.
- (7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.
- (8) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.
- (9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of section 183.30 of the Codified Ordinances.
- (10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of section 183.30 of the Codified Ordinances.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division 47(B) of section 183.03 of the Codified Ordinances, and is not a publicly traded partnership that has made the election described in division 23(D) of section 183.03 of the Codified Ordinances, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (B) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

- (C) "Taxpayer" has the same meaning as in section 183.03 of the Codified Ordinances, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Chapter 5745, of the Revised Code. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.

- (D) "Tax return" or "return" means the notifications and reports required to be filed pursuant to sections 183.24 to 183.39 of the Codified Ordinances for the purpose of reporting municipal income taxes, and includes declarations of estimated tax.
- (E) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the calculation of the taxpayer's adjusted federal taxable income is based pursuant to this chapter. If a taxpayer's taxable year is changed for federal income tax purposes, the taxable year for purposes of sections 181.24 to 181.39 of the Codified Ordinances is changed accordingly but may consist of an aggregation of more than one taxable year for federal income tax purposes. The tax commissioner may prescribe by rule an appropriate period as the taxable year for a taxpayer that has had a change of its taxable year for federal income tax purposes, for a taxpayer that has two or more short taxable years for federal income tax purposes as the result of a change of ownership, or for a new taxpayer that would otherwise have no taxable year.
- (F) "Assessment" means a notice of underpayment or nonpayment of a tax issued pursuant to section 183.34 of the Codified Ordinances.
(Ord. 3-18. Passed 3-12-18.)

183.26 APPLICABILITY; TAXABLE SITUS; APPORTIONMENT.

This section applies to any taxpayer that is engaged in a business or profession in the City of Lancaster, Ohio, and that has made the election under section 183.24 of the Codified Ordinances.

- (A) Except as otherwise provided in division (B) of this section, net profit from a business or profession conducted both within and without the boundaries of the City of Lancaster, Ohio, shall be considered as having a taxable situs in the City of Lancaster, Ohio, for purposes of municipal income taxation in the same proportion as the average ratio of the following:
 - (1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the City of Lancaster, Ohio, during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
 - (2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City of Lancaster, Ohio, to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under section 183.052 of the Codified Ordinances;
 - (3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the City of Lancaster, Ohio, to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

- (B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the City of Lancaster, Ohio, the taxpayer may request, or the tax commissioner may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
- (a) Separate accounting;
 - (b) The exclusion of one or more of the factors;
 - (c) The inclusion of one or more additional factors that would provide for a fair apportionment of the income of the taxpayer to the municipal corporation;
 - (d) A modification of one or more of the factors.
- (2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the tax commissioner denies the request in an assessment issued within the period prescribed by division (A) of section 183.34 of the Codified Ordinances.
- (3) The tax commissioner may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of section 183.34 of the Codified Ordinances.
- (C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
- (1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (a) The employer;
 - (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.
 - (2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
 - (3) Any other location, if the tax commissioner determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the tax commissioner makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the tax commissioner's determination was unreasonable.

- (D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to the City of Lancaster, Ohio, as follows:
- (1) Gross receipts from the sale of tangible personal property shall be situated to the City of Lancaster, Ohio, only if, regardless of where title passes, the property meets either of the following criteria:
 - (a) The property is shipped to or delivered within the City of Lancaster, Ohio, from a stock of goods located within the City of Lancaster, Ohio.
 - (b) The property is delivered within the City of Lancaster, Ohio, from a location outside the City of Lancaster, Ohio, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Lancaster, Ohio, and the sales result from such solicitation or promotion.
 - (2) Gross receipts from the sale of services shall be situated to the City of Lancaster, Ohio, to the extent that such services are performed in the City of Lancaster, Ohio.
 - (3) To the extent included in income, gross receipts from the sale of real property located in the City of Lancaster, Ohio shall be situated to the City of Lancaster, Ohio.
 - (4) To the extent included in income, gross receipts from rents and royalties from real property located in the City of Lancaster, Ohio, shall be situated to the City of Lancaster, Ohio.
 - (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the City of Lancaster, Ohio, based upon the extent to which the tangible personal property is used in the City of Lancaster, Ohio.
- (E) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the City of Lancaster, Ohio, in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the City of Lancaster, Ohio, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City of Lancaster, Ohio, to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (F) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(B)(ii) of section 183.03 of the Codified Ordinances by the City of Lancaster, Ohio, or substantially similar provision of the codified ordinances of another municipal corporation, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to the City of Lancaster, Ohio. In no case shall a taxpayer be required to add to its net profit that was apportioned to the City of Lancaster, Ohio, any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to the City of Lancaster, Ohio, under this section.

- (G) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.
(Ord. 3-18. Passed 3-12-18.)

183.27 INFORMATION PROVIDED TO TAX ADMINISTRATORS; CONFIDENTIALITY.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by sections 183.24 to 183.39 of the Codified Ordinances is confidential, and no person shall disclose such information, except for official purposes, in accordance with a proper judicial order, or as provided in section 4123.271 or 5703.21 of the Revised Code. The tax commissioner may furnish the internal revenue service with copies of returns filed. This section does not prohibit the publication of statistics in a form which does not disclose information with respect to particular taxpayers.

(B) In May and November of each year, the tax commissioner shall provide the City of Lancaster, Ohio, tax administrator with the following information for every taxpayer that filed tax returns with the commissioner under sections 183.24 to 183.39 of the Codified Ordinances and that had municipal taxable income apportionable to the City of Lancaster, Ohio, under this chapter for any prior year:

- (1) The taxpayer's name, address, and federal employer identification number;
- (2) The taxpayer's apportionment ratio for, and amount of municipal taxable income apportionable to, the City of Lancaster, Ohio, pursuant to section 183.26 of the Codified Ordinances;
- (3) The amount of any pre-2017 net operating loss carryforward utilized by the taxpayer;
- (4) Whether the taxpayer requested that any overpayment be carried forward to a future taxable year;
- (5) The amount of any credit claimed under section 718.94 of the Revised Code.

(C) Not later than thirty days after each distribution made to municipal corporations under section 718.83 of the Revised Code, the tax commissioner shall provide to the City of Lancaster, Ohio, a report stating the name and federal identification number of every taxpayer that made estimated payments that are attributable to the City of Lancaster, Ohio, and the amount of each such taxpayer's estimated payment.

(D) The information described under divisions (B) and (C) of this section shall be provided to the individual or individuals designated by the City of Lancaster, Ohio, tax administrator under section 718.83(D) of the Revised Code.

- (E) (1) The City of Lancaster, Ohio, expects that the tax commissioner will, pursuant to section 718.84(E) of the Revised Code, provide tax returns and other information it receives in the performance of its administration of the municipal net profits tax for taxpayers making the election provided in section 183.26 of the Codified Ordinances. The tax administrator shall review these returns and information, as well as the information received pursuant to divisions (B) and (C) of this section, and has discretion to refer any taxpayer for audit by the tax commissioner. Such referral shall be made on a form prescribed by the commissioner and shall include any information that forms the basis for the referral.
- (2) If the tax commissioner declines to audit a taxpayer referred by the tax administrator under this section, the City of Lancaster, Ohio, reserves its right to pursue any and all remedies, whether at law or in equity, to ensure that the correct tax liability has been calculated and paid by the taxpayer. (Ord. 3-18. Passed 3-12-18.)

183.28 FILING OF ANNUAL RETURN; REMITTANCE; DISPOSITION OF FUNDS.

- (A) (1) For each taxable year, every taxpayer shall file an annual return. Such return, along with the amount of tax shown to be due on the return less the amount paid for the taxable year under section 183.32 of the Codified Ordinances, shall be submitted to the tax commissioner, on a form and in the manner prescribed by the commissioner, on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year.
- (2) If a taxpayer has multiple taxable years ending within one calendar year, the taxpayer shall aggregate the facts and figures necessary to compute the tax due under this chapter, in accordance with sections 183.25, 183.26, and, if applicable, 183.30 of the Codified Ordinances onto its annual return.
- (3) The remittance shall be made payable to the treasurer of state and in the form prescribed by the tax commissioner. If the amount payable with the tax return is ten dollars or less, no remittance is required.
- (B) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's identification number. Each return shall be verified by a declaration under penalty of perjury.
- (2) (a) The tax commissioner may require a taxpayer to include, with each annual tax return, amended return, or request for refund filed with the commissioner under sections 183.24 to 183.39 of the Codified Ordinances, copies of any relevant documents or other information.
- (b) A taxpayer that files an annual tax return electronically through the Ohio business gateway or in another manner as prescribed by the tax commissioner shall either submit the documents required under this division electronically as prescribed at the time of filing or, if electronic submission is not available, mail the documents to the tax commissioner. The department of taxation shall publish a method of electronically submitting the documents required under this division on or before January 1, 2019.

- (3) After a taxpayer files a tax return, the tax commissioner may request, and the taxpayer shall provide, any information, statements, or documents required to determine and verify the taxpayer's municipal income tax.
- (D) (1) (a) Any taxpayer that has duly requested an automatic extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a tax return with the commissioner under this section. The extended due date of the return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.
- (b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the commissioner grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the commissioner receives the request on or before the date the municipal income tax return is due, the commissioner shall grant the taxpayer's extension request.
- (c) An extension of time to file under division (D)(1) of this section is not an extension of the time to pay any tax due unless the tax commissioner grants an extension of that date.
- (2) If the commissioner considers it necessary in order to ensure payment of a tax imposed in accordance with section 183.011 and 183.012 of the Codified Ordinances, the commissioner may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.

(E) Each return required to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the tax commissioner about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the commissioner to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the commissioner with information that is missing from the return, to contact the commissioner for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the commissioner and has shown to the preparer or other person.

(F) When income tax returns or other documents require the signature of a tax return preparer, the tax commissioner shall accept a facsimile or electronic version of such a signature in lieu of a manual signature. (Ord. 3-18. Passed 3-12-18.)

183.29 ELECTRONIC FILING.

(A) All taxpayers that have made the election allowed under section 183.24 of the Codified Ordinances shall file any tax return or extension for filing a tax return, and shall make payment of amounts shown to be due on such returns, electronically, either through the Ohio business gateway or in another manner as prescribed by the tax commissioner.

(B) A taxpayer may apply to the commissioner, on a form prescribed by the commissioner, to be excused from the requirement to file returns and make payments electronically. For good cause shown, the commissioner may excuse the applicant from the requirement and permit the applicant to file the returns or make the payments by non-electronic means.

- (C) The tax commissioner may adopt rules establishing the following:
- (1) The format of documents to be used by taxpayers to file returns and make payments by electronic means;
 - (2) The information taxpayers must submit when filing tax returns by electronic means.
- (Ord. 3-18. Passed 3-12-18.)

183.30 CONSOLIDATED RETURNS.

(A) As used in this section:

- (1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
- (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.
- (4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
- (5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

- (B) (1) A taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated tax return for a taxable year if at least one member of the affiliated group of corporations is subject to municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated tax returns under division (B)(2) of this section or a taxpayer receives permission from the tax commissioner. The tax commissioner shall approve such a request for good cause shown.

- (2) An election to discontinue filing consolidated tax returns under this section must be made on or before the fifteenth day of the fourth month of the year following the last year of a five-year consolidated tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated tax return is binding for a five-year period beginning with the first taxable year of the election.
- (3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.
- (4) When a taxpayer makes the election allowed under section 183.24 of the Codified Ordinances, a valid election made by the taxpayer under division (B)(1) or (2) of section 183.063 of the Codified Ordinances is binding upon the tax commissioner for the remainder of the five-year period.
- (5) When an election made under section 183.24 of the Codified Ordinances is terminated, a valid election made under this section is binding upon the tax administrator for the remainder of the five-year period.

(C) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated tax return for that taxable year if the tax commissioner determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to a municipal corporation. A taxpayer that is required to file a consolidated tax return for a taxable year shall file a consolidated tax return for all subsequent taxable years unless the taxpayer requests and receives written permission from the commissioner to file a separate return or a taxpayer has experienced a change in circumstances.

(D) A taxpayer shall prepare a consolidated tax return in the same manner as is required under the United States department of treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

- (E)
 - (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated tax return shall compute adjusted federal taxable income, as defined in section 183.25 of the Codified Ordinances, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
 - (2) No corporation filing a consolidated tax return shall make any adjustment otherwise required under division (B) of section 183.25 of the Codified Ordinances to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

- (3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:
- (a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 183.26 of the Codified Ordinances, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
 - (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in section 183.26 of the Codified Ordinances, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- (4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
- (a) The corporation filing the consolidated tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in section 183.26 of the Codified Ordinances, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;
 - (b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with sections 183.24 to 183.39 of the Codified Ordinances on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated tax return shall make the computations required under section 183.26 of the Codified Ordinances by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(G) Each corporation filing a consolidated tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts applicable under section 183.24 to 183.39 of the Codified Ordinances or Chapter 5703. of the Revised Code to the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.
(Ord. 3-18. Passed 3-12-18.)

183.31 FAILURE TO PAY TAX.

If a taxpayer that has made the election allowed under 183.24 of the Codified Ordinances fails to pay any tax as required under sections 183.24 to 183.39 of the Codified Ordinances, or any portion of that tax, on or before the date prescribed for its payment, interest shall be assessed, collected, and paid, in the same manner as the tax, upon such unpaid amount at the rate per annum prescribed by section 5703.47 of the Revised Code from the date prescribed for its payment until it is paid or until the date an assessment is issued under section 183.34 of the Codified Ordinances, whichever occurs first.
(Ord. 3-18. Passed 3-12-18.)

183.32 DECLARATION OF ESTIMATED TAXES.

(A) As used in this section:

- (1) "Combined tax liability" means the total amount of a taxpayer's income tax liabilities to all municipal corporations in this state for a taxable year.
- (2) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's combined tax liability for the current taxable year.

- (B)
 - (1) Except as provided in division (B)(4) of this section, every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the tax commissioner, if the amount payable as estimated taxes is at least two hundred dollars.
 - (2) Except as provided in division (B)(4) of this section, a taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the commissioner.
 - (3) The declaration of estimated taxes shall be filed on or before the fifteenth day of the fourth month after the beginning of the taxable year or on or before the fifteenth day of the fourth month after the taxpayer becomes subject to tax for the first time.
 - (4) The tax commissioner may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

(C) Each taxpayer shall file the declaration of estimated taxes with, and remit estimated taxes to, the tax commissioner at the times and in the amounts prescribed in division (C)(1) of this section. Remitted taxes shall be made payable to the treasurer of state.

- (1) The required portion of the combined tax liability for the taxable year that shall be paid through estimated taxes shall be as follows:
 - (a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the combined tax liability for the taxable year;

- (b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the combined tax liability for the taxable year;
 - (c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the combined tax liability for the taxable year;
 - (d) On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the combined tax liability for the taxable year.
 - (2) If the taxpayer determines that its declaration of estimated taxes will not accurately reflect the taxpayer's tax liability for the taxable year, the taxpayer shall increase or decrease, as appropriate, its subsequent payments in equal installments to result in a more accurate payment of estimated taxes.
 - (3)
 - (a) Each taxpayer shall report on the declaration of estimated taxes the portion of the remittance that the taxpayer estimates that it owes to each municipal corporation for the taxable year.
 - (b) Upon receiving a payment of estimated taxes under this section, the commissioner shall immediately forward the payment to the treasurer of state. The treasurer shall credit the payment in the same manner as in division (B) of section 718.85 of the Revised Code.
- (D) (1) In the case of any underpayment of estimated taxes, there shall be added to the taxes an amount determined at the rate per annum prescribed by section 5703.47 of the Revised Code upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
- (a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (b) For the second payment of estimated taxes each year, forty-five per cent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (d) For the fourth payment of estimated taxes each year, ninety per cent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently due.

- (3) All amounts collected under this section shall be considered as taxes collected under sections 183.24 to 183.39 of the Codified Ordinances and shall be credited and distributed to municipal corporations in accordance with section 718.83 of the Revised Code.

(E) An underpayment of any portion of a combined tax liability shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

- (1) The amount of estimated taxes that were paid equals at least ninety per cent of the combined tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
- (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a municipal income tax return for that year.
(Ord. 3-18. Passed 3-12-18.)

183.33 ADDITIONAL PENALTIES.

(A) In addition to any other penalty imposed by sections 183.24 to 183.39 of the Codified Ordinances or Chapter 5703. of the Revised Code, the following penalties shall apply:

- (1) If a taxpayer required to file a tax return under sections 183.24 to 183.39 of the Codified Ordinances fails to make and file the return within the time prescribed, including any extensions of time granted by the tax commissioner, the commissioner may impose a penalty not exceeding twenty-five dollars per month or fraction of a month, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which the return is filed. The aggregate penalty, per instance, under this division shall not exceed one hundred fifty dollars.
- (2) If a person required to file a tax return electronically under sections 183.24 to 183.39 of the Codified Ordinances fails to do so, the commissioner may impose a penalty not to exceed the following:
 - (a) For each of the first two failures, five per cent of the amount required to be reported on the return;
 - (b) For the third and any subsequent failure, ten per cent of the amount required to be reported on the return.
- (3) If a taxpayer that has made the election allowed under section 183.24 of the Codified Ordinances fails to timely pay an amount of tax required to be paid under this chapter, the commissioner may impose a penalty equal to fifteen per cent of the amount not timely paid.
- (4) If a taxpayer files what purports to be a tax return required by sections 183.24 to 183.39 of the Codified Ordinances that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of sections 183.24 to 183.39 of the Codified Ordinances, a penalty of up to five hundred dollars may be imposed.

- (5) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under sections 183.24 to 183.39 of the Codified Ordinances, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return.
- (6) If any person makes a false or fraudulent claim for a refund under section 183.35 of the Codified Ordinances, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. Any penalty imposed under this division, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under section 183.34 of the Codified Ordinances without regard to any time limitation for the assessment imposed by division (A) of that section.

(B) For purposes of this section, the tax required to be shown on a tax return shall be reduced by the amount of any part of the tax paid on or before the date, including any extensions of the date, prescribed for filing the return.

(C) Each penalty imposed under this section shall be in addition to any other penalty imposed under this section. All or part of any penalty imposed under this section may be abated by the tax commissioner. The commissioner may adopt rules governing the imposition and abatement of such penalties.

(D) All amounts collected under this section shall be considered as taxes collected under sections 183.24 to 183.39 of the Codified Ordinances and shall be credited and distributed to municipal corporations in the same proportion as the underlying tax liability is required to be distributed to such municipal corporations under section 718.83 of the Revised Code. (Ord. 3-18. Passed 3-12-18.)

183.34 ASSESSMENTS AGAINST TAXPAYER.

(A) If any taxpayer required to file a return under section 183.24 to 183.39 of the Codified Ordinances fails to file the return within the time prescribed, files an incorrect return, or fails to remit the full amount of the tax due for the period covered by the return, the tax commissioner may make an assessment against the taxpayer for any deficiency for the period for which the return or tax is due, based upon any information in the commissioner's possession.

The tax commissioner shall not make or issue an assessment against a taxpayer more than three years after the later of the date the return subject to assessment was required to be filed or the date the return was filed. Such time limit may be extended if both the taxpayer and the commissioner consent in writing to the extension. Any such extension shall extend the three-year time limit in section 183.35 of the Codified Ordinances for the same period of time. There shall be no bar or limit to an assessment against a taxpayer that fails to file a return subject to assessment as required by sections 183.24 to 183.39 of the Codified Ordinances, or that files a fraudulent return. The commissioner shall give the taxpayer assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the taxpayer assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the authorized agent of the taxpayer assessed having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the taxpayer to the treasurer of state. The petition shall indicate the taxpayer's objections, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the taxpayer has an office or place of business in this state, the county in which the taxpayer's statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the taxpayer assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for municipal income taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected under this section shall be credited to the municipal income tax fund and distributed to the municipal corporation to which the money is owed based on the assessment issued under this section.

(E) If the tax commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the taxpayer liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the taxpayer assessed or the taxpayer's legal representative in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the taxpayer assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(F) Notwithstanding the fact that a petition for reassessment is pending, the taxpayer may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the taxpayer under the corrected assessment is less than the portion paid, there shall be issued to the taxpayer, its assigns, or legal representative a refund in the amount of the overpayment as provided by section 183.35 of the Codified Ordinances, with interest on that amount as provided by that section.

(Ord. 3-18. Passed 3-12-18.)

183.35 REFUND APPLICATIONS.

(A) An application to refund to a taxpayer the amount of taxes paid on any illegal, erroneous, or excessive payment of tax under sections 183.24 to 183.39 of the Codified Ordinances, including assessments, shall be filed with the tax commissioner within three years after the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (A) of section 183.34 of the Codified Ordinances. The application shall be filed in the form prescribed by the tax commissioner.

(B) (1) On the filing of a refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. The amount determined shall be based on the amount overpaid per return or assessment. If the amount is greater than ten dollars and not less than that claimed, the commissioner shall certify that amount to the director of budget and management and the treasurer of state for payment from the tax refund fund created in section 5703.052 of the Revised Code. If the amount is greater than ten dollars but less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

(2) Upon issuance of a refund under this section, the commissioner shall notify each municipal corporation of the amount refunded to the taxpayer attributable to that municipal corporation, which shall be deducted from the municipal corporation's next distribution under section 718.83 of the Revised Code.

(C) Any portion of a refund determined under division (B) of this section that is not issued within ninety days after such determination shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the ninety-first day after such determination until the day the refund is paid or credited. On an illegal or erroneous assessment, interest shall be paid at that rate from the date of payment on the illegal or erroneous assessment until the day the refund is paid or credited.

(Ord. 3-18. Passed 3-12-18.)

183.36 AMENDED RETURNS.

(A) If any of the facts, figures, computations, or attachments required in an annual return filed by a taxpayer that has made the election allowed under section 183.24 of the Codified Ordinances and used to determine the tax due under sections 183.24 to 183.39 of the Codified Ordinances must be altered as the result of an adjustment to the taxpayer's federal income tax return, whether initiated by the taxpayer or the internal revenue service, and such alteration affects the taxpayer's tax liability under those sections, the taxpayer shall file an amended return with the tax commissioner in such form as the commissioner requires. The amended return shall be filed not later than sixty days after the adjustment is agreed upon or finally determined for federal income tax purposes or after any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first. If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the commissioner before filing the amended return.

(B) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. An amended return required by this section is a return subject to assessment under section 183.34 of the Codified Ordinances for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. The amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal tax return.

(C) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the amended return, even if that period extends beyond the period prescribed in section 183.35 of the Codified Ordinances, if the application otherwise conforms to the requirements of that section. An application filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return unless it is also filed within the time prescribed in section 183.35 of the Codified Ordinances. The application shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return. (Ord. 3-18. Passed 3-12-18.)

183.37 EXAMINATION OF RECORDS AND OTHER DOCUMENTS AND PERSONS.

(A) The tax commissioner, or any authorized agent or employee thereof, may examine the books, papers, records, and federal and state income tax returns of any taxpayer or other person that is subject to sections 183.24 to 183.39 of the Codified Ordinances for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due as required under those sections. Upon written request by the commissioner or a duly authorized agent or employee thereof, every taxpayer or other person subject to this section is required to furnish the opportunity for the commissioner, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer or other person that is subject to sections 183.24 to 183.39 of the Codified Ordinances shall be open to the tax commissioner's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The commissioner may require any person, by notice served on that person, to keep such records as the commissioner determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by a municipal corporation.

(C) The tax commissioner may examine under oath any person that the commissioner reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The commissioner may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the tax commissioner compelling attendance at a hearing or examination or the production of books, papers, records, or federal income tax returns under this section shall fail to comply.
(Ord. 3-18. Passed 3-12-18.)

183.38 CREDITS.

(A) A credit, granted by resolution or ordinance of the City of Lancaster, Ohio, pursuant to section 183.064 or 183.065 of the Codified Ordinances, shall be available to a taxpayer that has made the election allowed under section 183.24 of the Codified Ordinances, against the municipal corporation's tax on income. A municipal corporation shall submit the following information to the tax commissioner on or before the later of January 31, 2018, or the thirty-first day of January of the first year in which the taxpayer is eligible to receive the credit:

- (1) A copy of the agreement entered into by the City of Lancaster, Ohio, and taxpayer under section 183.064 or 183.065 of the Codified Ordinances;
 - (2) A copy of the ordinance or resolution authorizing the agreement entered into between the City of Lancaster, Ohio, and the taxpayer.
- (B)
 - (1) Each taxpayer that claims a credit shall submit, with the taxpayer's tax return, documentation issued by the City of Lancaster, Ohio, granting the credit that confirms the eligibility of the taxpayer for the credit, the amount of the credit for which the taxpayer is eligible, and the tax year to which the credit is to be applied.
 - (2) Such documentation shall be provided in the form prescribed by the tax commissioner.
 - (3) Nothing in this section shall be construed to authorize the tax commissioner to enter into an agreement with a taxpayer to grant a credit, to determine if a taxpayer meets the conditions of a tax credit agreement entered into by the City of Lancaster, Ohio, and taxpayer under section 183.064 or 183.065 of the Codified Ordinances, or to modify the terms or conditions of any such existing agreement.

(Ord. 3-18. Passed 3-12-18.)

183.39 RECKLESS VIOLATIONS; PENALTIES.

(A) Except as provided in division (B) of this section, whoever recklessly violates division (A) of section 183.27 of the Codified Ordinances shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both.

(B) Each instance of access or disclosure in violation of division (A) of section 183.27 of the Codified Ordinances constitutes a separate offense.

(C) These specific penalties shall not be construed to prevent the [City/Village] from prosecuting any and all other offenses that may apply.
(Ord. 3-18. Passed 3-12-18.)

183.97 COLLECTION AFTER TERMINATION OF CHAPTER.

(A) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 183.054 and 183.99 herein.

(B) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 183.091 and 183.051 as though the same were continuing. (Ord. 3-18. Passed 3-12-18.)

183.98 SAVINGS CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.
(Ord. 3-18. Passed 3-12-18.)

183.99 VIOLATIONS; PENALTY.

(A) Except as provided in division (B) of this section, whoever violates Section 183.15 of this Chapter, division (A) of Section 183.14 of this Chapter, or Section 183.051 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of division (A) of Section 183.14 of this Chapter constitutes a separate offense.

(D) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the first degree. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 183.051; or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or
- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or
- (11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or
- (13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.

- (14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.
- (15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 183.03 (29), include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.
(Ord. 3-18. Passed 3-12-18.)

CHAPTER 185 Lodging Tax

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| <p>185.01 Purpose and effective period.</p> <p>185.02 Definitions.</p> <p>185.03 Application of lodging tax.</p> <p>185.04 Transient guest to pay the lodging tax.</p> <p>185.05 Records inspection and preservation.</p> <p>185.06 Lodging tax to be separately stated and charged.</p> <p>185.07 Regulations for filing returns.</p> <p>185.08 Refund of erroneous payments.</p> <p>185.09 Failure to report and collect lodging tax; determination by Administrator; fraudulent reports.</p> | <p>185.10 Actions to collect.</p> <p>185.11 Interest on unpaid lodging tax.</p> <p>185.12 Rules and regulations; appeals.</p> <p>185.13 Violations.</p> <p>185.14 Collection of lodging tax after termination of chapter.</p> <p>185.99 Penalty.</p> |
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CROSS REFERENCES

Power to levy - see Ohio R.C. 5739.02(C)

185.01 PURPOSE AND EFFECTIVE PERIOD.

To provide funds to Fairfield County Visitors and Convention Bureau, there is hereby levied an excise tax of three percent (3%) on transactions occurring after July 1, 1994 by which lodging by a hotel or transient accommodations (as hereinafter defined) is or is to be furnished to transient guests, all as permitted and authorized by Ohio R.C. 5739.02(C)(1). The tax shall remain in effect until repealed. (Ord. 19-94. Passed 5-9-94.)

185.02 DEFINITIONS.

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

- (1) "Administrator" means the individual designated by this chapter, whether appointed or elected, to administer and enforce the provisions of this chapter.
- (2) "Board of Review" means the Board of Review created pursuant to Section 181.14.

- (3) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.
- (4) "Lodging tax" means the excise tax levied pursuant to this chapter.
- (5) "Transient accommodation" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests in which four or less rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.
- (6) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.
- (7) "Vendor" means the person who is the owner or operator of the hotel or transient accommodation and who furnishes the lodging.
(Ord. 19-94. Passed 5-9-94.)

185.03 APPLICATION OF LODGING TAX.

(a) The lodging tax applies and is collectible at the time the lodging is furnished, regardless of the time when the charge for the lodging is paid. The tax shall not apply to transactions by which lodging is furnished to the Federal government, the State or any of its political subdivisions. All revenues received by the City from the lodging tax shall be deposited in a separate fund and, after deducting the real and actual costs of collecting and administering the lodging tax, shall be contributed to the Fairfield County Visitors and Convention Bureau.
(Ord. 19-94. Passed 5-9-94.)

(b) This section shall indicate that five percent (5%) shall include the actual cost for the administration of the tax collection, which five percent (5%) shall be deducted before distribution of the tax proceeds.
(Ord. 46-94. Passed 12-28-94.)

185.04 TRANSIENT GUEST TO PAY THE LODGING TAX.

(a) The lodging tax shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging. If for any reason the lodging tax due is not paid to the vendor, the Administrator may require the transient guest to pay such tax directly to the City.

(b) No exemption shall be granted except upon a claim therefore made at the time the lodging is furnished and, under penalty of perjury, upon a form and in the manner prescribed by the Administrator.

(c) No transient guest shall refuse to pay the full and exact lodging tax as required by this chapter, or present to the vendor false evidence indicating that the lodging as furnished is not subject to the lodging tax.

(d) For the purpose of the proper administration of this chapter, it shall be presumed that all lodging furnished by hotels or transient accommodations in the City to transient guests is subject to the lodging tax until the contrary is established.
(Ord. 19-94. Passed 5-9-94.)

185.05 RECORDS INSPECTION AND PRESERVATION.

Each vendor shall keep complete and accurate records of lodging furnished, together with a record of the lodging tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and such other pertinent documents. If the vendor furnishes lodging not subject to the lodging tax, the vendor's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records shall be open during business hours to the inspection of the Administrator and shall be preserved for a period of five years, unless the Administrator in writing either consents to their destruction within that period or by order requires that they be kept longer. (Ord. 19-94. Passed 5-9-94.)

185.06 LODGING TAX TO BE SEPARATELY STATED AND CHARGED.

(a) The vendor shall state and charge the lodging tax to the transient guest separately from the charge for the lodging and on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and upon every evidence of occupancy or any bill or statement or charge made for occupancy issued or delivered by the vendor.

(b) No vendor shall advertise or state in any manner, whether directly or indirectly, that the lodging tax or any part thereof will be assumed or absorbed by the vendor, or that it will not be added to the amount charged for the lodging, or that, if added, any part will be refunded except in the manner provided in this chapter. (Ord. 19-94. Passed 5-9-94.)

185.07 REGULATIONS FOR FILING RETURNS.

(a) Each vendor shall on or before the last day of the month make and file a return for the preceding month, on forms furnished by the Administrator, showing the receipts from lodging furnished, the amount of lodging tax due from the vendor to the City for the period covered by the return, and such other information as the Administrator deems necessary for the proper administration of the lodging tax. All returns shall be signed by the vendor or its authorized agent. The Administrator may extend the time for making and filing returns. Returns shall be filed by delivering or mailing the same to the Administrator together with payment of the full amount of lodging tax shown to be due thereon.

(b) The Administrator may authorize vendors whose lodging tax liability is not such as to merit monthly returns, as determined by the Administrator upon the basis of administrative costs of the City, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

(c) The Administrator may, if it is deemed necessary in order to ensure the payment of the lodging tax, require returns and payment to be made for other than monthly periods.

(d) The Administrator may order any vendor required to file monthly returns under this chapter who fails, on two consecutive months or on three or more months within a twelve-month period, to file such returns when due or to pay the lodging tax thereon, or any vendor authorized by the Administrator to file returns at less frequent intervals, who fails on two or more occasions within a twenty-four month period, to file such returns when due or pay the lodging tax due thereon, to furnish security in an amount equal to the average lodging tax liability of the vendor for a period of one year, as determined by the Administrator for a review of returns or other information pertaining to such vendor, which amount shall in no event be less than one hundred dollars (\$100.00). The security may be in the form of an advance payment to be applied to pay the lodging tax due on subsequent returns, or a corporate surety

bond, satisfactory to the Administrator, conditioned upon payment of the lodging tax due with the returns from the vendor. The security shall be filed within ten days following the vendor's receipt of the notice from the Administrator of its requirements. A corporate surety bond filed under this section shall be returned to the vendor if, for a period of twelve consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment therewith within the time prescribed in this chapter.

(e) Each vendor shall file all claims for exemption from lodging tax filed by transient guests with the vendor during the reporting period with the return.

(f) The Administrator shall treat all returns and payments submitted by vendors as confidential and shall not release them except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State, the county, or the City, for official use only.

(g) All returns shall bear the mark of the date received and shall also reflect the amount of payment received therewith.

(Ord. 19-94. Passed 5-9-94.)

185.08 REFUND OF ERRONEOUS PAYMENTS.

The Administrator shall direct the City Treasurer to refund to a vendor or transient guest any amount erroneously paid. Applications for refund shall be filed with the Administrator, on the form so prescribed, within ninety days from the date it is ascertained that the amount paid was erroneous; provided, however, that in any event such applications for refund shall be filed with the Administrator within five years from the date of the erroneous payment. On filing of such application, the Administrator shall determine and certify the amount of the refund.

(Ord. 19-94. Passed 5-9-94.)

185.09 FAILURE TO REPORT AND COLLECT LODGING TAX; DETERMINATION BY ADMINISTRATOR; FRAUDULENT REPORTS.

(a) No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility of filing returns, shall fail to file any return or report required to be filed by this chapter, or file or cause to be filed any incomplete, false, or fraudulent return, report or statement, or aid to abet another in the filing of any false or fraudulent return, report or statement.

(b) If any vendor fails or refuses to collect the lodging tax or to file a return or remit the lodging tax or any portion thereof, as required by this chapter, the Administrator shall proceed in such manner as he or she may deem best to obtain information on which to base an assessment of the lodging tax due. When the Administrator has obtained such information as he is able, he shall proceed to determine and assess against such vendor the tax.

(c) In case such determination is made, the Administrator shall serve notice upon the vendor of the amount so assessed, by personal service or by registered or certified mail. Such vendor may, within thirty days after the serving or mailing of such notice, apply in writing to the Administrator for a hearing on the correctness of the amount assessed. If the vendor does not apply within the time prescribed, the lodging tax determined by the Administrator shall become final and conclusive and immediately due and payable. If the vendor makes timely

application, the Administrator shall give the vendor written notice, by personal service, or by registered or certified mail, of a hearing not less than five days in advance of the hearing, to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for the lodging tax. At any such hearing, the vendor may appear and offer evidence why such specified tax should not be so fixed. After such hearing, the Administrator shall determine the proper amount of lodging tax due and shall thereafter give written notice to the vendor, by personal service, or by registered or certified mail, of such determination and the amount of the lodging tax. The amount determined to be due shall be payable after fifteen days. (Ord. 19-94. Passed 5-9-94.)

185.10 ACTIONS TO COLLECT.

(a) Any lodging tax required to be paid by a transient guest under the provisions of this chapter shall be deemed a debt owed by the transient guest to the City. Any such tax collected by a vendor and not paid to the City shall be deemed a debt owed by the vendor to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of such amount.

(b) The Administrator is authorized to institute civil law suits to collect delinquent lodging taxes due and owing the City by virtue of the provisions of this chapter. The Administrator is authorized to waive penalties, compromise any lodging tax liabilities and the right to accept waiver of State statutes of limitations. (Ord. 19-94. Passed 5-9-94.)

185.11 INTEREST ON UNPAID LODGING TAX.

The lodging tax imposed and collected or required to be collected under the provisions of this chapter and remaining unpaid to the City after the tax becomes due shall bear interest at the rate of one and one-half percent (1-1/2%) per month or fraction thereof. (Ord. 19-94. Passed 5-9-94.)

185.12 RULES AND REGULATIONS; APPEALS.

(a) The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns.

(b) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. (Ord. 19-94. Passed 5-9-94.)

185.13 VIOLATIONS.

(a) No vendor, or any officer or employee of a vendor having control or supervision of or charged with the responsibility of collecting the lodging tax or filing returns shall:

- (1) Willfully fail to file any return or report required to be filed by this chapter; or
- (2) File or cause to be filed any incomplete, false or fraudulent return, report or statement; or

- (3) Aid or abet another in the filing of any false or fraudulent return, report or statement; or
- (4) Fail, neglect or refuse to collect the lodging tax or interest imposed by this chapter; or
- (5) Fail, neglect or refuse to remit the lodging tax or any portion thereof, as required by this chapter; or
- (6) Refuse to permit the Administrator or any duly authorized agent or employee to examine the hotel's or transient accommodation's books, records and papers relating to lodging provided to transient guests; or
- (7) Fail to appear before the Administrator and to produce the hotel's or transient accommodation's books, records and papers relating to lodging provided to transient guests by the hotel or the transient accommodation upon order or subpoena of the Administrator; or
- (8) Refuse to disclose to the Administrator any information with respect to lodging provided transient guests by the hotel or transient accommodation; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (10) Fail to use ordinary diligence in maintaining complete and accurate records, invoices and other pertinent documents regarding lodging furnished and the lodging tax withheld, to knowingly give false information; or
- (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the lodging tax, or interest imposed by this chapter.

Shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both for each offense.

(b) No transient guest shall:

- (1) Willfully fail, neglect or refuse to pay the lodging tax required by this chapter; or
- (2) Make any incomplete, false or fraudulent representation indicating an exemption from the lodging tax.

Shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both for each offense.

(c) The failure of any vendor to collect the lodging tax or any transient guest to pay the lodging tax imposed by or pursuant to this chapter on any transaction subject to the lodging tax shall not excuse such vendor or transient guest from being personally liable for the amount of the lodging tax applicable to the transaction. The Administrator may make an assessment against either the vendor or transient guest, as the facts may require, based upon any information in the possession of the Administrator.

(d) The failure of any vendor corporation, required to file returns and to remit lodging tax due to the City under the provisions of this chapter shall not excuse any of its officers or employees having control of or charged with the responsibility of filing returns and remitting lodging tax due under the provisions of this chapter from being held personally liable for such failure.

(e) The dissolution of a corporation shall not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or remit lodging tax due under the provisions of this chapter. The sum due for such liability may be collected by assessment in the manner provided in this chapter.

(f) All prosecutions under this section must be commenced within three (3) years from the time of the offense complained of except in the case of failure to collect the lodging tax or failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six (6) years from the date the return was due or the date the false or fraudulent return was filed.
(Ord. 19-94. Passed 5-9-94.)

185.14 COLLECTION OF LODGING TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of lodging taxes is concerned until repealed according to the law and insofar as the collection of lodging taxes levied hereunder and actions or proceedings for collecting any lodging tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such lodging taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such lodging taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 185.10 and 185.13.

(b) Monthly returns due for all or any part of the last effective month of this chapter shall be due on the date provided in Section 185.07 as though the same were continuing.
(Ord. 19-94. Passed 5-9-94.)

185.99 PENALTY.

Whoever violates any provision of Section 185.13 shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both, for each offense.
(Ord. 19-94. Passed 5-9-94.)

CHAPTER 187
Motor Vehicle License Tax

187.01 Levy.

187.03 Additional license tax.

187.02 Reductions and exemptions.

CROSS REFERENCES
Authority to collect - see Ohio R.C. 4504.06

187.01 LEVY.

There is hereby levied an annual license tax, in addition to the tax levy by Ohio R.C. 4503.02, 4503.07 and 4503.18, upon the operation of motor vehicles on the public streets and highways. Such tax shall be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles the District of Registration of which, as defined in Ohio R.C. 4503.10, is in the Municipal Corporation of Lancaster, Ohio.
(Ord. 18-96. Passed 5-28-96; Ord. 3-18. Passed 3-12-18.)

187.02 REDUCTIONS AND EXEMPTIONS.

The tax shall be subject to reductions in the manner provided in Ohio R.C. 4503.11 and the exemptions provided in Ohio R.C. 4503.16, 4503.17, 4503.171, 4503.17.1, 4503.41 and 4503.43. (Ord. 18-96. Passed 5-28-96; Ord. 3-18. Passed 3-12-18.)

187.03 ADDITIONAL LICENSE TAX.

(a) This section will levy an annual license tax pursuant to Ohio R.C. 4504.172 in addition to the tax levy renewed and extended in Ordinance 18-96 through Ohio R.C. 4504.06, upon the operation of motor vehicles on the public streets and highways. Such tax shall be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles, the District of Registration of which, as defined in Ohio R.C. 4503.10, is in the Municipal Corporation of Lancaster, Ohio.

(b) The tax shall be subject to reductions in the manner provided in Ohio R.C. 4503.11 and the exemptions provided in Ohio R.C. 4503.16, 4503.17, 4503.171, 4503.41 and 4503.43. (Ord. 32-98. Passed 4-27-98; Ord. 3-18. Passed 3-12-18.)

CODIFIED ORDINANCES OF LANCASTER

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

Chap. 301. Definitions.

Chap. 303. Enforcement, Impounding and Penalty.

Chap. 305. Traffic Control.

CHAPTER 301

Definitions

301.01	Meaning of words and phrases.	301.26	Private road or driveway.
301.02	Agricultural tractor.	301.27	Public safety vehicle.
301.03	Alley.	301.28	Railroad.
301.031	Beacon; hybrid beacon.	301.29	Railroad sign or signal.
301.04	Bicycle; motorized bicycle; moped.	301.30	Railroad train.
301.05	Bus.	301.31	Residence district.
301.06	Business district.	301.32	Right of way.
301.07	Commercial tractor.	301.321	Road service vehicle.
301.08	Controlled-access highway.	301.33	Roadway.
301.09	Crosswalk.	301.34	Safety zone.
301.10	Driver or operator.	301.35	School bus.
301.11	Emergency vehicle.	301.36	Semitrailer.
301.12	Explosives.	301.361	Shared-use path.
301.13	Expressway.	301.37	Sidewalk.
301.14	Flammable liquid.	301.38	State route.
301.15	Freeway.	301.39	Stop (when required).
301.16	Gross weight.	301.40	Stopping or standing.
301.161	Highway maintenance vehicle.	301.41	Stop intersection.
301.162	Highway traffic signal.	301.42	Street or highway; arterial street.
301.17	Intersection.	301.43	Through street or highway.
301.18	Laned street or highway.	301.44	Thruway.
301.181	Median.	301.45	Traffic.
301.19	Motorcycle.	301.46	Traffic control devices.
301.20	Motor vehicle.	301.47	Traffic control signal.
301.201	Operate.	301.48	Trailer.
301.21	Park or parking.	301.49	Truck.
301.22	Pedestrian.	301.50	Urban district.
301.23	Person.	301.51	Vehicle.
301.24	Pole trailer.	301.52	Wheelchair, motorized.
301.25	Police officer.	301.53	Waste collection vehicle.
301.251	Predicate motor vehicle or traffic offense.		

CROSS REFERENCES

See sectional histories for similar State law
Funeral procession defined - see TRAF. 331.24
Street racing defined - see TRAF. 333.07
Studded tire defined - see TRAF. 339.11
Blind person defined - see TRAF. 371.02
Snowmobile, off-highway motorcycle and all purpose vehicle
defined - see TRAF. 375.01
School zones defined - see TRAF. 333.03(b)

301.01 MEANING OF WORDS AND PHRASES.

The following words and phrases when used in this Traffic Code, except as otherwise provided, shall have the meanings respectively ascribed to them in this chapter.

301.02 AGRICULTURAL TRACTOR.

"Agricultural tractor" means every self-propelling vehicle designed or used for drawing other vehicles or wheeled machinery but having no provision for carrying loads independently of such other vehicles, and used principally for agricultural purposes. (ORC 4511.01(J))

301.03 ALLEY.

"Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic, and includes any street or highway that has been declared an "alley" by Council. (ORC 4511.01(XX))

301.031 BEACON; HYBRID BEACON.

(a) "Beacon" means a highway traffic signal with one or more signal sections that operate in a flashing mode. (ORC 4511.01(KKK))

(b) "Hybrid beacon" means a type of beacon that is intentionally placed in a dark mode between periods of operation where no indications are displayed and, when in operation, displays both steady and flashing traffic control signal indications. (ORC 4511.01(LL))

301.04 BICYCLE; MOTORIZED BICYCLE; MOPED.

(a) "Bicycle" means every device, other than a device that is designed solely for use as a play vehicle by a child, that is propelled solely by human power, upon which a person may ride and that has two or more wheels any of which is more than fourteen inches in diameter. (ORC 4511.01(G))

(b) "Motorized bicycle" or "moped" means any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that may be pedaled and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement which produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface. (ORC 4511.01(H))

301.39 STOP (WHEN REQUIRED).

"Stop" when required means a complete cessation of movement.

301.40 STOPPING OR STANDING.

(a) "Stop or stopping" when prohibited means any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device.

(b) "Stand or standing" means the halting of a vehicle, whether occupied or not, otherwise then temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

301.41 STOP INTERSECTION.

"Stop intersection" means any intersection at one or more entrances of which stop signs are erected. (ORC 4511.01(BBB))

301.42 STREET OR HIGHWAY; ARTERIAL STREET.

(a) "Street" or "highway" are synonymous and mean the entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular travel. (ORC 4511.01(BB))

(b) "Arterial street" means any United States or State numbered route, controlled access highway or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways. (ORC 4511.01(CCC))

301.43 THROUGH STREET OR HIGHWAY.

"Through street or highway" means every street or highway as provided in Section 313.02. (ORC 4511.01(HH))

301.44 THRUWAY.

"Thruway" means a through street or highway whose entire roadway is reserved for through traffic and on which roadway parking is prohibited. (ORC 4511.01(AAA))

301.45 TRAFFIC.

"Traffic" means pedestrians, ridden or herded animals, vehicles and other devices, either singly or together, while using for purposes of travel any street or highway or private road open to public travel. (ORC 4511.01(TT))

301.46 TRAFFIC CONTROL DEVICE.

"Traffic control device" means a flagger, sign, signal, marking, or other device used to regulate, warn or guide traffic, placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction. (ORC 4511.01(QQ))

301.47 TRAFFIC CONTROL SIGNAL.

"Traffic control signal" means any highway traffic signal by which traffic is alternately directed to stop and permitted to proceed. (ORC 4511.01(RR))

301.48 TRAILER.

"Trailer" means every vehicle designed or used for carrying persons or property wholly on its own structure and for being drawn by a motor vehicle, including any such vehicle when formed by or operated as a combination of a semitrailer and a vehicle of the dolly type, such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a street or highway at a speed greater than twenty-five miles per hour and a vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour.
(ORC 4511.01(M))

301.49 TRUCK.

"Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property. (ORC 4511.01(K))

301.50 URBAN DISTRICT.

"Urban district" means the territory contiguous to and including any street or highway which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than 100 feet for distance of a quarter of a mile or more, and the character of such territory is indicated by official traffic control devices. (ORC 4511.01(PP))

301.51 VEHICLE.

"Vehicle" means every device, including a motorized bicycle, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that "vehicle" does not include any motorized wheelchair, electric personal assistive mobility device, or any device, other than a bicycle, that is moved by human power. (ORC 4511.01(A))

301.52 WHEELCHAIR, MOTORIZED.

"Motorized wheelchair" means any self-propelled vehicle designed for, and used by, a handicapped person and that is incapable of a speed in excess of eight miles per hour.
(ORC 4511.01(EEE))

301.53 WASTE COLLECTION VEHICLE.

"Waste collection vehicle" means a vehicle used in the collection of garbage, refuse, trash or recyclable materials. (ORC 4511.01(RRR))

CHAPTER 303 Enforcement, Impounding and Penalty

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| <p>303.01 Compliance with lawful order of police officer; fleeing.</p> <p>303.02 Traffic direction in emergencies; obedience to school guard.</p> <p>303.03 Officer may remove ignition key.</p> <p>303.04 Road workers, motor vehicles and equipment excepted.</p> <p>303.041 Emergency, public safety and coroner's vehicles exempt.</p> <p>303.05 Application to persons riding, driving animals upon roadway.</p> <p>303.06 Freeway use prohibited by pedestrians, bicycles and animals.</p> <p>303.07 Application to drivers of government vehicles.</p> <p>303.08 Impounding of vehicles; redemption.</p> | <p>303.081 Other prosecutions.</p> <p>303.082 Damage caused by removal or storage.</p> <p>303.083 Expense of removal and storage.</p> <p>303.084 Notice to owner; redemption.</p> <p>303.085 Impounding fee and storage charges.</p> <p>303.086 Payment of fees and charges under protest. (Repealed)</p> <p>303.087 Towing rotation and impounding.</p> <p>303.09 Providing false information to police officer.</p> <p>303.10 Disposition of fines and revenues.</p> <p>303.99 General Traffic Code penalties.</p> <p>303.991 Committing an offense while distracted penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law

Disposition of unclaimed vehicles - see Ohio R.C. 737.32, 4513.62 et seq.

Citations for minor misdemeanors - see Ohio R.C. 2935.26 et seq.

Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. 4507.16, 4507.34

State point system suspension - see Ohio R.C. 4507.40

Uniform application of Ohio Traffic Law - see Ohio R.C. 4511.06

Marking motor vehicles used by traffic officers - see Ohio R.C. 4549.13

Distinctive uniform required for traffic officers - see Ohio R.C. 4549.15

Exceptions for emergency or public safety vehicles - see TRAF. 331.20, 333.06

303.01 COMPLIANCE WITH LAWFUL ORDER OF POLICE OFFICER; FLEEING.

(a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control or regulate traffic.

(b) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

(c) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer. A violation of subsection (a) is a misdemeanor of the first degree. A violation of subsection (b) is a misdemeanor of the first degree, unless the jury or judge as trier of fact finds any one of the following by proof beyond a reasonable doubt:

- (1) In committing the offense, the offender was fleeing immediately after the commission of a felony;
- (2) The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property;
- (3) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

(d) In addition to any other sanction imposed for a violation of subsection (a) of this section or a misdemeanor violation of subsection (b) of this section, the court shall impose a class five suspension from the range specified in Ohio R.C. 4510.02(A)(5). If the offender previously has been found guilty of an offense under this section, in addition to any other sanction imposed for the offense, the court shall impose a class one suspension as described in division (A)(1) of that section. The court may grant limited driving privileges to the offender on a suspension imposed for a misdemeanor violation of this section as set forth in Ohio R.C. 4510.021. No judge shall suspend the first three years of suspension under a class two suspension of an offender's license, permit or privilege required by this division on any portion of the suspension under a class one suspension of an offender's license, permit, or privilege required by this subsection.
(ORC 2921.331)

303.02 TRAFFIC DIRECTION IN EMERGENCIES; OBEDIENCE TO SCHOOL GUARD.

(a) Police officers shall direct or regulate traffic in accordance with the provisions of this Traffic Code, provided that, in the event of fire or other emergency or to expedite traffic or safeguard pedestrians, they are authorized to direct traffic as conditions may require notwithstanding the provisions of this Traffic Code. Firemen, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. The direction of traffic may be by word or audible signal, by gesture or visible signal or by any combination thereof. No person shall fail to comply with any lawful order or direction of any police officer or fireman issued pursuant to this section.

(b) No person shall fail to comply with any lawful order or direction of any school crossing guard invested with authority to direct, control or regulate traffic in the vicinity of the school to which such guard may be assigned.

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

303.03 OFFICER MAY REMOVE IGNITION KEY.

A law enforcement officer may remove the ignition key left in the ignition switch of an unlocked and unattended motor vehicle parked on a street or highway, or any public or private property used by the public for purposes of vehicular travel or parking. The officer removing such key shall place notification upon the vehicle detailing his name and badge number, the place where such key may be reclaimed and the procedure for reclaiming such key. The key shall be returned to the owner of the motor vehicle upon presentation of proof of ownership.
(ORC 4549.05)

303.04 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.

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

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

- (c) (1) This section does not exempt a driver of a highway maintenance vehicle from civil liability arising from a violation of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 or Ohio R.C. 4511.66 or 5577.01 to 5577.09.
- (2) This section does not exempt a driver of a vehicle who is not a state employee and who is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Ohio R.C. 5577.01 to 5577.09.

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

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

(a) Ohio R.C. 4511.12, 4511.13, 4511.131, 4511.132, 4511.14, 4511.202, 4511.21, 4511.211, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.62, 4511.66, 4511.68, 4511.681 and 4511.69 and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to the driver of an emergency vehicle or public safety vehicle if the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and if the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4511.041)

(b) Ohio R.C. 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.35, 4511.36, 4511.37, 4511.38 and 4511.66, and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to a coroner, deputy coroner, or coroner's investigator operating a motor vehicle in accordance with Ohio R.C. 4513.171. This section does not relieve a coroner, deputy coroner, or coroner's investigator operating a motor vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4511.042)

303.05 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.

Every person riding, driving or leading an animal upon a roadway shall be subject to the provisions of this Traffic Code applicable to the driver of a vehicle, except those provisions of such sections which by their nature are inapplicable. (ORC 4511.05)

303.06 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.

(a) No person, unless otherwise directed by a police officer, shall:

- (1) As a pedestrian, occupy any space within the limits of the right-of-way of a freeway, except: in a rest area; on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for pedestrian use; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle; or to obtain assistance;
- (2) Occupy any space within the limits of the right of way of a freeway, with: an animal-drawn vehicle; a ridden or led animal; herded animals; a pushcart; a bicycle, except on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for bicycle use; a bicycle with motor attached; a motor driven cycle with a motor which produces not to exceed five brake horsepower; an agricultural tractor; farm machinery; except in the performance of public works or official duties.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.051)

303.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.

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

303.08 IMPOUNDING OF VEHICLES; REDEMPTION.

(a) Police officers are authorized to provide for the removal of a vehicle under the following circumstances:

- (1) When any vehicle is left unattended upon any street, bridge or causeway and is so illegally parked so as to constitute a hazard or obstruction to the normal movement of traffic, or so as to unreasonably interfere with street cleaning or snow removal operations.

303.086 PAYMENT OF FEES AND CHARGES UNDER PROTEST. (REPEALED)

(EDITOR'S NOTE: Former Section 303.086 was repealed by Ordinance 35-08, passed October 6, 2008.)

303.087 TOWING ROTATION AND IMPOUNDING.

The Service Safety Director or his agent is hereby authorized and directed, in the interest of public welfare, to create a policy for establishing a towing and impoundment lot plan for motor vehicles impounded under Chapter 303 of the Lancaster Codified Ordinances. Such policy shall be designed in such a manner so that inconvenience to the owners of towed and/or impounded motor vehicles is as minimal as possible. The Service Safety Director is further authorized to operate and maintain an impound lot for the purpose of the impoundment and the storage of motor vehicles lawfully impounded by reason of any section of these Codified Ordinances or the Ohio Revised Code, and to enter into all contracts reasonably necessary to operate and maintain such impound lot. However, the Service Safety Director shall also have authority to delegate to another agency, entity, company or corporation to act as the City's impound lot or to provide dispatch services or administer a towing and impoundment lot plan. (Ord. 29-02. Passed 8-26-02.)

303.09 PROVIDING FALSE INFORMATION TO POLICE OFFICER.

(a) No person shall knowingly present, display or orally communicate a false name, social security number or date of birth to a law enforcement officer who is in the process of issuing to the person a traffic ticket or complaint.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 4513.361)

303.10 DISPOSITION OF FINES AND REVENUES.

All fines, costs, forfeited deposits, forfeited bail bonds and forfeited recognizances taken for appearances collected under the provisions of this Traffic Code shall be placed to the credit of the General Fund of the City, with the exception of that portion distributed under Ohio R.C. 3375.50 and 3375.53. (Ord. 4-52. Passed 1-22-52.)

303.99 GENERAL TRAFFIC CODE PENALTIES.

(a) General Misdemeanor Classifications. Whoever violates any provision of this Traffic Code for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor.
(ORC 4513.99)

(b) Penalties. Whoever is convicted of or pleads guilty to a violation of this Traffic Code shall be imprisoned for a definite term or fined, or both, which term of imprisonment and fine shall be fixed by the court as provided in this section.

<u>Classification of Misdemeanor</u>	<u>Maximum Term of Imprisonment</u>	<u>Maximum Fine</u>
First degree	180 days	\$1,000.00
Second degree	90 days	750.00
Third degree	60 days	500.00
Fourth degree	30 days	250.00
Minor	No imprisonment	150.00

(ORC 2929.24; 2929.28)

303.991 COMMITTING AN OFFENSE WHILE DISTRACTED PENALTY.

(a) As used in this section and each section of the Traffic Code where specified, all of the following apply:

- (1) "Distracted" means doing either of the following while operating a vehicle:
 - A. Using a handheld electronic wireless communications device, as defined in Ohio R.C. 4511.204 except when utilizing any of the following:
 1. The device's speakerphone function;
 2. A wireless technology standard for exchanging data over short distances;
 3. A "voice-operated or hands-free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;
 4. Any device that is physically or electronically integrated into the motor vehicle.
 - B. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.
- (2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Section 331.43.
- (3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage or a circumstance affecting the health or safety of individuals.

As used in subsection (a)(3) of this section:

 - A. "Utility" means an entity specified in division (A), (C), (D), (E) or (G) of Ohio R.C. 4905.03.
 - B. "Utility service vehicle" means a vehicle owned or operated by a utility.

(b) If an offender violates any section of this Traffic Code which provides for an enhanced penalty for an offense committed while distracted and the distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding Ohio R.C. 2929.28, is subject to an additional fine of not more than one hundred dollars (\$100.00) as follows:

- (1) Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation or summons for a violation of any section of the Traffic Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of one hundred dollars (\$100.00).

In lieu of payment of the additional fine of one hundred dollars (\$100.00), the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the Ohio Director of Public Safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of one hundred dollars (\$100.00), so long as the offender submits to the court both the offender's payment in full and such written evidence.

- (2) If the offender appears in person to contest the ticket, citation or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars (\$100.00).

If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars (\$100.00), the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars (\$100.00), the offender instead may elect to attend the distracted driving safety course described in subsection (b)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars (\$100.00), so long as the offender submits to the court the offender's payment and such written evidence.
(ORC 4511.991)

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CHAPTER 313 Traffic Control Devices

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| <p>313.01 Obedience to traffic control devices.</p> <p>313.02 Through streets; stop and yield right-of-way signs.</p> <p>313.03 Traffic signal indications.</p> <p>313.04 Lane-use control signal indications.</p> <p>313.05 Special pedestrian control signals.</p> <p>313.06 Flashing traffic signals. (Repealed)</p> | <p>313.07 Unauthorized signs and signals, hiding from view, advertising.</p> <p>313.08 Alteration, injury, removal of traffic control devices.</p> <p>313.09 Driver's duties upon approaching ambiguous or non-working traffic signal.</p> <p>313.10 Unlawful purchase, possession or sale.</p> <p>313.11 Portable signal preemption devices prohibited.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 Designation of through streets or stop intersections - see
 Ohio R.C. 4511.07(F), 4511.65
 Uniform system of traffic control devices - see Ohio R.C. 4511.09,
 4511.11(D)
 Placing and maintaining local traffic control devices - see Ohio
 R.C. 4511.10, 4511.11
 Traffic control devices defined - TRAF. 301.46

313.01 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

(a) No pedestrian or driver of a vehicle shall disobey the instructions of any traffic control device placed in accordance with the provisions of this Traffic Code, unless at the time otherwise directed by a police officer.

No provisions of this Traffic Code for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this Traffic Code does not state that signs are required, that section shall be effective even though no signs are erected or in place.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
 (ORC 4511.12)

313.02 THROUGH STREETS; STOP AND YIELD RIGHT-OF-WAY SIGNS.

(a) All State routes are hereby designated as through streets or highways, provided that stop signs, yield signs or traffic control signals shall be erected at all intersections with such through streets or highways, except as otherwise provided in this section. Where two or more State routes that are through streets or highways intersect and no traffic control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the Ohio Department of Transportation, except as otherwise provided in this section.

Whenever the Ohio Director of Transportation determines on the basis of an engineering and traffic investigation that stop signs are necessary to stop traffic on a through highway for safe and efficient operation, nothing in this section shall be construed to prevent such installations. When circumstances warrant, the Director also may omit stop signs on roadways intersecting through highways under his jurisdiction. Before the Director either installs or removes a stop sign under this paragraph, he shall give notice, in writing, of that proposed action to the Municipality at least thirty days before installing or removing the stop sign.

(b) Other streets or highways or portions thereof, are hereby designated through streets or highways, if they are within the Municipality, if they have a continuous length of more than one mile between the limits of such street or highway or portion thereof, and if they have "stop" or "yield" signs or traffic control signals at the entrances of the majority of intersecting streets or highways. For purposes of this section, the limits of such street or highway or portion thereof, shall be a municipal corporation line, the physical terminus of the street or highway or any point on such street or highway at which vehicular traffic thereon is required by regulatory signs to stop or yield to traffic on the intersecting street, provided that in residence districts the Municipality may by ordinance designate such street or highway, or portion thereof, not to be a through highway and thereafter the affected residence district shall be indicated by official traffic control devices. Where two or more streets or highways designated under this subsection (b) intersect and no traffic control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the Ohio Department of Transportation or by Council or the authorized local authority, except as otherwise provided in this section.

(c) Stop signs need not be erected at intersections so constructed as to permit traffic to safely enter a through street or highway without coming to a stop. Signs shall be erected at such intersections indicating that the operator of a vehicle shall yield the right of way to or merge with all traffic proceeding on the through street or highway.

(d) Council or the authorized local authority may designate additional through streets or highways and shall erect stop signs, yield signs or traffic control signals at all streets and highways intersecting such through streets or highways, or may designate any intersection as a stop or yield intersection and shall erect like signs at one or more entrances to such intersection. (ORC 4511.65)

313.03 TRAFFIC SIGNAL INDICATIONS.

Highway traffic signal indications for vehicles, and pedestrians shall have the following meanings:

(a) Steady Green Signal Indication:

- (1) A. Vehicular traffic facing a circular green signal indication is permitted to proceed straight through or turn right or left, or make a u-turn movement except as such movement is modified by a lane-use sign, turn prohibition sign, lane marking, roadway design, separate turn signal indication, or other traffic control device. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:

- (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.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.132)

313.10 UNLAWFUL PURCHASE, POSSESSION OR SALE.

(a) As used in this section, "traffic control device" means any sign, traffic control signal or other device conforming to and placed or erected in accordance with the manual adopted under Ohio R.C. 4511.09 by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic, including signs denoting the names of streets and highways, but does not mean any pavement marking.

(b) No individual shall buy or otherwise possess or sell, a traffic control device, except when one of the following applies:

- (1) In the course of the individual's employment by the State or a local authority for the express or implied purpose of manufacturing, providing, erecting, moving or removing such a traffic control device;
- (2) In the course of the individual's employment by any manufacturer of traffic control devices other than a State or local authority;

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

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

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

313.11 PORTABLE SIGNAL PREEMPTION DEVICES PROHIBITED.

- (a)
 - (1) No person shall possess a portable signal preemption device.
 - (2) No person shall use a portable signal preemption device to affect the operation of a traffic control signal.

(b) Subsection (a)(1) of this section does not apply to any of the following persons and subsection (a)(2) of this section does not apply to any of the following persons when responding to an emergency call:

- (1) A peace officer, as defined in Ohio R.C. 109.71(A)(11), (12), (14) or (19);
 - (2) A State highway patrol trooper;
 - (3) A person while occupying a public safety vehicle as defined in Ohio R.C. 4511.01(E)(1), (3) or (4).

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

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

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

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.25)

331.02 PASSING TO RIGHT WHEN PROCEEDING IN OPPOSITE DIRECTIONS.

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.26)

331.03 OVERTAKING, PASSING TO LEFT; DRIVER'S DUTIES.

(a) The following rules govern the overtaking and passing of vehicles proceeding in the same direction:

- (1) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall, except as provided in subsection (a)(3) hereof, signal to the vehicle to be overtaken, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. When a motor vehicle overtakes and passes a bicycle, three feet or greater is considered a safe passing distance.
- (2) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and the operator shall not increase the speed of the operator's vehicle until completely passed by the overtaking vehicle.

- (3) The operator of a vehicle overtaking and passing another vehicle proceeding in the same direction on a divided street or highway as defined in Section 331.31, a limited access highway as defined in Ohio R.C. 5511.02 or a highway with four or more traffic lanes, is not required to signal audibly to the vehicle being overtaken and passed.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.27)

331.04 OVERTAKING AND PASSING UPON RIGHT.

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

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

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.28)

331.05 OVERTAKING, PASSING TO LEFT OF CENTER.

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.29)

331.06 ADDITIONAL RESTRICTIONS ON DRIVING UPON LEFT SIDE OF ROADWAY.

(a) No vehicle shall be driven upon the left side of the roadway under the following conditions:

- (1) When approaching the crest of a grade or upon a curve in the highway, where the operator's view is obstructed within such a distance as to create a hazard in the event traffic might approach from the opposite direction;
- (2) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel;
- (3) When approaching within 100 feet of or traversing any intersection or railroad grade crossing.

(b) This section does not apply to vehicles upon a one-way roadway, upon a roadway where traffic is lawfully directed to be driven to the left side or under the conditions described in Section 331.01(a)(2).

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.30)

331.07 HAZARDOUS OR NO PASSING ZONES.

(a) Hazardous zones, commonly called "no passing zones," shall consist of an auxiliary yellow line marked on the roadway pavement and placed parallel to the normal center line or marked lane line. When the auxiliary yellow line appears on the left side in the driver's lane of travel and to the right of the normal center line or marked lane line, no driver shall drive across the auxiliary yellow line to overtake and pass another vehicle proceeding in the same direction. When auxiliary yellow lines appear on both sides of the normal center line or marked lane line, drivers proceeding in either direction shall not drive across such auxiliary yellow lines to overtake and pass another vehicle proceeding in the same direction. No driver shall, at any other time, drive across the yellow auxiliary line when it appears in the driver's lane of travel, except to make a lawfully permitted left-hand turn under the rules governing such movement. No passing signs may also be erected facing traffic to indicate the beginning and end of each no passing zone.

When appropriate signs or markings indicating hazardous or no passing zones are in place and clearly visible, every operator of a vehicle shall obey the directions of the signs or markings, notwithstanding the distance set out in Section 331.06.

- (b) Subsection (a) of this section does not apply when all of the following apply:
- (1) The slower vehicle is proceeding at less than half the speed of the speed limit applicable to that location.
 - (2) The faster vehicle is capable of overtaking and passing the slower vehicle without exceeding the speed limit.
 - (3) There is sufficient clear sight distance to the left of the center or center line of the roadway to meet the overtaking and passing provisions of Section 331.05, considering the speed of the slower vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.31)

331.08 DRIVING IN MARKED LANES OR CONTINUOUS LINES OF TRAFFIC.

(a) Whenever any roadway has been divided into two or more clearly marked lanes for traffic or wherever traffic is lawfully moving in two or more substantially continuous lines in the same direction, the following rules apply:

- (1) A vehicle shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from such lane or line until the driver has first ascertained that such movement can be made with safety.
- (2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is posted with signs to give notice of such allocation.
- (3) Official signs may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, or restricting the use of a particular lane to only buses during certain hours or during all hours, and drivers of vehicles shall obey the directions of such signs.
- (4) Official traffic control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.33)

331.09 FOLLOWING TOO CLOSELY.

(a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the highway.

The driver of any truck, or motor vehicle drawing another vehicle, when traveling upon a roadway outside a business or residence district shall maintain a sufficient space, whenever conditions permit, between such vehicle and another vehicle ahead so an overtaking motor vehicle may enter and occupy such space without danger. This paragraph does not prevent overtaking and passing nor does it apply to any lane specially designated for use by trucks.

Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, shall maintain a sufficient space between such vehicles so an overtaking vehicle may enter and occupy such space without danger. This paragraph shall not apply to funeral processions.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.34)

331.10 TURNING AT INTERSECTIONS.

(a) The driver of a vehicle intending to turn at an intersection shall be governed by the following rules:

- (1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (3) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane of the roadway being entered lawfully available to the traffic moving in that lane.
- (4) Markers, buttons or signs may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such markers, buttons or signs are so placed, no operator of a vehicle shall turn such vehicle at an intersection other than as directed and required by such markers, buttons or signs.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.36)

331.11 TURNING INTO PRIVATE DRIVEWAY, ALLEY OR BUILDING.

(a) The driver of a vehicle intending to turn into a private road or driveway, alley or building from a public street or highway shall be governed by the following rules:

- (1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) Upon a roadway where traffic is proceeding in opposite directions, approach for a left turn and a left turn shall be made from that portion of the right half of the roadway nearest the center line thereof.
- (3) Upon a roadway where traffic is restricted to one direction, approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

It shall be the duty of the driver of any vehicle entering a private road or driveway, alley or building to yield the right of way to pedestrians lawfully using the sidewalk or sidewalk area extending across any alleyway, private road, driveway or building.

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

331.12 "U" TURNS RESTRICTED.

(a) Except as provided in Section 313.03 and subsection (b) hereof, no vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, if the vehicle cannot be seen within 500 feet by the driver of any other vehicle approaching from either direction.

(b) The driver of an emergency vehicle or public safety vehicle, when responding to an emergency call, may turn the vehicle so as to proceed in the opposite direction. This subsection applies only when the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, and when the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This subsection does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.
(ORC 4511.37)

(c) Except as provided in subsection (b) hereof, no vehicle shall be turned so as to proceed in the opposite direction within an intersection, or upon any street in a business district, or upon a freeway, expressway or controlled-access highway, or where authorized signs are erected to prohibit such movement, or at any other location unless such movement can be made with reasonable safety to other users of the street and without interfering with the safe operation of any traffic that may be affected by such movement.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.37)

331.13 STARTING AND BACKING VEHICLES.

(a) No person shall start a vehicle which is stopped, standing or parked until such movement can be made with reasonable safety.

Before backing, operators of vehicles shall give ample warning, and while backing they shall exercise vigilance not to injure person or property on the street or highway.

No person shall back a motor vehicle on a freeway, except: in a rest area; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.38)

331.14 SIGNALS BEFORE CHANGING COURSE, TURNING OR STOPPING.

(a) No person shall turn a vehicle or move right or left upon a highway unless and until such person has exercised due care to ascertain that the movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.

When required, a signal of intention to turn or move right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning, except that in the case of a person operating a bicycle, the signal shall be made not less than one time but is not required to be continuous. A bicycle operator is not required to make a signal if the bicycle is in a designated turn lane, and a signal shall not be given when the operator's hands are needed for the safe operation of the bicycle.

No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give a signal.

Any stop or turn signal required by this section shall be given either by means of the hand and arm, or by signal lights that clearly indicate to both approaching and following traffic intention to turn or move right or left, except that any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lights when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet, whether a single vehicle or a combination of vehicles.

The signal lights required by this section shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.39)

331.15 HAND AND ARM SIGNALS.

(a) Except as provided in subsection (b) hereof, all signals required by this Traffic Code, when given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signals shall indicate as follows:

- (1) Left turn: Hand and arm extended horizontally;
- (2) Right turn: Hand and arm extended upward;
- (3) Stop or decrease speed: Hand and arm extended downward.

(b) As an alternative to subsection (a)(2) hereof, a person operating a bicycle may give a right turn signal by extending the right hand and arm horizontally and to the right side of the bicycle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.40)

331.16 RIGHT OF WAY AT INTERSECTIONS.

(a) When two vehicles approach or enter an intersection from different streets or highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

(b) The right of way rule declared in subsection (a) hereof, is modified at through highways and otherwise as stated in this Traffic Code and Ohio R.C. Chapter 4511.
(ORC 4511.41)

(c) Subject to compliance with any traffic control device, when two vehicles approach or enter a junction of two or more alleys from different directions at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.41)

331.17 RIGHT OF WAY WHEN TURNING LEFT.

(a) The operator of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right of way to any vehicle approaching from the opposite direction, whenever the approaching vehicle is within the intersection or so close to the intersection, alley, private road or driveway as to constitute an immediate hazard.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.42)

331.18 OPERATION OF VEHICLE AT YIELD SIGNS.

(a) The driver of a vehicle approaching a yield sign shall slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways. Whenever a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, the collision shall be prima-facie evidence of the driver's failure to yield the right of way.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.43(B))

331.19 OPERATION OF VEHICLE AT STOP SIGNS.

(a) Except when directed to proceed by a law enforcement officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.43(A))

331.20 EMERGENCY OR PUBLIC SAFETY VEHICLES AT STOP SIGNALS OR SIGNS.

(a) The driver of any emergency vehicle or public safety vehicle, when responding to an emergency call, upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety to traffic, but may proceed cautiously past such red or stop sign or signal with due regard for the safety of all persons using the street or highway.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.03)

331.21 RIGHT OF WAY OF PUBLIC SAFETY OR CORONER'S VEHICLE.

(a) Upon the approach of a public safety vehicle or coroner's vehicle, equipped with at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and the driver is giving an audible signal by siren, exhaust whistle or bell, no driver of any other vehicle shall fail to yield the right-of-way, immediately drive if practical to a position parallel to and as close as possible to, the right edge or curb of the street clear of any intersection, and stop and remain in that position until the public safety vehicle or coroner's vehicle has passed, except when otherwise directed by a police officer.

(b) This section does not relieve the driver of a public safety vehicle or coroner's vehicle from the duty to drive with due regard for the safety of all persons and property upon the street.

(c) This section applies to a coroner's vehicle only when the vehicle is operated in accordance with Ohio R.C. 4513.171. As used in this section, "coroner's vehicle" means a vehicle used by a coroner, deputy coroner or coroner's investigator that is equipped with a flashing, oscillating or rotating red or blue light and a siren, exhaust whistle, or bell capable of giving an audible signal.

(d) Except as otherwise provided in this subsection or Section 331.211, whoever violates subsection (a) of this section is guilty of a misdemeanor of the fourth degree on a first offense. On a second offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree, and, on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the second degree. (ORC 4511.45)

331.211 REPORT OF VEHICLE FAILING TO YIELD RIGHT OF WAY TO PUBLIC SAFETY VEHICLE.

(a) When the failure of a motor vehicle operator to yield the right-of-way to a public safety vehicle as required by Section 331.21(a) impedes the ability of the public safety vehicle to respond to an emergency, any emergency personnel in the public safety vehicle may report the license plate number and a general description of the vehicle and the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred.

- (b)
 - (1) Upon receipt of a report under subsection (a) of this section, the law enforcement agency may conduct an investigation to attempt to determine or confirm the identity of the operator of the vehicle at the time of the alleged violation.
 - (2) If the identity of the operator at the time of an alleged violation of Section 331.21(a) is established, the law enforcement agency has probable cause to issue either a written warning or a citation for that violation, and the agency shall issue a written warning or a citation to the operator.
 - (3) If the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency may issue a warning to the person who owned the vehicle at the time of the alleged violation. However, in the case of a leased or rented vehicle, the law enforcement agency shall issue the written warning to the person who leased or rented the vehicle at the time of the alleged violation.
- (c)
 - (1) Whoever violates Section 331.21(a) based on a report filed under subsection (a) of this section is guilty of a minor misdemeanor and shall be fined one hundred fifty dollars (\$150.00).
 - (2) If a person who is issued a citation for a violation of Section 331.21(a) based on a report filed under subsection (a) of this section does not enter a written plea of guilty and does not waive the person's right to contest the citation but instead appears in person in the proper court to answer the charge, the trier of fact cannot find beyond a reasonable doubt that the person committed that violation unless the emergency personnel who filed the report appears in person in the court and testifies.
- (d) As used in this section:
 - (1) "License plate" includes any temporary license placard issued under Ohio R.C. 4503.182 or similar law of another jurisdiction.
 - (2) "Public safety vehicle" does not include an unmarked public safety vehicle or a vehicle used by a public law enforcement officer or other person sworn to enforce the criminal and traffic laws of the State or a vehicle used by the Motor Carrier Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission. (ORC 4511.454)

331.22 DRIVING ONTO ROADWAY FROM PLACE OTHER THAN ROADWAY: DUTY TO YIELD.

(a) Subject to compliance with any traffic control device, the operator of a vehicle about to enter or cross a highway from an alley or from any place other than another roadway shall yield the right of way to all traffic approaching on the roadway to be entered or crossed.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.44)

331.23 DRIVING ONTO ROADWAY FROM PLACE OTHER THAN ROADWAY: STOPPING AT SIDEWALK.

(a) Subject to compliance with any traffic control device, the driver of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.431)

331.24 RIGHT OF WAY OF FUNERAL PROCESSION.

(a) As used in this section "funeral procession" means two or more vehicles accompanying the cremated remains or the body of a deceased person in the daytime when each of the vehicles has its headlights lighted and is displaying a purple and white or an orange and white pennant attached to each vehicle in such a manner as to be clearly visible to traffic approaching from any direction.

(b) Excepting public safety vehicles proceeding in accordance with Section 331.21 or when directed otherwise by a police officer, pedestrians and the operators of all vehicles shall yield the right of way to each vehicle that is a part of a funeral procession. Whenever the lead vehicle in a funeral procession lawfully enters an intersection, the remainder of the vehicles in the procession may continue to follow the lead vehicle through the intersection notwithstanding any traffic control devices or right-of-way provisions of this Traffic Code, provided that the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian.

(c) No person shall operate any vehicle as a part of a funeral procession without having the headlights of the vehicle lighted and without displaying a purple and white or an orange and white pennant in such a manner as to be clearly visible to traffic approaching from any direction.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.451)

331.25 DRIVER'S VIEW AND CONTROL TO BE UNOBSTRUCTED BY LOAD OR PERSONS.

(a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

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

331.26 DRIVING UPON STREET POSTED AS CLOSED FOR REPAIR.

(a) No person shall drive upon, along or across a street or highway, or any part of a street or highway that has been closed in the process of its construction, reconstruction or repair, and posted with appropriate signs by the authority having jurisdiction to close such street or highway.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.71)

331.27 FOLLOWING AND PARKING NEAR EMERGENCY OR SAFETY VEHICLES.

(a) The driver of any vehicle, other than an emergency vehicle or public safety vehicle on official business, shall not follow any emergency vehicle or public safety vehicle traveling in response to an alarm closer than 500 feet, or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm, unless directed to do so by a police officer or a firefighter.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.72)

331.28 DRIVING OVER FIRE HOSE.

(a) No vehicle shall, without the consent of the Fire Chief or fire official in command, be driven over any unprotected fire hose that is laid down on any street or private driveway to be used at any fire or alarm of fire.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.73)

331.29 DRIVING THROUGH SAFETY ZONE.

(a) No vehicle shall at any time be driven through or within a safety zone.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.60)

331.30 ONE-WAY STREETS AND ROTARY TRAFFIC ISLANDS.

(a) Upon a roadway designated and posted with signs for one-way traffic a vehicle shall be driven only in the direction designated. A vehicle passing around a rotary traffic island shall be driven only to the right of the rotary traffic island.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.32)

331.31 DRIVING UPON DIVIDED ROADWAYS.

(a) Whenever any street has been divided into two roadways by an intervening space, or by a physical barrier, or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway, and no vehicle shall be driven over, across or within any such dividing space, barrier or median section, except through an opening, crossover or intersection established by public authority. This section does not prohibit the occupancy of such dividing space, barrier or median section for the purpose of an emergency stop or in compliance with an order of a police officer.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.35)

331.32 ENTERING AND EXITING CONTROLLED-ACCESS HIGHWAY.

(a) No person shall drive a vehicle onto or from any controlled-access highway except at such entrances and exits as are established by public authority.

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

331.33 OBSTRUCTING INTERSECTION, CROSSWALK OR GRADE CROSSING.

(a) No driver shall enter an intersection or marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, notwithstanding any traffic control signal indication to proceed.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.712)

331.34 FAILURE TO CONTROL; WEAVING; FULL TIME AND ATTENTION.

(a) No person shall operate a vehicle without exercising reasonable and ordinary control over such vehicle.

(b) No person shall operate a vehicle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.

(c) No person shall operate a vehicle without giving his full time and attention to the operation of such vehicle.

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

331.35 OCCUPYING A MOVING TRAILER OR MANUFACTURED OR MOBILE HOME.

(a) No person shall occupy any travel trailer or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.701)

331.36 SQUEALING TIRES, "PEELING," CRACKING EXHAUST NOISES.

(a) No person shall unnecessarily race the motor of any vehicle and no person shall operate any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the roadway, commonly called "peeling".

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

331.37 DRIVING UPON SIDEWALKS, STREET LAWNS OR CURBS.

(a) No person shall drive any vehicle, other than a bicycle, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway. (ORC 4511.711)

(b) No person shall drive a vehicle on a street lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.711)

331.38 STOPPING FOR SCHOOL BUS; DISCHARGING CHILDREN.

(a) The driver of a vehicle upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this subsection (a) hereof that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by subsection (b) hereof.

(b) Every school bus shall be equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, and an automatically extended stop warning sign of a type approved by the State Board of Education, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and County boards of developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are boarding or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the Board.

(c) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle overtaking the school bus shall comply with subsection (a) hereof.

(d) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

(e) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child or person's residence side of the road.

(f) As used in this section:

(1) "Head start agency" has the same meaning as in Ohio R.C. 3301.32.

(2) "School bus", as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the State Board of Education, is painted the color and displays the markings described in Ohio R.C. 4511.77, and is equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.

(g) (1) Whoever violates subsection (a) of this section may be fined an amount not to exceed five hundred dollars (\$500.00). A person who is issued a citation for a violation of subsection (a) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.

(2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (a)(7) of Ohio R.C. 4510.02. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the Registrar of Motor Vehicles, together with notice of the court's action. (ORC 4511.75)

331.39 DRIVING ACROSS GRADE CROSSING.

(a) (1) Whenever any person driving a vehicle approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad, if any of the following circumstances exist at the crossing:

A. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.

B. A crossing gate is lowered.

C. A flagperson gives or continues to give a signal of the approach or passage of a train.

- D. There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.
 - E. An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.
 - F. There is insufficient undercarriage clearance to safely negotiate the crossing.
- (2) A person who is driving a vehicle and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (a)(1)A. to F. of this section exist at the crossing.

(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(ORC 4511.62)

331.40 STOPPING AT GRADE CROSSING.

- (a) (1) Except as provided in subsection (a)(2) hereof, the operator of any bus, any school vehicle, or any vehicle transporting material required to be placarded under 49 CFR Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle, and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.
- (2) This section does not apply at grade crossings when the Ohio Public Utilities Commission has authorized and approved an exempt crossing as provided in this subsection.
- A. Any local authority may file an application with the Commission requesting the approval of an exempt crossing. Upon receipt of such a request, the Commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The Commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the Commission shall notify each railroad operating over the crossing of the comment period.
 - B. After considering any comments or other information received, the Commission may approve or reject the application. By order, the Commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing as ordered by the Commission and any other conditions ordered by the Commission are satisfied.

- C. By order, the Commission may rescind any exempt crossing designation made under this section if the Commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The Commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing designation. If the Commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.
- (3) As used in this section:
 - A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
 - B. "Bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.
 - C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this section.
- (4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4511.63)
- (b) (1) When authorized stop signs are erected at railroad grade crossings, the operator of any vehicle shall stop within fifty but not less than fifteen feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
- (2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.61)

331.41 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.

(a) No person shall operate a vehicle across public or private property marked with signs "No Through Traffic" or words of similar import for the purpose of passing from one roadway to another.

(b) No person shall operate a vehicle across public or private property for the purpose of avoiding compliance with a traffic control device.

(c) It shall be prima-facie evidence of a violation of this section for the operator of a vehicle to cross public or private property as provided herein without using the service of such property, stopping the engine or both.

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

331.42 LITTERING FROM MOTOR VEHICLE.

(a) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit litter from any motor vehicle in operation upon any street, road or highway, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(b) No operator of a motor vehicle in operation upon any street, road or highway shall allow litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(c) As used in this section, "litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4511.82)

331.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.

(a) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears. As used in this section, "earphones" means any headset, radio, tape player or other similar device that provides the listener with radio programs, music or other recorded information through a device attached to the head and that covers all or a portion of both ears. "Earphones" does not include speakers or other listening devices that are built into protective headgear.

(b) This section does not apply to:

- (1) Any person wearing a hearing aid;
- (2) Law enforcement personnel while on duty;
- (3) Fire personnel and emergency medical service personnel while on duty;
- (4) Any person engaged in the operation of equipment for use in the maintenance or repair of any street or highway; or
- (5) Any person engaged in the operation of refuse collection equipment.

(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 4511.84)

331.44 ADVERTISING FROM VEHICLE.

(a) No person shall operate or park a vehicle on any street for the primary purpose of advertising, (Ord. 4-52. Passed 1-22-52.)

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

331.45 ALLEYS RESTRICTED TO USE FOR ABUTTING LOTS.

(a) Alleys shall be used only for the purpose of ingress and egress to and from lots abutting such alley, and for the purpose of servicing such abutting lots.

(b) No person shall use any alley just as a thoroughfare to go from one street to another. (Ord. 72-55. Passed 11-28-55.)

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

331.46 FIRE LANE, FIRE DOOR, FIRE EXIT, BLOCKING PROHIBITED.

(a) "Fire lane" means any street, alley, thoroughfare, designated area, or other means of ingress or egress which shall be kept free from any blocking or obstruction in order to permit the ingress or egress of fire and/or emergency vehicles.

(b) The Chief of the Fire Department shall cause to be erected in and about said fire lanes signs designating such places as fire lanes and said signs shall contain at least the following language: "Fire Lane, No Blocking".

(c) It shall be unlawful for any person, except as provided in this section, to block or obstruct a fire lane or permit any vehicle, structure, merchandise, garbage or any other substance to obstruct or block a fire lane.

(d) It shall be unlawful for any person, except as provided in this section to block or park in front of designated fire doors or fire exits.

(e) The Chief of Police or the Fire Chief or an authorized representative, is hereby empowered to remove or cause to be removed any vehicle or other thing obstructing or blocking a fire lane.

(f) Whoever violates this section shall be guilty of a fourth degree misdemeanor. (Ord. 34-97. Passed 5-12-97.)

**331.47 VEHICULAR OPERATION ON STREET CLOSED DUE TO RISE
IN WATER LEVEL.**

(a) No person shall operate a vehicle on or onto a public street or highway that is temporarily covered by a rise in water level, including groundwater or an overflow of water, and that is clearly marked by a sign that specifies that the road is closed due to the rise in water level and that any person who uses the closed portion of the road may be fined up to two thousand dollars (\$2,000).

(b) A person who is issued a citation for a violation of subsection (a) hereof is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in court, but instead must appear in person in the proper court to answer the charge.

- (c) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.
(2) In addition to the financial sanctions authorized or required under Section 501.99 and to any costs otherwise authorized or required under any provision of law, the court imposing the sentence upon an offender who is convicted of or pleads guilty to a violation of subsection (a) hereof shall order the offender to reimburse one or more rescuers for the cost any such rescuer incurred in rescuing the person, excluding any cost of transporting the rescued person to a hospital or other facility for treatment of injuries, up to a cumulative maximum of two thousand dollars (\$2,000). If more than one rescuer was involved in the emergency response, the court shall allocate the reimbursement proportionately, according to the cost each rescuer incurred. A financial sanction imposed under this section is a judgment in favor of the rescuer and, subject to a determination of indigency under division (B) of Ohio R.C. 2929.28, a rescuer may collect the financial sanction in the same manner as provided in Ohio R.C. 2929.28.

(d) As used in this section:

- (1) "Emergency medical service organization", "firefighting agency" and "private fire company" have the same meanings as in Ohio R.C. 9.60.
(2) "Rescuer" means a state agency, political subdivision, firefighting service, private fire company, or emergency medical service organization.
(ORC 4511.714.)

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- (2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of Ohio R.C. 4511.21 or of any provision of a municipal ordinance that is substantially similar to Ohio R.C. 4511.21 and operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, faster than fifty miles an hour in other portions of a municipal corporation, or faster than thirty-five miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.
- (3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.
- (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.21)

333.031 APPROACHING A STATIONARY PUBLIC SAFETY, EMERGENCY OR ROAD SERVICE VEHICLE.

(a) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle that is displaying the appropriate visual signals by means of flashing, oscillating or rotating lights, as prescribed in Section 337.16, shall do either of the following:

- (1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.
- (2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.

(b) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(c) No person shall fail to drive a motor vehicle in compliance with subsection (a)(1) or (2) of this section when so required by subsection (a) of this section.

- (d) (1) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (2) Notwithstanding Section 303.99(b), upon a finding that a person operated a motor vehicle in violation of subsection (c) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.
- (3) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(e) The offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.213)

333.04 STOPPING VEHICLE; SLOW SPEED; POSTED MINIMUM SPEEDS.

(a) No person shall stop or operate a vehicle at such an unreasonably slow speed as to impede or block the normal and reasonable movement of traffic, except when stopping or reduced speed is necessary for safe operation or to comply with law.

(b) Whenever, in accordance with Ohio R.C. 4511.22(B), the minimum speed limit of a controlled-access highway, expressway or freeway has been declared and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. No person shall operate a motor vehicle below the speed limits posted upon such signs except when necessary for safe operation or in compliance with law.

(c) In a case involving a violation of this section, the trier of fact, in determining whether the vehicle was being operated at an unreasonably slow speed, shall consider the capabilities of the vehicle and its operator.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.22)

333.05 SPEED LIMITATIONS OVER BRIDGES.

(a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed that can be maintained with safety to such bridge or structure, when such structure is posted with authorized signs stating such maximum speed. Such signs shall be erected and maintained at a distance of at least 100 feet before each end of such structure.

(b) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed and the existence of such signs shall constitute prima-facie evidence of the maximum speed which can be maintained with safety to such bridge or structure.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.23)

333.06 SPEED EXCEPTIONS FOR EMERGENCY OR SAFETY VEHICLES.

The prima-facie speed limitations set forth in Section 333.03 do not apply to emergency vehicles or public safety vehicles when they are responding to emergency calls and are equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and when the drivers thereof sound audible signals by bell, siren or exhaust whistle. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons using the street or highway. (ORC 4511.24)

333.07 STREET RACING PROHIBITED.

(a) As used in this section, "street racing" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds.

Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as the participants. The operation of two or more vehicles side by side either at speeds in excess of prima-facie lawful speeds established by Section 333.03 or rapidly accelerating from a common starting point to a speed in excess of such prima-facie lawful speeds shall be prima-facie evidence of street racing.

(b) No person shall participate in street racing upon any public road, street or highway in this Municipality.

(c) Whoever violates this section is guilty of street racing, a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege for not less than thirty days or more than three years. No judge shall suspend the first thirty days of any suspension of an offender's license, permit, or privilege imposed under this subsection. (ORC 4511.251)

333.08 OPERATION WITHOUT REASONABLE CONTROL.

(a) No person shall operate a motor vehicle, agricultural tractor, or agricultural tractor that is towing, pulling, or otherwise drawing a unit of farm machinery on any street, highway, or property open to the public for vehicular traffic without being in reasonable control of the vehicle, agricultural tractor or unit of farm machinery.

(b) Whoever violates this section is guilty of operating a motor vehicle or agricultural tractor without being in control of it, a minor misdemeanor.
(ORC 4511.202)

333.09 RECKLESS OPERATION ON STREETS, PUBLIC OR PRIVATE PROPERTY.

(a) No person shall operate a vehicle on any street or highway without due regard for the safety of persons or property.

(b) No person shall operate a vehicle on any public or private property other than streets or highways, without due regard for the safety of persons or property.

This subsection does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.

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

333.10 OPERATION IN VIOLATION OF IMMOBILIZATION ORDER.

(a) No person shall operate a motor vehicle or permit the operation of a motor vehicle upon any public or private property used by the public for vehicular travel or parking knowing or having reasonable cause to believe that the motor vehicle has been ordered immobilized pursuant to an immobilization order issued under Ohio R.C. 4503.233.

(b) A motor vehicle that is operated by a person during a violation of subsection (a) hereof shall be criminally forfeited in accordance with the procedures contained in Ohio R.C. 4503.234.

(c) Whoever violates this section is guilty of a misdemeanor of the second degree.
(ORC 4503.236)

333.11 TEXTING WHILE DRIVING PROHIBITED.

(a) No person shall drive a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication.

(b) Subsection (a) of this section does not apply to any of the following:

- (1) A person using a handheld electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
- (2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;

- (3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;
- (4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a telephone call;
- (5) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic or weather alerts; or data used primarily by the motor vehicle;
- (6) A person receiving wireless messages via radio waves;
- (7) A person using a device for navigation purposes;
- (8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;
- (9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;
- (10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.

(c) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (a) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(d) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(e) A prosecution for a violation of Ohio R.C. 4511.204 does not preclude a prosecution for a violation of a substantially equivalent municipal ordinance based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of Ohio R.C. 4511.204 and is also convicted of or pleads guilty to a violation of a substantially equivalent municipal ordinance based on the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(f) As used in this section:

- (1) "Electronic wireless communications device" includes any of the following:
 - A. A wireless telephone;
 - B. A text-messaging device;
 - C. A personal digital assistant;
 - D. A computer, including a laptop computer and a computer tablet;
 - E. Any other substantially similar wireless device that is designed or used to communicate text.

- (2) "Voice-operated or hands-free device" means a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate, or deactivate a feature or function.
- (3) "Write, send or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or electronic mail.
(ORC 4511.204)

If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour and is towing, pulling or otherwise drawing a unit of farm machinery, the unit of farm machinery shall display a slow-moving vehicle emblem and a speed identification symbol that is the same as the speed identification symbol that is displayed on the agricultural tractor.

(h) When an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour, the operator shall possess some documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.

(i) As used in this section, "boat trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(j) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.11)

337.11 SPOTLIGHT AND AUXILIARY LIGHTS.

(a) Any motor vehicle may be equipped with not more than one spotlight and every lighted spotlight shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle, nor more than 100 feet ahead of the vehicle.

(b) Any motor vehicle may be equipped with not more than three State approved auxiliary driving lights mounted on the front of the vehicle, which when used shall conform to State regulations.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.12)

337.12 COWL, FENDER AND BACK-UP LIGHTS.

(a) Any motor vehicle may be equipped with side cowl or fender lights or lights on each side thereof which shall emit a white or amber light without glare.

(b) Any motor vehicle may be equipped with back-up lights, either separately or in combination with another light. No back-up lights shall be continuously lighted when the motor vehicle is in forward motion.

(c) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.13)

337.13 DISPLAY OF LIGHTED LIGHTS.

(a) At all times mentioned in Section 337.02 at least two State approved lighted lights shall be displayed conforming to State regulations, one near each side of the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles. (ORC 4513.14)

(b) However, on a motorcycle, there shall be displayed at least one and not more than two lighted lights as required herein.

- (c) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.14)

337.14 USE OF HEADLIGHT BEAMS.

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 337.02, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons, vehicles and substantial objects at a safe distance in advance of the vehicle, except that upon approaching an oncoming vehicle, the lights or beams shall be so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

- (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.15)

337.15 LIGHTS OF LESS INTENSITY ON SLOW-MOVING VEHICLES.

(a) Any motor vehicle may be operated under the conditions specified in Section 337.02 when it is equipped with two lighted lights upon the front thereof capable of revealing persons and substantial objects seventy-five feet ahead in lieu of lights required in Section 337.13, provided that such vehicle shall not be operated at a speed in excess of twenty miles per hour.

- (b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.16)

337.16 NUMBER OF LIGHTS; LIMITATIONS ON FLASHING, OSCILLATING OR ROTATING LIGHTS.

(a) Whenever a motor vehicle equipped with headlights also is equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candle power, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.

(b) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights or auxiliary driving lights, that projects a beam of light of an intensity greater than 300 candle power, shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

- (c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash or recyclable materials on the roadside, rural mail delivery vehicles, vehicles transporting preschool children as provided in Ohio R.C. 4513.182, highway maintenance vehicles, funeral hearses, funeral escort vehicles and similar equipment operated by the Department or local authorities, which shall be equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light, but shall not display a flashing, oscillating or rotating light of any other color, nor to vehicles or machinery permitted by Section 337.10 to have a flashing red light.
- (2) When used on a street or highway, farm machinery and vehicles escorting farm machinery may be equipped with and display a flashing, oscillating, or rotating amber light, and the prohibition contained in subsection (c)(1) hereof does not apply to such machinery or vehicles. Farm machinery also may display the lights described in Section 337.10.

may determine based on evidence admitted consistent with the Ohio rules of evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in Ohio R.C. 2307.011 in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.

- (2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:
- A. It seeks to recover damages for injury or death to the occupant.
 - B. The defendant in question is the manufacturer, designer, distributor or seller of the passenger car.
 - C. The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.

- (g) (1) Whoever violates subsection (b)(1) of this section shall be fined thirty dollars (\$30.00).
- (2) Whoever violates subsection (b)(3) of this section shall be fined twenty dollars (\$20.00).
- (3) Except as otherwise provided in this subsection, whoever violates subsection (b)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(4) of this section, whoever violates subsection (b)(4) of this section is guilty of a misdemeanor of the third degree.
(ORC 4513.263)

337.28 USE OF SUNSCREENING, NONTRANSPARENT AND REFLECTORIZED MATERIALS.

(a) Requirements.

- (1) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State with any suncreening material, or other product or material which has the effect of making the windshield or windows nontransparent or would alter the windows' color, increase its reflectivity, or reduce its light transmittance, unless the product or material satisfies one of the following exceptions:

- A. Any manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle until such standard is subsequently repealed or reduced. In "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) "manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>.
 - B. Any sunscreening material or other product or material applied to the windshield when used in conjunction with the safety glazing materials of such window, has a light transmittance of not less than seventy per cent plus or minus three per cent and is not red or yellow in color.
 - C. Any sunscreening material or other product or material applied to the side windows to the immediate right or left of the driver, so long as such material, when used in conjunction with the safety glazing materials of such windows, has a light transmittance of not less than fifty per cent plus or minus three per cent and is not red or yellow in color.
 - D. Any sunscreening material or other product or material applied to a window not otherwise listed in subsections (a)(1)A. to C. or E. of this section, except that outside left and right rear view mirrors are required if the sunscreening material is applied to the rear window and the sunscreening material, when used in conjunction with the safety glazing material of such window, has a light transmittance of less than fifty per cent plus or minus three per cent.
 - E. Any sunscreening material or other product or material applied along the top of the windshield and that does not extend downward beyond the AS-1 line or five inches from the top of the windshield, whichever is closer to the top, is not regulated by this section.
- (2) No person shall install in any motor vehicle any glass or other material that fails to conform to the specifications of this section.
 - (3) No used motor vehicle dealer or new motor vehicle dealer, as defined in Ohio R.C. 4517.01, shall sell any motor vehicle that fails to conform to the specifications of this section.
 - (4) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings or rear window.
 - (5) No person shall operate on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State that is equipped with privacy drapes, louvers, curtains or blinds unless the drapes, louvers, curtains or blinds are open and secure during vehicle operation.
 - (6) All motor vehicles, beginning with the 1990 model year, must be equipped with labels identifying sunscreening material. All sunscreening material must indicate the manufacturer's name and the percentage level of light transmission of the material permanently installed between the material and the surface to which the material is applied or affixed. Such label must be legible and must be placed in the lower left-hand corner of the vehicle window when viewed from the outside. (OAC 4501-41-03)

(b) Exemptions. The provisions of this section do not apply to:

- (1) A motor vehicle registered in this State in the name of a person, or the person's parent, legal guardian or spouse who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or an affidavit signed by an optometrist licensed to practice in this State under Ohio R.C. Chapter 4725 that states that the person has a physical condition that makes it necessary to equip such motor vehicle with sunscreening material which would be of a light transmittance and/or luminous reflectance in violation of this section. Such affidavit shall be in the possession of the person so afflicted or the driver at all times while in the motor vehicle;
- (2) The windows to the rear of the driver in chauffeured limousines as defined herein;
- (3) The windows to the rear of the driver in those vehicles designed and used to transport corpses which include hearses and other vehicles adapted for such use; and
- (4) The manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle as provided in subsection (a) hereof. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>. (OAC 4501-41-05)

(c) Definitions. As used in this section, certain terms are defined as follows:

- (1) "Motor vehicle" has the same meaning as specified in Section 301.20.
- (2) "Sunscreening material" means products or materials, including film, glazing and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduce the effects of the sun with respect to light reflectance or transmittance.
- (3) "Transmittance" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.
- (4) "Windshield" means the front exterior viewing device of a motor vehicle.
- (5) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield or any roof-mounted viewing device.
- (6) "Manufacturer" unless otherwise specified in this section, means any person who engages in the manufacturing or assembling of sunscreening products or materials or any person who fabricates, laminates or tempers a safety glazing material, incorporating, during the manufacturing process, the capacity to reflect or reduce the transmission of light.
- (7) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an arrangement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing. (OAC 4501-41-02)

(d) Penalty. Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.241)

337.29 BUMPER HEIGHTS.

(a) Definitions.

- (1) "Passenger car" means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.
- (2) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.
- (3) "Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.
- (4) "Manufacturer" has the same meaning as in Ohio R.C. 4501.01.
- (5) "Gross vehicle weight rating" means the manufacturer's gross vehicle weight rating established for the vehicle.
- (6) "Body floor height" means the vertical distance between top of the frame rail and the bottom of the passenger compartment (cab) floor. In the event that the vehicle is a truck body, floor height will be measured by the vertical distance between the passenger compartment (cab) floor and the floor of the truck bed.
- (7) "Bumper height" means the vertical distance between the ground and the highest point of the bottom of the bumper, measured when the vehicle is laden on a level surface with the vehicle tires inflated to the manufacturer's recommended pressure.
- (8) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.
- (9) "Wheel track distance" means the distance on the ground between the center of the tire tread on one side of the vehicle, and the center of the tire tread on the opposite side. (OAC 4501-43-02)

(b) Prohibitions; Application.

- (1) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State that does not conform to the requirements of this section.
- (2) No person shall modify any motor vehicle registered in this State in such a manner as to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation, and no person shall disconnect any part of the original suspension system of the vehicle to defeat the safe operation of that system including the installation of inverted, altered or modified suspension system component parts which results in elevation of the height of the vehicle bumper or frame unit which is not in compliance with this section.
- (3) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State without a bumper on the front and rear of the vehicle if such vehicle was equipped with bumpers as standard equipment by the manufacturer.

- (4) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State if the difference in height between the body floor and the top of the frame exceeds four inches.
- (5) Nothing contained in this section shall be construed to prohibit either of the following:
 - A. The installation upon a passenger car, multipurpose passenger vehicle or truck registered in this State of heavy duty equipment, including shock absorbers and overload springs as long as such equipment does not cause the vehicle to be in violation of this section;
 - B. The operation on a street or highway of a passenger car, multipurpose passenger vehicle or truck registered in this State with normal wear to the suspension system if the normal wear does not adversely affect the control of the vehicle.
- (6) This section does not apply to any specially designed or modified passenger car, multipurpose passenger vehicle or truck when operated off a street or highway in races and similar events.
- (7) A specially designed or modified passenger car, multipurpose passenger vehicle or truck which does not conform to this section shall not be operated on a street or highway.
(OAC 4501-43-03)

(c) Specifications.

- (1) The horizontal bumper shall be at least 4.5 inches in vertical height, centered on the vehicle's centerline, and extend no less than the width of the respective wheel track distances. Bumpers shall be horizontal load bearing bumpers and attached to the vehicle frame to effectively transfer impact when engaged.
- (2) Maximum bumper heights shall be determined by the type of vehicle at time of manufacture. If other than a passenger vehicle, the maximum bumper height shall be determined by the gross vehicle weight rating (GVWR) at the time of manufacture. The height shall be measured in terms of the vertical distance between the ground and the bottom of the bumper. Maximum bumper heights are as follows:

	<u>Front (inches)</u>	<u>Rear (inches)</u>
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

- (3) If the body and/or truck bed height is altered the difference in height between the body floor and/or the truck bed floor to the top of the frame rail shall not exceed four inches.
- (4) For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer's design in order to conform with the maximum bumper requirements of this section, the bumper height shall be measured from a level surface to the bottom of the vehicle frame rail at the most forward and rearward points of the frame rail. Frame rail height if bumper modified or altered:

	<u>Front (inches)</u>	<u>Rear (inches)</u>
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

- (5) The height restriction in this subsection (c) applies to the distance from the ground to the bottom of the frame rail under any one or more of the following conditions:

- A. A motor vehicle is not equipped with a front and rear bumper.
 - B. The bumper height relative to the frame rails has been altered.
 - C. A supplemental bumper has been installed or an addition to the original or replacement has been made.
- (OAC 4501-43-04)

- (d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.30 DIRECTIONAL SIGNALS REQUIRED.

- (a) (1) No person shall operate any motor vehicle manufactured or assembled on or after January 1, 1954, unless the vehicle is equipped with electrical or mechanical directional signals.
- (2) No person shall operate any motorcycle or motor-driven cycle manufactured or assembled on or after January 1, 1968, unless the vehicle is equipped with electrical or mechanical directional signals.

(b) "Directional signals" means an electrical or mechanical signal device capable of clearly indicating an intention to turn either to the right or to the left and which shall be visible from both the front and rear.

(c) All mechanical signal devices shall be self-illuminating devices when in use at the times mentioned in Section 337.02.

- (d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.261)

TITLE NINE - Pedestrians, Bicycles and Motorcycles

Chap. 371. Pedestrians.

Chap. 373. Bicycles and Motorcycles.

Chap. 374. Motorized Bicycles.

Chap. 375. Snowmobiles, Off-Highway Motorcycles, and All Purpose Vehicles.

CHAPTER 371 Pedestrians

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|---------------|---|---------------|--|
| 371.01 | Right of way in crosswalk. | 371.07 | Right of way on sidewalk. |
| 371.02 | Right of way of blind person. | 371.08 | Yielding to public safety vehicle. |
| 371.03 | Crossing roadway outside crosswalk; diagonal crossings at intersections. | 371.09 | Walking on highway while under the influence. |
| 371.04 | Moving upon right half of crosswalk. | 371.10 | On bridges or railroad crossings. |
| 371.05 | Walking along highways. | 371.11 | Persons operating motorized wheelchairs. |
| 371.06 | Use of highway for soliciting; riding on outside of vehicles. | 371.12 | Electric personal assistive mobility devices. |

CROSS REFERENCES

See sectional histories for similar State law

Pedestrian defined - see TRAF. 301.22

Pedestrian prohibited on freeways - see TRAF. 303.06

Obedience to traffic control devices - see TRAF. 313.01, 313.03

Pedestrian control signals - see TRAF. 313.05

371.01 RIGHT OF WAY IN CROSSWALK.

(a) When traffic control signals are not in place, not in operation or are not clearly assigning the right of way, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield or if required by Section 313.09, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(c) Subsection (a) hereof does not apply under the conditions stated in Section 371.03(b).

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.46)

371.02 RIGHT OF WAY OF BLIND PERSON.

(a) As used in this section "blind person" or "blind pedestrian" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

The driver of every vehicle shall yield the right of way to every blind pedestrian guided by a guide dog, or carrying a cane which is predominately white or metallic in color, with or without a red tip.

(b) No person, other than a blind person, while on any public highway, street, alley or other public thoroughfare shall carry a white metallic cane, with or without a red tip.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.47)

371.03 CROSSING ROADWAY OUTSIDE CROSSWALK; DIAGONAL CROSSINGS AT INTERSECTIONS.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all traffic upon the roadway.

(c) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

- (g) (1) Except as otherwise provided in this subsection, whoever violates any provision of subsections (a) to (d) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the third degree.
- (2) Whoever violates subsection (e) or (f) of this section is guilty of a minor misdemeanor. (ORC 4511.51)

371.07 RIGHT OF WAY ON SIDEWALK.

- (a) The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.441)

371.08 YIELDING TO PUBLIC SAFETY VEHICLE.

(a) Upon the immediate approach of a public safety vehicle as stated in Section 331.21, every pedestrian shall yield the right of way to the public safety vehicle.

(b) This section shall not relieve the driver of a public safety vehicle from the duty to exercise due care to avoid colliding with any pedestrian.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.452)

371.09 WALKING ON HIGHWAY WHILE UNDER THE INFLUENCE.

(a) A pedestrian who is under the influence of alcohol, any drug of abuse, or any combination of them, to a degree that renders the pedestrian a hazard shall not walk or be upon a highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.481)

be a passenger on a motorcycle operated by such a person unless similarly wearing a protective helmet. The helmet, safety glasses or other protective eye device shall conform with rules adopted by the Ohio Director of Public Safety. The provisions of this subsection or a violation thereof shall not be used in the trial of any civil action.

- (2) Subsection (h)(1) of this section does not apply to a person operating an autocycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.

- (i) (1) No person shall operate a motorcycle with a valid temporary permit and temporary instruction permit identification card issued by the Ohio Registrar of Motor Vehicles pursuant to Ohio R.C. 4507.05 unless the person, at the time of such operation, is wearing on the person's head a protective helmet that has been approved by the United States Department of Transportation that conforms with rules adopted by the Director.
- (2) No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar pursuant to Ohio R.C. 4507.05 in any of the following circumstances:
 - A. At any time when lighted lights are required by Section 337.02(a)(1);
 - B. While carrying a passenger;
 - C. On any limited access highway or heavily congested roadway.

(j) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle.

(k) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.53)

373.03 ATTACHING BICYCLE OR SLED TO VEHICLE.

(a) No person riding upon any motorcycle, bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or self to any vehicle upon a roadway.

No operator shall knowingly permit any person riding upon any motorcycle, bicycle, coaster, roller skates, sled or toy vehicle to attach the same or self to any vehicle while it is moving upon a roadway. This section does not apply to the towing of a disabled vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.54)

373.04 RIDING BICYCLES AND MOTORCYCLES ABREAST.

(a) Persons riding bicycles, motorbikes or motorcycles upon a roadway shall ride in single file:

- (1) In business districts of the City;
- (2) On through streets; and
- (3) In other places upon order of any police officer.

except upon paths or parts of roadways set aside for the exclusive use of bicycles, motorbikes or motorcycles, where persons shall in no event ride more than two abreast.
(ORC 4511.55; Ord. 4-52. Passed 1-22-52.)

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.55(B))

373.05 SIGNAL DEVICE ON BICYCLE.

(a) A bicycle may be equipped with a device capable of giving an audible signal, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.56)

373.06 LIGHTS AND REFLECTOR ON BICYCLE; BRAKES.

(a) Every bicycle when in use at the times specified in Section 337.02, shall be equipped with the following:

- (1) A lamp mounted on the front of either the bicycle or the operator that shall emit a white light visible from a distance of at least five hundred feet to the front; and three hundred feet to the sides. A generator-powered lamp that emits light only when the bicycle is moving may be used to meet this requirement.
- (2) A red reflector on the rear that shall be visible from all distances from one hundred feet to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.
- (3) A lamp emitting either flashing or steady red light visible from a distance of five hundred feet to the rear shall be used in addition to the red reflector; If the red lamp performs as a reflector in that it is visible as specified in subsection (a)(2) of this section, the red lamp may serve as the reflector and a separate reflector is not required.

(b) Additional lamps and reflectors may be used in addition to those required under subsection (a) of this section, except that red lamps and red reflectors shall not be used on the front of the bicycle and white lamps and white reflectors shall not be used on the rear of the bicycle.

(c) Every bicycle shall be equipped with an adequate brake when used on a street or highway.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.56)

373.07 RIDING BICYCLE ON RIGHT SIDE OF ROADWAY; OBEDIENCE TO TRAFFIC RULES; PASSING.

(a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) This section does not require a person operating a bicycle to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it otherwise is unsafe or impracticable to do so, including if the lane is too narrow for the bicycle and an overtaking vehicle to travel safely side by side within the lane.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.55(A))

373.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

(a) No person shall operate a bicycle:

- (1) Without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, and so as to endanger the life, limb or property of any person while in the lawful use of the streets or sidewalks or any other public or private property;
- (2) Without exercising reasonable and ordinary control over such bicycle;
- (3) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law;
- (4) Without both hands upon the handle grips except when necessary to give the required hand and arm signals, or as provided in Section 373.02(d);
- (5) At a speed greater than is reasonable and prudent under the conditions then existing.

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

373.09 PARKING OF BICYCLE.

(a) No person shall park a bicycle upon a sidewalk in such a manner so as to unduly interfere with pedestrian traffic or upon a roadway so as to unduly interfere with vehicular traffic.

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

373.10 VEHICLE OTHER THAN A BICYCLE IN BICYCLE PARKING ZONES.

(a) No owner or operator of any vehicle, other than a bicycle, shall park or allow to stand any such vehicle in any zone designated for bicycle parking at any time.
(Ord. 2098. Passed 10-21-40.)

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

373.11 RIDING ON SIDEWALK. (REPEALED)

EDITOR'S NOTE: Former Section 373.11 was repealed by Ordinance 9-13.

373.12 IMPOUNDING BICYCLE OR SKATEBOARD IN LIEU OF OTHER PENALTY.

A police officer of the City, acting in accordance with instructions issued by the Safety-Service Director, may punish violators of provisions of this Traffic Code relating to bicycles and skateboards by impounding the bicycle or skateboard for a period of ten days in lieu of the other penalties provided by this Traffic Code. (Ord. 30-90. Passed 10-8-90.)

373.13 PATHS EXCLUSIVELY FOR BICYCLES.

(a) No person shall operate a motor vehicle, snowmobile, golf cart, or all-purpose vehicle upon any path set aside for the exclusive use of bicycles, except for public safety services, public maintenance vehicles, and electric wheelchairs used by a disabled person or if permitted by a special event organized by Lancaster Parks and Recreation.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(Ord. 10-13. Passed 4-8-13.)

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.713)

CHAPTER 513 Drug Abuse Control

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| <p>513.01 Definitions.</p> <p>513.02 Gift of marihuana.</p> <p>513.03 Drug abuse; controlled substance possession or use.</p> <p>513.04 Possessing drug abuse instruments.</p> <p>513.05 Permitting drug abuse.</p> <p>513.06 Illegal cultivation of marihuana.</p> <p>513.07 Possessing or using harmful intoxicants.</p> <p>513.08 Illegally dispensing drug samples.</p> <p>513.09 Controlled substance or prescription labels.</p> | <p>513.10 Hypodermic possession, display and dispensing.</p> <p>513.11 Harmful intoxicants; possessing nitrous oxide in motor vehicle.</p> <p>513.12 Drug paraphernalia.</p> <p>513.121 Marihuana drug paraphernalia.</p> <p>513.13 Counterfeit controlled substances.</p> <p>513.14 Offender may be required to pay for controlled substance tests.</p> <p>513.99 Penalty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 Federal prosecution bar to local prosecution - see Ohio R.C.
 2925.50, 3719.19
 Analysis report and notarized statement as evidence - see
 Ohio R.C 2925.51
 Criteria for granting probation - see Ohio R.C 3719.70(B)
 Adulterating food with drug of abuse - see GEN. OFF. 537.13
 Using weapons while under the influence - see GEN. OFF. 549.03.

513.01 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

- (a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.
 (ORC 3719.01)
- (b) "Bulk amount" of a controlled substance means any of the following:
 - (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound and hashish and except as provided in subsection (b)(2), (5) or (6) hereof, whichever of the following is applicable:
 - A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;

- B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;
 - C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol, or lysergic acid amide, or a Schedule I stimulant or depressant;
 - D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;
 - E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;
 - F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the Federal Drug Abuse Control laws as defined in Ohio R.C. 3719.01, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
 - G. An amount equal to or exceeding three grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the Federal Drug Abuse Control laws;
- (2) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
 - (3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;
 - (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance.
 - (5) An amount equal to or exceeding 200 solid dosage units, sixteen grams or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid.

- (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound, or any other compound, mixture, preparation or substance included in schedule III, schedule IV, or schedule V, if the defendant is charged with a violation of Ohio R.C. 2925.11 and the sentencing provisions set forth in divisions (C)(10)(b) and (C)(11) of that section will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in subsection (b)(1), (2), (3), (4) or (5) of this section for the other schedule III, IV or V controlled substance that is combined with the fentanyl-related compound. (ORC 2925.01)
- (c) "Controlled substance" means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV, or V.
- (d) "Controlled substance analog" has the same meaning as provided in Ohio R.C. 3719.01.
- (e) "Counterfeit controlled substance" means:
- (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to that trademark, trade name or identifying mark; or
 - (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it; or
 - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or
 - (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (f) "Cultivate" includes planting, watering, fertilizing or tilling. (ORC 2925.01)
- (g) "Dangerous drug" means any of the following:
- (1) Any drug to which either of the following applies:
 - A. Under the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;
 - B. Under Ohio R.C. Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.
 - (2) Any drug that contains a Schedule V controlled substance and that is exempt from Ohio R.C. Chapter 3719 or to which that chapter does not apply;
 - (3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body. (ORC 4729.01)
- (h) "Deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01. (ORC 2925.01)
- (i) "Dispense" means sell, leave with, give away, dispose of or deliver.
- (j) "Distribute" means to deal in, ship, transport or deliver but does not include administering or dispensing a drug. (ORC 3719.01)

- (k) "Drug" means:
- (1) Any article recognized in the United States pharmacopoeia and national formulary, or any supplement to them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;
 - (2) Any other article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;
 - (3) Any article, other than food, intended to affect the structure or any function of the body of humans or animals;
 - (4) Any article intended for use as a component of any article specified in subsections (k)(1), (2) or (3) of this section; but does not include devices or their components, parts or accessories.
(ORC 4729.01)
- (l) "Drug of abuse" means any controlled substance as defined in subsection (c) hereof, any harmful intoxicant as defined in subsection (o) hereof and any dangerous drug as defined in subsection (g) hereof.
(ORC 3719.011)
- (m) "Drug abuse offense" means any of the following:
- (1) A violation of Ohio R.C. 2925.02, 2925.03, 2925.04 to 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs;
 - (2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (m)(1) hereof;
 - (3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element;
 - (4) A conspiracy or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (m)(1), (2) or (3) hereof.
- (n) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this State, any other state or the United States.
- (n)(1) "Fentanyl-related compound" means any of the following:
- (1) Fentanyl;
 - (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
 - (3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
 - (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl)-N-phenylpropanamide);
 - (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide);
 - (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
 - (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide);

- (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]propanamide;
 - (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide;
 - (10) Alfentanil;
 - (11) Carfentanil;
 - (12) Remifentanil;
 - (13) Sufentanil;
 - (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]-N-phenylacetamide); and
 - (15) A schedule I narcotic-opiate that meets the fentanyl pharmacophore requirements specified in division (A)(56) of Ohio R.C. 3719.41, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl.
- (o) "Harmful intoxicant" does not include beer or intoxicating liquor, but means any of the following:
- (1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes, but is not limited to, any of the following:
 - A. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;
 - B. Any aerosol propellant;
 - C. Any fluorocarbon refrigerant;
 - D. Any anesthetic gas.
 - (2) Gamma Butyrolactone;
 - (3) 1,4 Butanediol.
- (p) "Hashish" means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
- (q) "Hypodermic" means a hypodermic syringe or needle, or other instrument or device for the injection of medication. (ORC 3719.01)
- (r) "Juvenile" means a person under eighteen years of age.
- (s) "Lawful prescription" means a prescription that is issued for a legitimate medical purpose by a licensed health professional authorized to prescribe drugs, that is not altered or forged, and that was not obtained by means of deception or by the commission of any theft offense.
- (t) "Licensed health professional authorized to prescribe drugs", "prescriber" and "prescription" have the same meanings as in Ohio R.C. 4729.01.
- (u) "Manufacture" means to plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production. (ORC 2925.01)
- (v) "Manufacturer" means a person who manufactures a controlled substance as "manufacture" is defined in Ohio R.C. 3715.01.

- (w) Except as provided in subsection (w)(2) hereof:
- (1) "Marihuana" means all parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. (ORC 3719.01)
 - (2) "Marihuana" does not include hashish. (ORC 2925.01)
- (x) "Methamphetamine" means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine. (ORC 2925.01)
- (y) "Official written order" means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by Federal law. (ORC 3719.01)
- (z) Offense.
- (1) An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises. (ORC 2925.01)
 - (2) An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (aa) "Pharmacist" means a person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.
- (bb) "Pharmacy" has the same meaning as in Ohio R.C. 4729.01.
- (cc) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less. (ORC 3719.01)
- (dd) "Possess" or "possession" means having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (ee) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort. (ORC 2925.01)
- (ff) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee. (ORC 3719.01)

- (gg) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer. (ORC 2925.01)
- (hh) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" and "Schedule V" mean controlled substance Schedules I, II, III, IV, and V respectively, established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44. (ORC 3719.01)
- (ii) "School" means any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (jj) "School building" means any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (kk) "School premises" means either of the following:
- (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the premises at the time a criminal offense is committed;
 - (2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.
- (ll) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (mm) "Unit dose" means an amount or unit of a compound, mixture or preparation containing a controlled substance, that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual. (ORC 2925.01)
- (nn) "Wholesaler" means a person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes a "wholesale distributor of dangerous drugs" as defined in Ohio R.C. 4729.01. (ORC 3719.01)

513.02 GIFT OF MARIHUANA.

(a) No person shall knowingly give or offer to make a gift of twenty grams or less of marihuana.

(b) Whoever violates this section is guilty of trafficking in marihuana. Trafficking in marihuana is a minor misdemeanor for the first offense and, for any subsequent offense, it is a misdemeanor of the third degree. If the offense was committed in the vicinity of a school or the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(c) The court may by order suspend for not more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any violation of this section. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with Ohio R.C. 2925.03(G). If an offender's driver's or commercial driver's license or permit is suspended pursuant to this subsection, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension.
(ORC 2925.03)

513.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.

(a) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog.

- (b) (1) This section does not apply to the following:
- A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.
 - B. If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
 - C. Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;
 - D. Any person who obtained the controlled substance pursuant to a lawful prescription issued by a licensed health professional authorized to prescribe drugs.
- (2) A. As used in subsection (b)(2) of this section:
- 1. "Community addiction services provider" has the same meaning as in Ohio R.C. 5119.01.
 - 2. "Community control sanction" and "drug treatment program" have the same meanings as in Ohio R.C. 2929.01.
 - 3. "Health care facility" has the same meaning as in Ohio R.C. 2919.16.
 - 4. "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.
 - 5. "Post-release control sanction" has the same meaning as in Ohio R.C. 2967.28.
 - 6. "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
 - 7. "Public agency" has the same meaning as in Ohio R.C. 2930.01.

8. "Qualified individual" means a person who is not on community control or post-release control and is a person acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
 9. "Seek or obtain medical assistance" includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.
- B. Subject to subsection (b)(2)F. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted or penalized pursuant to this chapter for a minor drug possession offense if all of the following apply:
1. The evidence of the obtaining, possession or use of the controlled substance or controlled substance analog that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.
 2. Subject to subsection (b)(2)G. of this section, within thirty days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.
 3. Subject to subsection (b)(2)G. of this section, the qualified individual who obtains a screening and receives a referral for treatment under subsection (b)(2)B.1. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that subsection. The documentation shall be limited to the date and time of the screening obtained and referral received.
- C. If a person is found to be in violation of any community control sanction and if the violation is a result of either of the following, the court shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.13, 2929.15, or 2929.25, whichever is applicable, after which the court has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in any of those applicable sections:
1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
 2. Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.

- D. If a person is found to be in violation of any post-release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.141 or 2967.28, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:
 - 1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
 - 2. Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
 - E. Nothing in subsection (b)(2)B. of this section shall be construed to do any of the following:
 - 1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of subsection (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to subsection (b)(2)B. of this section for a minor drug possession offense;
 - 2. Limit any seizure of evidence or contraband otherwise permitted by law;
 - 3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;
 - 4. Limit, modify or remove any immunity from liability available pursuant to law in effect prior to the effective date of this amendment to any public agency or to an employee of any public agency.
 - F. Subsection (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under subsection (b)(2)B. of this section. No person shall be granted an immunity under subsection (b)(2)B. of this section more than two times.
 - G. Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996", 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.
- (c) Whoever violates subsection (a) hereof is guilty of one of the following:
- (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (a) hereof is guilty of possession of drugs. Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows:

possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony and shall be prosecuted under appropriate State law.

- (2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates subsection (a) hereof is guilty of possession of marihuana. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(2)B. hereof, possession of marihuana is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.
- (3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof is guilty of possession of hashish. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the maximum amount specified in subsection (c)(3)B. hereof. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(3)B. hereof, possession of hashish is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

(d) In addition to any other sanction that is imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 2925.11)

513.04 POSSESSING DRUG ABUSE INSTRUMENTS.

(a) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.

(b) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.

(c) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.12)

513.05 PERMITTING DRUG ABUSE.

(a) No person, who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle as defined in Ohio R.C. 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.

(b) No person, who is the owner, lessee or occupant, or who has custody, control or supervision of premises, or real estate, including vacant land, shall knowingly permit the premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.

(c) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree. If the felony drug abuse offense in question is a violation of Ohio R.C. 2925.02, 2925.03, 2925.04 or 2925.041 as provided in Ohio R.C. 2925.13, permitting drug abuse is a felony and shall be prosecuted under appropriate State law.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences a person who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(e) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2925.13)

513.06 ILLEGAL CULTIVATION OF MARIHUANA.

(a) No person shall knowingly cultivate marihuana.

(b) This section does not apply to any person listed in Ohio R.C. 2925.03(B)(1) to (3) to the extent and under the circumstances described in those divisions.

(c) Whoever commits a violation of subsection (a) hereof is guilty of illegal cultivation of marihuana. Illegal cultivation of marihuana is a misdemeanor if the amount of marihuana involved does not exceed 200 grams.

- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal cultivation of marihuana is a minor misdemeanor, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.
- (2) If the amount of marihuana involved equals or exceeds 100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of Ohio R.C. 2925.03. If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in an application for employment, a license, or any other right or privilege or made in connection with the person's appearance as a witness. (ORC 2925.04)

513.07 POSSESSING OR USING HARMFUL INTOXICANTS.

(a) Except for lawful research, clinical, medical, dental or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess or use a harmful intoxicant.

(b) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony and shall be prosecuted under appropriate State law.

(c) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.31)

513.08 ILLEGALLY DISPENSING DRUG SAMPLES.

(a) No person shall knowingly furnish another a sample drug.

(b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741.

(c) Whoever violates this section is guilty of illegal dispensing of drug samples. If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:

- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.
- (2) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.36)

513.09 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.

(a) As used in this section, "repackager" and "outsourcing facility" have the same meanings as in ORC 4729.01.

Whenever a manufacturer sells a controlled substance, and whenever a wholesaler, repackager, or outsourcing facility sells a controlled substance in a package the wholesaler, repackager or outsourcing facility has prepared, the manufacturer or the wholesaler, repackager or outsourcing facility, as the case may be, shall securely affix to each package in which the controlled substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person, except a pharmacist for the purpose of dispensing a controlled substance upon a prescription shall alter, deface or remove any label so affixed.

(b) Except as provided in subsection (c) of this section, when a pharmacist dispenses any controlled substance on a prescription for use by a patient, or supplies a controlled substance to a licensed health professional authorized to prescribe drugs for use by the professional in personally furnishing patients with controlled substances, the pharmacist shall affix to the container in which the controlled substance is dispensed or supplied a label showing the following:

- (1) The name and address of the pharmacy dispensing or supplying the controlled substance;
- (2) The name of the patient for whom the controlled substance is prescribed and, if the patient is an animal, the name of the owner and the species of the animal;
- (3) The name of the prescriber;
- (4) All directions for use stated on the prescription or provided by the prescriber;
- (5) The date on which the controlled substance was dispensed or supplied;
- (6) The name, quantity and strength of the controlled substance and, if applicable, the name of the distributor or manufacturer.

(c) The requirements of subsection (b) of this section do not apply when a controlled substance is prescribed or supplied for administration to an ultimate user who is institutionalized.

(d) A licensed health professional authorized to prescribe drugs who personally furnishes a controlled substance to a patient shall comply with division (A) of ORC 4729.291 with respect to labeling and packaging of the controlled substance.

(e) No person shall alter, deface, or remove any label affixed pursuant to this section as long as any of the original contents remain.

(f) Every label for a schedule II, III or IV controlled substance shall contain the following warning:

“Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed”. (ORC 3719.08)

(g) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.07 or 3719.08 or a drug abuse offense, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 3719.99)

513.10 HYPODERMIC POSSESSION, DISPLAY AND DISPENSING.

(a) Possession of a hypodermic is authorized for the following:

- (1) A manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, and any authorized agent or employee of that manufacturer, distributor or dealer, in the regular course of business;
- (2) Terminal distributor of dangerous drugs, in the regular course of business;
- (3) A person authorized to administer injections, in the regular course of the person's profession or employment;
- (4) A person, when the hypodermic was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;
- (5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;
- (6) A farmer, for the lawful administration of a drug to an animal;
- (7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.

(b) No manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, or their authorized agents or employees, and no terminal distributor of dangerous drugs, shall display any hypodermic for sale. No person authorized to possess a hypodermic pursuant to division (a) of this section shall negligently fail to take reasonable precautions to prevent any hypodermic in the person's possession from theft or acquisition by any unauthorized person. (ORC 3719.172)

(c) Whoever violates this section is guilty of a misdemeanor of the third degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.05, 3719.06, 3719.13, 3719.172(B) or (E), or 3719.31 or a drug abuse offense, a violation is a misdemeanor of the first degree. (ORC 3719.99)

513.11 HARMFUL INTOXICANTS; POSSESSING NITROUS OXIDE IN MOTOR VEHICLE.

(a) As used in this section, “motor vehicle”, “street” and “highway” have the same meanings as in Ohio R.C. 4511.01.

(b) Unless authorized under Ohio R.C. Chapter 3719, 4715, 4729, 4731, 4741 or 4765, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:

- (1) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking;
- (2) While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.

(c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.

(d) In addition to any other sanction imposed upon an offender for possessing nitrous oxide in a motor vehicle, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. (ORC 2925.33)

513.12 DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or Ohio R.C. Chapter 2925. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:

- (1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
- (2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
- (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;
- (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
- (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance;
- (6) A scale or balance for weighing or measuring a controlled substance;
- (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
- (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;
- (9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;
- (10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;
- (11) A container or device for storing or concealing a controlled substance;
- (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
- (13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

- (1) Any statement by the owner, or by anyone in control, of the equipment, product or material, concerning its use;

- (2) The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or Ohio R.C. Chapter 2925;
 - (3) The proximity of the equipment, product or material to any controlled substance;
 - (4) The existence of any residue of a controlled substance on the equipment, product or material;
 - (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom the owner or person in control of the equipment, product or material knows intends to use the object to facilitate a violation of any provision of this chapter or Ohio R.C. Chapter 2925. A finding that the owner, or anyone in control, of the equipment, product or material, is not guilty of a violation of any other provision of this chapter or Ohio R.C. Chapter 2925, does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia;
 - (6) Any oral or written instruction provided with the equipment, product or material concerning its use;
 - (7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use;
 - (8) National or local advertising concerning the use of the equipment, product or material;
 - (9) The manner and circumstances in which the equipment, product or material is displayed for sale;
 - (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise;
 - (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
 - (12) Expert testimony concerning the use of the equipment, product or material.
- (c) (1) Subject to subsection (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
- (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.
- (3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this State, if the person knows that the purpose of the advertisement is to promote the illegal sale in the State of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.
- (d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.
- (2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

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

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

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

513.121 MARIHUANA DRUG PARAPHERNALIA.

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

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

(c) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

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

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

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

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

513.13 COUNTERFEIT CONTROLLED SUBSTANCES.

- (a) No person shall knowingly possess any counterfeit controlled substance.
- (b) Whoever violates this section is guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree. (ORC 2925.37)
- (c) The court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.37)

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

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

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

513.99 PENALTY.

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

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

- (2) Knowingly buy or sell a credit card from or to a person other than the issuer.
 - (3) As an officer, employee, or appointee of a political subdivision or as a public servant as defined under Section 525.01, knowingly misuse a credit card account held by a political subdivision.
- (b) No person, with purpose to defraud, shall do any of the following:
- (1) Obtain control over a credit card as security for a debt;
 - (2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained or is being used in violation of law;
 - (3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;
 - (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.
- (c) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.
- (d) Whoever violates this section is guilty of misuse of credit cards, a misdemeanor of the first degree. Misuse of credit cards is a felony and shall be prosecuted under appropriate State law if:
- (1) The cumulative retail value of the property and services involved in one or more violations of subsection (b)(2), (3) or (4) hereof, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one thousand dollars (\$1,000) or more; or
 - (2) The victim of the offense is an elderly person or disabled adult and the offense involves a violation of subsection (b)(1) or (2) hereof.
- (ORC 2913.21)

545.11 MAKING OR USING SLUGS.

- (a) No person shall do any of the following:
- (1) Insert or deposit a slug in a coin machine, with purpose to defraud;
 - (2) Make, possess or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.
- (b) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree. (ORC 2913.33)

545.12 TAMPERING WITH COIN MACHINES.

- (a) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with or insert any part of an instrument into any coin machine.
- (b) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of Ohio R.C. 2911.32 or of any theft offense, tampering with coin machines is a felony and shall be prosecuted under appropriate State law. (ORC 2911.32)

545.13 CRIMINAL SIMULATION.

- (a) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Make or alter any object so that it appears to have value because of antiquity, rarity, curiosity, source, or authorship, which it does not in fact possess;
- (2) Practice deception in making, retouching, editing, or reproducing any photograph, movie film, video tape, phonograph record, or recording tape;
- (3) Falsely or fraudulently make, simulate, forge, alter, or counterfeit any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, falsely or fraudulently cause to be made, simulated, forged, altered, or counterfeited any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, or use more than once any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303.
- (4) Utter, or possess with purpose to utter, any object that the person knows to have been simulated as provided in subsection (a)(1), (2) or (3) of this section.

(b) Whoever violates this section is guilty of criminal simulation, a misdemeanor of the first degree. If the loss to the victim is one thousand dollars (\$1,000) or more, criminal simulation is a felony and shall be prosecuted under appropriate State law.
(ORC 2913.32)

545.14 TAMPERING WITH RECORDS.

(a) No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Falsify, destroy, remove, conceal, alter, deface or mutilate any writing, computer software, data, or record;
- (2) Utter any writing or record, knowing it to have been tampered with as provided in subsection (a)(1) hereof.

(b) Whoever violates this section is guilty of tampering with records, a misdemeanor of the first degree. If the violation involves data or computer software the value of which or loss to the victim is one thousand dollars (\$1,000) or more, or if the writing or record is a will unrevoked at the time of the offense, tampering with records is a felony and shall be prosecuted under appropriate State law. (ORC 2913.42)

545.15 SECURING WRITINGS BY DECEPTION.

(a) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.

(b) Whoever violates this section is guilty of securing writings by deception, a misdemeanor of the first degree. Securing writings by deception is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property or obligation involved is one thousand dollars (\$1,000) or more; or
- (2) The victim of the offense is an elderly person, disabled adult, active duty service member or spouse of an active duty service member.
(ORC 2913.43)

545.16 PERSONATING AN OFFICER.

(a) No person, with purpose to defraud or knowing that he is facilitating a fraud, or with purpose to induce another to purchase property or services, shall personate a law enforcement officer, or an inspector, investigator or agent of any governmental agency.

(b) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree. (ORC 2913.44)

545.17 DEFRAUDING CREDITORS.

(a) No person, with purpose to defraud one or more of the person's creditors, shall do any of the following:

- (1) Remove, conceal, destroy, encumber, convey or otherwise deal with any of the person's property.
- (2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage the person's affairs or estate, the existence, amount or location of any of the person's property, or any other information regarding such property that the person is legally required to furnish to the fiduciary.

(b) Whoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree. If the value of the property involved is one thousand dollars (\$1,000) or more, defrauding creditors is a felony and shall be prosecuted under appropriate State law. (ORC 2913.45)

545.18 RECEIVING STOLEN PROPERTY.

(a) No person shall receive, retain or dispose of property of another, knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.

(b) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.

(c) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree. Receiving stolen property is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property involved is one thousand dollars (\$1,000) or more; or
 - (2) The property involved is:
 - A. Listed in Section 545.03; or
 - B. A motor vehicle as defined in Ohio R.C. 4501.01; or
 - C. A dangerous drug as defined in Ohio R.C. 4729.01.
 - D. A special purchase article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.
- (ORC 2913.51)

545.19 POSSESSION OF CRIMINAL TOOLS.

(a) No person shall possess or have under the person's control any substance, device, instrument, or article, with purpose to use it criminally.

- (b) Each of the following constitutes prima-facie evidence of criminal purpose:
- (1) Possession or control of any dangerous ordnance, or the materials or parts for making dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials, or parts are intended for legitimate use;
 - (2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use;
 - (3) Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.

(c) Whoever violates this section is guilty of possessing criminal tools, a misdemeanor of the first degree. If the circumstances indicate that the substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, possessing criminal tools is a felony and shall be prosecuted under appropriate State law. (ORC 2923.24)

545.20 FORGERY OF IDENTIFICATION CARDS.

(a) No person shall knowingly do either of the following:

- (1) Forge an identification card;
- (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.
- (3) As used in this section, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card" or other similar words appear on the card.

(b) Whoever violates subsection (a) hereof is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this subsection, forging or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or Ohio R.C. 2913.31 (B), forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars (\$250.00). (ORC 2913.31)

545.21 MISREPRESENTING EYEGLASSES; ADVERTISING PRICE.

(a) No person, or his agent or employee, engaged in or connected with the sale of eyeglasses, ophthalmic lenses, eyeglass frames or mountings, shall include in any advertisement by newspaper, radio, display or otherwise, any statement which in any manner misrepresents any such frames, mountings or other material, or prices for the same, or services or credit terms.

(b) No person, or his agent or employee, engaged in or connected with the sale of eyeglasses, ophthalmic lenses, eyeglass frames or mountings, shall include in any advertisement by newspaper, radio, display or otherwise, any statement advertising the price of lenses or of complete eyeglasses, including lenses, either with or without professional services or credit terms, installment payments or price plans, or the price of any frames or mountings, unless in conjunction therewith the words "without lenses" appear in such a manner as to be clearly discernible, or read in such a manner as to be clearly understood.
(Ord. 72-53. Passed 11-23-53.)

(c) Whoever violates any provision of this section is guilty of a minor misdemeanor. Each such advertisement as set forth herein for the sale of the items or materials specified shall constitute a separate offense.

545.99 PENALTY.

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

CHAPTER 549 Weapons and Explosives

549.01	Definitions.	549.07	Underage purchase of firearm.
549.02	Carrying concealed weapons.	549.08	Discharging firearms.
549.03	Using weapons while intoxicated.	549.09	Throwing or shooting missiles.
549.04	Improperly handling firearms in a motor vehicle.	549.10	Carrying certain weapons prohibited.
549.05	Failure to secure dangerous ordnance.	549.11	Possessing replica firearm in school.
549.06	Unlawful transactions in weapons.	549.12	Defacing identification marks of a firearm; possessing a defaced firearm.
		549.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 License or permit to possess dangerous ordnance - see
 Ohio R.C. 2923.18
 Hunting prohibited - see GEN. OFF. 505.11
 Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)
 Property destruction by tear gas device, etc. - see GEN. OFF. 541.04

549.01 DEFINITIONS.

As used in this chapter:

- (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.
- (b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.
- (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.
- (c) "Handgun" means any of the following:
 - (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
 - (2) Any combination of parts from which a firearm of a type described in subsection (c)(1) of this section can be assembled.
- (d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

- (e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.
- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.
- (g) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:
 - (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
 - (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
 - (5) Any firearm muffler or suppressor;
 - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.
- (l) "Dangerous ordnance" does not include any of the following:
 - (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
 - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;

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

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

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

- (c) (1) This section does not apply to any of the following:

A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;

B. Any person who is employed in this State, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.

- (2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

- A. The person transporting or possessing the handgun is either carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125.
 - B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- (3) Subsection (a) of this section does not apply to a person if all of the following apply:
 - A. The person possesses a valid all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the Chief of the Division of Wildlife.
 - B. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle during the open hunting season for a wild quadruped or game bird.
 - C. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife.
- (d)
 - (1) The affirmative defenses authorized in Section 549.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.
 - (2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.
- (e)
 - (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
 - (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b) of this section as it existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (b) of this section on or after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.
If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (a) of this section as the subsection existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (a) of this section on or after September 30, 2011, due to the application of subsection (b)(4) of this section as it exists on and after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

CHAPTER 905 Curbs and Driveways

905.01 Curb cut or driveway permit required.
905.02 Permit fee.
905.03 Driveway construction materials.

905.04 Drive access onto City right of way.
905.05 Right to appeal.
905.99 Penalty.

CROSS REFERENCES

Restoration after excavation - see S.U. & P.S. 901.04
 Curbs in subdivisions - see P. & Z. 1109.02(d)

905.01 CURB CUT OR DRIVEWAY PERMIT REQUIRED.

No person shall construct, remove, cut, widen, change, or eliminate any curb, driveway or access point along any public right of way within the City without first obtaining a curb cut and/or driveway permit and approval from the City Engineering Department or Certified Building Department. Plans/drawings shall be submitted that depict the exact location, size and layout of the curb cut and/or driveway.
 (Ord. 19-18. Passed 10-22-18.)

905.02 PERMIT FEE.

The fee associated with this permit shall be published in the current: "City of Lancaster - Certified Building Department - Condensed Fee/Construction Permit Schedule" as established by the City Administration.
 (Ord. 19-18. Passed 10-22-18.)

905.03 DRIVEWAY CONSTRUCTION MATERIALS.

All curbs, driveways, and sidewalks integrated within the driveway access point shall be constructed in accordance with the current: "City of Lancaster - Standard Construction Drawings". (Ord. 19-18. Passed 10-22-18.)

905.04 DRIVE ACCESS ONTO CITY RIGHT OF WAY.

At the discretion of the City Engineer, curb cuts and/or driveway access points may need additional review. The City Engineer shall utilize the current "Access Management Guidelines" when reviewing the access point being constructed, changed or removed.
 (Ord. 19-18. Passed 10-22-18.)

905.05 RIGHT TO APPEAL.

If the applicant does not agree with City Engineer's decision on the access permit, the applicant may appeal to the Staff Safety Committee. The appeal should be made within forty-five (45) calendar days from the date of receipt of the City Engineer's decision. Staff Safety Committee will review all appeals that are made at least five (5) working days before their scheduled meeting. Staff Safety Committee will make a recommendation to the City Planning Commission for the final decision.

(Ord. 19-18. Passed 10-22-18.)

905.99 PENALTY.

Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor of the first degree. Each day the violation continues shall constitute a separate offense.

(Ord. 19-18. Passed 10-22-18.)

CHAPTER 937 Waste Removal

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| <p>937.01 Definitions.</p> <p>937.02 Purpose.</p> <p>937.03 Rates for collection.</p> <p>937.04 Private waste disposal.</p> <p>937.05 Acceptable waste container regulations.</p> <p>937.06 Collection business prohibited.</p> <p>937.07 Vehicles of private haulers.</p> <p>937.08 Collection regulations.</p> <p>937.09 Ownership of waste on disposal site.</p> <p>937.10 Discontinuance of service; nuisance conditions.</p> | <p>937.11 Dumpsters.</p> <p>937.12 Transfer station rates.</p> <p>937.13 Solid waste disposal fees.</p> <p>937.14 Unacceptable waste and yard waste.</p> <p>937.15 Bulk pick-up rates and regulations.</p> <p>937.16 Charges a lien.</p> <p>937.17 Appeal.</p> <p>937.18 Rules and regulations.</p> <p>937.99 Penalty.</p> |
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CROSS REFERENCES

Collection and disposal - see Ohio R.C. 715.43, 717.01
 Employment of scavengers - see Ohio R.C. 3707.39
 Disposal and transportation upon public ways - see Ohio R.C. 3767.20 et seq.
 Obstructing streets with building construction refuse - see BLDG. 1311.01

937.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply:

- (a) "Acceptable waste" means that portion of the residential and commercial stream that is normally disposed of by occupants of a residential dwelling or commercial establishment including only common household waste and refuse.
- (b) "Acceptable waste container" means only the trash carts provided and assigned by the City that may be used for acceptable waste disposal pursuant to the requirements in Section 937.05. An acceptable waste container does include a sealed plastic bag or box.
- (c) "Common household waste" means waste originating from a residential unit or commercial entities and includes, but is not limited to fiber material, paper, cardboard, packaging, cans, bottles, jars, food wastes and other similar materials.
- (d) "Commercial business" means any business that requires a dumpster for their trash needs that can be serviced multiple times per week.
- (e) "Condemned products" means any structure, installation, utensil, equipment, food, drink, feed, chemical or biological preparation, device or article of any kind, that may be a health hazard as determined by the Health Commissioner and which has been seized, tagged or labeled by the Health Commissioner as a hazard and which may not be used in any manner until the Health Commissioner determines the hazard has been abated.

- (f) "Construction, remodeling and demolition waste" means all waste building materials, rubble and spoils resulting from construction, remodeling, repair, and demolition operations on buildings, dwelling units, places of business, garages, pavements, streets, alleys, trenches, ditches, underground utilities, excavations, and other structures including, but not limited to roofing, concrete and cinder block, plaster, insulation, lumber, structural steel, plumbing fixtures, electrical wiring, heating and ventilation equipment, windows and doors, interior finishing materials such as woodwork and cabinets, siding, sheathing and aged railroad ties.
- (g) "Double or duplex family residence" means the grouping together of two residential units under a common roof.
- (h) "Hazardous waste" means any chemical, compound mixture, substance, or article which has been designated by the United States Environmental Protection Agency or an appropriate agency of the State to be hazardous, including, but not limited to flammables such as paint, gasoline, lacquer thinner, or any container that once contained these materials, as well as propane tanks, gun powder and other explosives, and automobile batteries.
- (i) "Industrial business" means any business that requires a roll-off container or compacting roll-off container that the City cannot service.
- (j) "Medical waste, infectious waste" shall include:
 - (1) Cultures and stocks of infectious agents and associated biologicals;
 - (2) Laboratory wastes that were, or are likely to have been, in contact with infectious agents that may present a substantial threat to public health if improperly managed;
 - (3) Pathological wastes;
 - (4) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents;
 - (5) Human and animal blood specimens and blood products that are being disposed of not including patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids;
 - (6) Contaminated carcasses, body parts, and bedding of animals that were intentionally exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals, and carcasses and bedding of animals otherwise infected that may present a substantial threat to public health if improperly managed;
 - (7) Sharp wastes such as hypodermic needles, syringes, or scalpel blades used in the treatment, diagnosis, or inoculation of human beings or animals or that have, or are likely to have, come in contact with infectious agents in medical research or industrial laboratories and which must be placed into puncture resistant containers before disposal;
 - (8) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that the public council created in Ohio R.C. 3701.33;
 - (9) Any other waste materials the generator designates as infectious waste.
- (k) "Multiple family residence" or "apartment" means the grouping together under a common roof of three or more residential units.
- (l) "Normal business" means any business that does not require a dumpster but needs more than one (1) ninety-five (95) gallon provided and assigned trash cart of service per week. These businesses shall be provided and assigned up to three (3) ninety-five (95) gallon trash carts that will be serviced one time per week.

- (m) "Radioactive waste" means any substance that spontaneously emits ionizing radiation.
- (n) "Recyclables" means aluminum cans, glass bottles and jars, plastic containers, tin cans, newspaper and any other material designated by the Sanitation Department as recyclables.
- (o) "Refrigerants and items containing chlorofluorocarbons (CFC) or their substitutes" means items that contain chlorofluorocarbons which contribute to the depletion of the ozone layer. This includes refrigerators and other devices utilizing either chlorofluorocarbons as a coolant or the substitutes for chlorofluorocarbons which may not cause ozone depletion but which are subject to special handling requirements.
- (p) "Refuse" means paper, boxes, baskets, rags, old shoes, broken glass, tin cans, ashes and similar discarded materials. It does not include construction, remodeling, and demolition waste.
- (q) "Residential unit" means the place of abode of persons living separately or together as an independent family in a "dwelling unit" as defined in Section 1161.01(37).
- (r) "Small business" means any business that only needs only one (1) ninety-five (95) gallon provided and assigned trash cart of service per week.
- (s) "Trash cart" means a thirty-five (35) gallon or a ninety-five (95) gallon wheeled trash container with a closable lid approved, provided, and assigned by the Sanitation Department. The Sanitation Department Superintendent, or his/her designee, will designate approved trash carts with the concurrence of City Council.
- (t) "Unacceptable waste" means that portion of the waste stream that will not be picked up by the City of Lancaster and is further defined in Section 937.14.
- (u) "Volume", as used in Section 937.12, means average volume.
- (v) "White goods" are a type of bulk refuse that may be recycled or resold including, but not limited to large, enameled appliances such as clothing washers and dryers, dish washers, furnaces and electrical heaters, hot water heaters, stove and ovens.
- (w) "Yard waste" means solid waste that included only grass clippings, brush, garden waste, tree trunks, holiday trees, tree trimmings, and/or prunings. (Source: EPA definition from The Municipal Solid Waste Landfill Regulations OAC 3745-27).
(Ord. 9-18. Passed 7-16-18.)

937.02 PURPOSE.

(a) This waste code is enacted to preserve and promote the public health, safety and welfare by establishing minimum standards for the storage, collection, transportation and disposal of acceptable and unacceptable waste in order to maintain a sanitary environment for the residents of the City of Lancaster. Whenever this chapter conflicts with any other portion of the Codified Ordinances, this chapter shall prevail with respect to any matters relating to acceptable or unacceptable waste generated by residential units or places of business.
(Ord. 9-18. Passed 7-16-18.)

937.03 RATES FOR COLLECTION.

(a) Monthly Rates. Monthly rates for the collection and disposal of acceptable waste by the City are hereby established as follows:

- (1) Class 1. Any one or two persons, sixty-two (62) years of age or older, occupying a residential unit will be provided and assigned by the Sanitation Department, at no charge, one (1) thirty-five (35) gallon trash cart in which all trash for pick-up must be placed. All trash must be placed in the trash cart with the lid closed. No bags, boxes or trash of any kind shall be placed on top of the trash cart or on the ground. Class 1 occupants must sign an application at the Utilities Collection Office.

a) Rate - nine dollars (\$9.00) per month.

- (2) Class 2. Residential units will be provided and assigned by the Sanitation Department, at no charge, one (1) ninety-five (95) gallon trash cart. All trash must be placed in the trash cart with the lid closed. No bags, boxes, or trash of any kind shall be placed on top of the trash cart or on the ground.

a) Rate - thirteen dollars and fifty cents (\$13.50) per month.

b) Any residential unit needing more than one (1) trash cart may request a second trash cart provided and assigned by the Sanitation Department for a one-time non-refundable fee of twenty-five dollars (\$25.00) and an additional three dollars per month service fee for a total monthly rate of sixteen dollars and fifty cents (\$16.50) per month.

- (3) Class 3. Small businesses will be provided and assigned by the Sanitation Department, at no charge, one (1) ninety-five (95) gallon trash cart.

a) Rate - thirteen dollars and fifty cents (\$13.50) per month.

- (4) Class 4. Normal businesses will be provided and assigned by the Sanitation Department, at no charge, no more than three (3) ninety-five (95) gallon trash carts per week.

a) Rate - twenty-four dollars (\$24.00) per month.

- (5) Class 5a. Commercial, industrial, multiple-family residences and businesses using dumpsters per uncompacted cubic yard, with minimum of two (2) cubic yards.

a) Rate - eighteen dollars and seventy-five cents (\$18.75) per month.

- (6) Class 5b. Commercial, industrial, multiple-family and businesses using dumpster per compacted cubic yard.

(b) Rate - sixty-eight dollars and fifty cents (\$68.50) per month.

(c) Dumpsters. Dumpsters shall be approved by the Sanitation Department.

(Ord. 9-18. Passed 7-16-18.)

937.04 PRIVATE WASTE DISPOSAL.

(a) No person shall throw, dump or deposit acceptable or unacceptable waste upon the ground or bury the same upon any premises, public or private, within the City, and no person shall permit any acceptable or unacceptable waste to stand or lay on the premises occupied by him, as tenant or owner, for a period of longer than one (1) week or burn the same in any place except a heating plant or incinerator so designed as to thoroughly consume the same without causing nuisance or smoke, fly ash or offensive odors. Whenever a landlord assumes responsibility for utility services for a tenant, such landlord shall be equally responsible with the tenant for sanitation services as provided herein.

(Ord. 9-18. Passed 7-16-18.)

937.05 ACCEPTABLE WASTE CONTAINER REGULATIONS.

Acceptable waste containers in the City of Lancaster shall be only the following:

- (a) Ninety-five (95) or thirty-five (35) gallon trash carts provided and assigned by the Sanitation Department. Should a resident already own a trash cart and wish to use it as a second trash cart they still must pay an additional fee of three dollars (\$3.00) per month, but the one time twenty-five dollars (\$25.00), non-refundable fee will be waived.
 - (b) Dumpsters approved by the Sanitation Department.
 - (c) Any other garbage can or trash can, plastic bag, box or container is not an acceptable waste container.
- (Ord. 9-18. Passed 7-16-18.)

937.06 COLLECTION BUSINESS PROHIBITED.

(a) No person, business, firm or corporation, except the City, shall engage in or carry on the business of collection, hauling and disposing of waste in the City.

(b) An exception to this section is permitted if such person, business, firm or corporation received permission in writing from the Superintendent of Sanitation and Service Safety Director.

(Ord. 9-18. Passed 7-16-18.)

937.07 VEHICLES OF PRIVATE HAULERS.

Industrial or other producers of waste herein granted the right to convey waste to the waste disposal site shall accomplish the same in trucks or vehicles so constructed as to prevent the leakage or scattering of the contents thereof, and all such conveyances shall be provided with a suitable tarpaulin which shall at all times cover the contents thereof, except when being loaded or unloaded. (Ord. 9-18. Passed 7-16-18.)

937.08 COLLECTION REGULATIONS.

(a) It is the intention of this chapter that each family or person occupying a separate residential unit, or each business or firm, shall make a separate provision for the collection and removal of acceptable waste. There shall be no doubling up. Any multiple family residence and/or three (3) separate businesses shall, if deemed necessary, be required to have a dumpster.

(b) No acceptable waste shall be placed or allowed to be placed for removal except in the acceptable waste containers provided and assigned by the Sanitation Department for that purpose. Acceptable waste containers shall not be placed for pick-up until the night before or the day of pick-up service and no later than 7:30 a.m. on day of pick-up. All trash must be placed inside the trash cart, with the lid completely closed. Additional trash cannot be stacked on top of the trash cart. No other bags, cans, or containers will be picked-up, with the exception of holiday weeks. Holiday weeks shall be defined as the ten (10) holidays that the City of Lancaster observes which are New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day. Failure to abide by these regulations will result in additional fees as set forth in subsection (f) below.

(c) Collection shall be made at the street curb or alley property lines as determined by the Superintendent of the Sanitation Department. Trash carts must be placed within three (3) feet of the curb or alley with lid opening facing the street or alley and the wheels toward the residence. Trash carts must be placed at least three (3) feet from any tree, pole, mailbox, etc., and at least ten (10) feet from parked cars. Multiple trash carts must be spaced three (3) feet apart.

(d) When, in the opinion of the Superintendent of the Sanitation Department, an alternate route of collection will better serve the City and the person whose acceptable waste is being collected, the Superintendent may use such an alternate route.

(e) All trash carts shall be returned by the City employees to designated pick-up points set forth in subsection (c) above. Owners shall then return trash carts to the point of origin/storage location and shall not be left at the street curb or alley property line. Trash carts must be removed from the curb or alley by 7:00 PM the day of pick-up.

(f) Additional fees shall apply as follows:

- (1) If one (1) cubic yard or less outside of trash cart
 - i. First and Second offense: Trash will be picked-up, and trash cart will be tagged with a warning.
 - ii. Third and Fourth offense: Trash will be picked-up and a service fee of ten dollars (\$10.00) will be added to the monthly utility bill for each separate offense.
 - iii. After Fourth offense: A second ninety-five (95) gallon trash cart will be provided and assigned to the address, a one-time twenty-five dollars (\$25.00) non-refundable fee will be assessed for the second trash cart, and the monthly sanitation rate will be increased by three dollars (\$3.00) to sixteen dollars and fifty cents (\$16.50).
- (2) Bulk items and/or excessive trash in excess of one (1) cubic yard outside closed trash cart, or if too much trash or items that are too large to fit in the trash cart, and arrangements for a bulk pick-up are made with the Sanitation Department, then bulk pick-up rates will apply pursuant to Section 937.15.
- (3) Bulk items and/or excessive trash in excess of one (1) cubic yard outside closed trash cart, or if too much trash or items that are too large to fit in the trash cart, and arrangements for bulk pick-up ARE NOT MADE with the Sanitation Department, will automatically be picked-up and a ten dollar (\$10.00) service fee will be added to the monthly utility bill for each and every bulk pick-up occurrence in addition to the applicable bulk pick-up rates in Section 937.15.
(Ord. 9-18. Passed 7-16-18.)

937.09 OWNERSHIP OF WASTE ON DISPOSAL SITE.

All waste on the disposal site is the property of the City, and no person shall be allowed to separate and collect, carry off or dispose of the same except under the direction of the Sanitation Superintendent.
(Ord. 9-18. Passed 7-16-18.)

937.10 DISCONTINUANCE OF SERVICE; NUISANCE CONDITIONS.

Fermenting, putrefying and odoriferous waste in containers which has not been collected or which has been dumped in the open due to failure to pay waste removal fees shall be declared a nuisance and the person or persons responsible shall be liable to prosecution under Ohio R.C. 3767.13.
(Ord. 9-18. Passed 7-16-18.)

937.11 DUMPSTERS.

(a) It shall be the duty of all commercial businesses and multiple-family residences, where ninety-five (95) gallon trash carts are not suitable for the amount of acceptable waste accumulated, to maintain a dumpster. Such dumpster shall be constructed and located so as to allow servicing by City equipment by means of a specially designed dumping mechanism.

(b) It shall be the duty of the Superintendent of Sanitation to determine the need, size, number, and frequency of pick up of dumpsters and require use of same.
(Ord. 9-18. Passed 7-16-18.)

937.12 TRANSFER STATION RATES.

(a) The following rates shall be charged at the Transfer Station for all residents and customers within the Solid Waste District.

- (1) Class 2. Minimum charge per customer, up to 999 lbs. Rate - \$20.00.
- (2) Class 3. Per ton, if 1,000 lbs. or over. Rate - \$45.00.
- (3) Class 4. Each appliance, other than refrigerant base. Rate - \$10.00.
- (4) Class 5. Each refrigerant based appliance. Rate - \$15.00.
- (5) Class 5. Tires - each.
 - a. Light truck or passenger care tire. Rate - \$10.00.
 - b. Heavy truck tire. Rate - \$15.00.
 - c. Tractor tire. Rate - \$25.00.

(b) The Transfer Station will not accept building materials, yard waste, dirt, liquids, or large automotive parts.

(c) The use of the Transfer Station shall be restricted to the residents and commercial haulers of the Coshocton Fairfield Licking-Perry County Solid Waste District.

(d) Transfer Station Accounts. Customers using charge accounts at the Transfer Station shall be charged a penalty of one and five tenths percent (1.5%) per month (18% APR) on outstanding balances thirty calendar days from the closing date of their statement. Charge accounts are to be approved at the discretion of the Sanitation Superintendent using volume as one of the criteria. The superintendent has the authority to refuse to open charge accounts.
(Ord. 9-18. Passed 7-16-18.)

937.13 SOLID WASTE DISPOSAL FEES.

The following fees shall be established for the Coshocton, Fairfield, Licking, Perry Solid Waste District:

- (a) One dollar (\$1.00)/ton for waste generated within the District;
- (b) Two dollars (\$2.00)/ton for waste generated outside the District, but inside the State; and
- (c) One dollar (\$1.00)/ton for waste generated outside the State.
(Ord. 9-18. Passed 7-16-18.)

937.14 UNACCEPTABLE WASTE, RECYCLABLES AND YARD WASTE.**(a) Unacceptable Waste, and Yard Waste and Exclusions.****(1) Unacceptable waste.**

A. "Unacceptable waste" means that portion of the waste stream that will not be collected by the City of Lancaster. If any other governmental agency or unit having appropriate jurisdiction determines that substances which are not as of yet considered harmful, toxic, or dangerous, are in fact harmful, toxic or dangerous or are hazardous or harmful to health, then any such substances or materials should thereafter constitute unacceptable waste.

B. "Unacceptable waste" includes but is not limited to:

1. Medical waste, infectious waste (defined in Section 937.01.)
2. Radioactive waste (defined in Section 937.01.)
3. Hazardous waste (defined in Section 937.01.)
4. Explosive materials
5. Liquid waste including motor oil
6. Asbestos
7. Whole and shredded tires
8. Lead acid batteries
9. Drums and barrels
10. Motor vehicles or major parts thereof
11. Equipment or machinery
12. Fecal matter, other than human fecal matter contained in a diaper or other sanitary garment, pad or napkin and wrapped separately in plastic before it is placed into a container or receptacle
13. Construction, remodeling and demolition waste (defined in Section 937.01.)
14. Refrigerants or items containing chlorofluorocarbons (CFCs) or their substitutes (defined in Section 937.01.)
15. Ashes of any kind
16. Offal or animal wastes, byproducts or hide trimmings
17. Nonresidential waste
18. Shredder fluff from shredding automobiles, light duty trucks, motor vehicle engines, household appliances, white goods, (defined in Section 937.01) and other miscellaneous metal parts
19. Condemned products (defined in Section 937.01)
20. And other items as may be determined by the Sanitation Superintendent.

(2) Yard waste.

A. Yard waste will be collected at curb line only in approved container at no additional cost.

B. Yard waste must be:

1. Tied in bundles not exceeding four (4) feet in length and two (2) feet in diameter or fifty (50) pounds; or
2. Placed in acceptable bio-degradable paper bags weighing no more than fifty (50) pounds each when loaded with waste.

3. Co-mingling of yard waste within the same container as acceptable waste is prohibited.
- (3) Any exclusion or exception to any part of this chapter shall be approved by the Superintendent or his designated representative.
(Ord. 9-18. Passed 7-16-18.)

937.15 BULK PICK-UP RATES AND REGULATIONS.

(a) **Bulk Pick-Up.** Any resident or business within Lancaster City limits may call the Sanitation Department to make an appointment for bulk pick-up of items not picked up with normal waste for an additional fee.

- (1) Minimum twenty-five dollars (\$25.00) charge per bulk pick-up, with minimum of one (1) cubic yard.
- (2) Each additional yard will have a fee of eighteen dollars and seventy-five cents (\$18.75) per cubic yard with a maximum of eight (8) cubic yards, not exceeding one hundred and fifty dollars (\$150.00).
(Ord. 9-18. Passed 7-16-18.)

937.16 CHARGES A LIEN.

Each charge or rental levied by or pursuant to this chapter is made a lien upon the corresponding lot, land or premises served by the Sanitation Department of the City, and if the same is not paid within thirty (30) days after it shall become due and payable, it shall be certified to the County Auditor who shall place the same on the tax duplicate of the County with the interest and penalties allowed by law and shall be collected.
(Ord. 9-18. Passed 7-16-18.)

937.17 APPEAL.

Any customer shall have the right to appeal surcharges or penalties assessed, pursuant to this chapter, to their city utilities monthly billing statement using the appeals process set forth in the City of Lancaster Utilities Collection Office's "General Rules and Regulations" which is available on-line at their City's website and/or at the Utilities Collection Office during normal business hours. (Ord. 9-18. Passed 7-16-18.)

937.18 RULES AND REGULATIONS.

The Sanitation Department Superintendent, with the approval of the Service-Safety Director, shall have authority to make such other rules and regulations, not inconsistent herewith, pertaining to the handling, collection and disposal of refuse, waste, recyclables, and yard waste, as well as the administration thereof, as he/she deems necessary, proper or convenient to facilitate their collection and disposal.
(Ord. 9-18. Passed 7-16-18.)

937.99 PENALTY.

Whoever violates this chapter shall be deemed guilty of a minor misdemeanor and shall be fined not more than one hundred fifty dollars (\$150.00). Each day's violation shall constitute a separate offense. (Ord. 7-16. Passed 3-14-16.)

CHAPTER 1317 Signs

1317.01	Purpose.	1317.09	Sign matrix.
1317.02	Definitions.	1317.10	Measurement of signs.
1317.03	Prohibited signs.	1317.11	Nonconforming signs.
1317.04	Signs excluded from regulations.	1317.12	Variances.
1317.05	Sign permits and administration.	1317.13	Registration.
1317.06	Signs which do not require a permit.	1317.14	Registration fee.
1317.07	General requirements; temporary signs.	1317.15	Enforcement.
1317.08	Permanent signs.	1317.16	Maintenance and removal of signs.
		1317.99	Penalty.

CROSS REFERENCES

Power to regulate billboards and signs - see Ohio R.C. 715.27

1317.01 PURPOSE.

The purpose of these regulations is to prevent signs from becoming a distraction or obstruction to the safe and efficient flow of pedestrians and vehicular traffic, to prevent signs from having an adverse impact on adjacent properties or uses, to encourage the development of signage system that promote an active economic and business environment, and thereby protection of the general health, safety, and welfare of the citizens of the City of Lancaster. (Ord. 23-18. Passed 11-26-18.)

1317.02 DEFINITIONS.

As used in this chapter, the following words or phrases shall have the meaning herein:

- (a) "Sign" means any device for visual communication which is designed, intended, or used to convey a message, advertise, inform or otherwise direct attention to a person, institution, organization, activity, business, place, object or product.
- (b) Other Definitions.
 - (1) "Animation" means the presentation of pictorials and graphics on signs displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes.

- (2) "Awning" means a shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework. An 'awning sign' is a sign that is attached to or a part of such structure.
- (3) "Banner" means a nonrigid cloth, plastic or canvas sign with no enclosing framework typically related to a special event or promotion. For the purposes of this Article, the term "banner" shall not include official flags of public entities, or civic, philanthropic, educational or religious organizations.
- (4) "Billboard" means an off-premises sign more than two hundred (200) square feet in area, which is owned by a person, corporation or other entity that engages in the business of selling the advertising space on that sign.
- (5) "Canopy" means a structure separate from, but associated by use with a principal building. Such structure is supported independently by posts or columns, is open on all sides, and is intended only for shelter or ornamentation. A 'canopy sign' is a sign that is attached to or a part of the roof of such a structure.
- (6) "Changeable copy sign" means a sign which, in whole or in part, provides for periodic changes in the material or message composing the sign. This definition includes both electronically and manually changeable signs.
- (7) "Character" means any letter of the alphabet or numeral.
- (8) "Curb Level" means the mean level of the established curb at the frontage of a lot. Where no curb has been established, the City Engineer shall establish such curb level or its equivalent for the purposes of this Code.
- (9) "Directional sign" means any sign which indicates the direction of the specific location of an institution, organization or business, which does not include advertising or any information regarding product lines or services offered.
- (10) "Flashing Illumination" means a light source or other image which in whole or in part physically changes in light intensity or gives the appearance of such change.
- (11) "Freestanding sign" means a sign which is mounted to the ground and is wholly independent of any building for support.
- (12) "Ground sign" means a freestanding detached sign whose support structure is embedded in the ground in such a manner that the sign appears to be resting directly on the ground.
- (13) "Height, Sign" means the vertical distance measured from the curb level to the highest point of the sign.
- (14) "Marquee" means a multisided overhead structure or architectural projections supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. 'Marquee sign' means a sign that is attached, mounted to, or made a part of a marquee.

- (15) "Menu board" means a freestanding sign not more than forty (40) square feet in area, which is located so as to be primarily visible by persons in vehicles within the internal circulation driveway or parking area on the site.
- (16) "Movement" means physical movement or revolution of a sign or portion of a sign up or down, around or sideways.
- (17) "Mural" means a large picture or graphic illustration that is painted or mounted directly to the surface of an existing building, and covers more than thirty percent (30%) of the building face on which it is displayed.
- (18) "Nameplate" means a sign, attached flush against a building identifying the name of the building or the name of an occupant thereof.
- (19) "Off-premises sign" means any sign that identifies or provides information related to a good, service or event that is not located on the property where such sign is located.
- (20) "Pennant" means a triangular shaped banner displaying no image or words.
- (21) "Permanent sign" means a sign intended to be erected or used, or in fact which is used for a time period in excess of sixty (60) days.
- (22) "Portable sign" means a sign designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes and shall include trailer and A-frame signs.
- (23) "Projecting sign" means a sign which extends outward perpendicular to the building face.
- (24) "Public sign post" means a post, pole, or other structure on which a public safety sign or traffic control device is located.
- (25) "Roof sign" means a sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building.
- (26) "Sign" means any object, device, structure or part thereof used to advertise, identify, display or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.
Signs as defined herein do not include the flag or emblem of any nation, organization of nations, state, city or any fraternal, religious or civic organizations; one corporate flag; works of art which in no way identify a product; temporary holiday decorations; or landscape features which display no words or symbols.
- (27) "Sign, Business" means any sign which directs attention to a business, commodity, service, or entertainment conducted on the premises.
- (28) "Sign, Construction" means a temporary sign erected during the period of construction advertising the construction of improvements on the property.
- (29) "Sign Illuminated" means any sign which is directly lighted by any electrical light source, internal or external, except light sources specifically and clearly operated for the purpose of lighting the general area in which the sign is located rather than the sign itself.

- (30) "Sign, Real Estate" means a temporary sign advertising the sale, rental, or lease of the lot or portion thereof on which the sign is located.
- (31) "Sign, Revolving or Rotating" means a sign or sign part which rotates or revolves.
- (32) "Streamer" means a ribbon or cord-like rope, which may have multiple pennants or ribbons attached, which is stretched between two (2) supports.
- (33) "Temporary sign" means a sign intended to be used, or in place used, for a time period of sixty (60) days or less.
- (34) "Wall sign" means a sign attached to a building face, with the exposed face in a plane parallel to the plane of the wall. Wall signs including painted murals, messages, graphics and other designs painted along with any letters or numerals mounted directly on buildings.
- (35) "Wind Device" means any flag, banner, pennant, streamer or similar device that moves freely in the wind.
- (36) "Window sign" means a sign, graphic, poster, symbol or other identification which is physically affixed to or painted on the glass or other structural component of the window.
(Ord. 23-18. Passed 11-26-18.)

1317.03 PROHIBITED SIGNS.

Signs that are not specifically permitted in this chapter shall be considered as prohibited. Without restricting or limiting the generality of the foregoing provision the following signs are specifically prohibited:

- (a) Flashing or high intensity lights mounted on a sign.
- (b) Any sign that obstructs any part of or direct access to a doorway, exit or fire escape.
- (c) Any sign that resembles or is intended to resemble a traffic control device, or is located in such a manner so as to obscure or impact the effectiveness of such traffic control device or signal, pursuant to Ohio R.C. 4522.26 and Section 313.07 of the Codified Ordinances of the City of Lancaster.
- (d) Any permanent or temporary sign located on a utility pole, public sign post or otherwise displayed within the public right-of-way, pursuant to Section 541.09 of the Codified Ordinances, except as may be specifically controlled herein.
- (e) Any sign located so as to obscure the clear vision within thirty feet (30') from the curb face of any street and/or alley intersection.
- (f) Portable or temporary signs that are not anchored or secured so as to prevent collapse or unintended movement.
- (g) Roof signs.
(Ord. 23-18. Passed 11-26-18.)

1317.04 SIGNS EXCLUDED FROM REGULATIONS.

The following signs are excluded from the regulations and requirements of this chapter:

- (a) Signs not exceeding four (4) square feet in area that are customarily associated with residential use, including address and/or name of occupants of the structure, signs on mailboxes or newspaper tubes, signs posted on property related to private parking, signs denoting security systems being used on the site, and signs warning against trespassing or danger from animals. Signs associated with home occupations and/or any non-residential use of the property shall not be excluded from these regulations.
 - (b) Signs erected by a governmental entity for a recognized public purpose and duly authorized by any law, statute or ordinance. Such signs including legal notices and traffic control or safety devices, provided such signs carry no supplementary advertising.
 - (c) Signs located on the inside of a structure or building, that are not designed or located so as to be typically visible from outside the building.
 - (d) Signs which are in the nature of cornerstones, commemorative tables and historic designation, provided such signs are less than twelve (12) square feet in size and not illuminated.
 - (e) Signs clearly in the nature of decorations customarily associated with a national, local or religious holiday. Such signs shall be of any illumination or animation provided that a safety and/or visibility hazard is not clearly created.
 - (f) Flags or insignias of any governmental entity when not displayed as an advertising device or in connection with any commercial promotion.
- (Ord. 23-18. Passed 11-26-18.)

1317.05 SIGN PERMITS AND ADMINISTRATION.

(a) Permit Required. No sign, except as exempted in Section 1317.04 or 1317.06 shall hereafter be erected, constructed, replaced, changed out, or maintained within the City of Lancaster unless a permit for the same has been issued by the Zoning Inspector. Application for a permit to construct or erect a sign shall be made by the owner of sign, or the property owner upon which the sign is proposed, or his/her agent. An application for the placement of a sign shall be made by the owner of the sign, the property owner upon which the sign will be placed, or their agent and shall include:

- (1) The name and address of the sign installer shall be included.
- (2) A site plan, drawn to scale, shall accompany the application that includes the type sign applied for.
- (3) Color graphics of the sign including the dimensions of the sign and its elements.
- (4) The proposed setbacks from the property line(s).
- (5) A fee shall be paid for each sign submitted as set forth by the Fee Schedule maintained by the City of Lancaster Building Department.
- (6) A building permit application shall be submitted to the Certified Building Department for plan review for all signs requiring a foundation, have special anchoring requirements, must meet special wind load capabilities, require electrical connection to an electrical source. Fees for this type permit are set forth by the Fee Schedule.

(b) Action on Sign Permit. The Zoning Inspector shall issue a sign permit upon submittal of a completed application and payment of applicable fees if he/she determines that the provisions of this chapter have been met. If the application for a sign permit is denied, the applicant shall be given written notice of such denial, along with the reasons therefore.

(c) Appeals. Any decision made by the Zoning Inspector under the terms of this chapter may be appealed to the Board of Zoning Appeals in the manner set forth in Chapter 1157 of the Codified Ordinances.

(d) Permit Expiration. Sign permits must be acted upon within one year from the date of issue or will expire.

(e) Administrative Approval. The zoning official or building official may, after reviewing an application for sign placement, determine if the sign installer must register as a contractor with the City of Lancaster.

(Ord. 23-18. Passed 11-26-18.)

1317.06 SIGNS WHICH DO NOT REQUIRE A PERMIT.

The following signs may be erected without a permit. Such signs, however, shall be subject to all other provisions of this chapter:

- (a) Any temporary sign, as defined in Section 1317.02(b)(33), except for those temporary signs that exceed the standards cited in the sections below.
- (b) Signs or posters concerning candidates for elective office, public issues and similar matter to be decided by public election, to be removed no later than one (1) week after such election, subject to penalty. Such signs shall not exceed eight (8) square feet in area, shall not be illuminated, and shall not be located within a public right-of-way nor be affixed to any public utility pole or street tree. In addition, such sign shall not be located in any manner so as to create a safety or visibility hazard. Signs that exceed the standard of this section shall require a sign permit.
- (c) Signs that indicate the sale, development, rental or lease of a particular structure or land area, provided such sign does not exceed eight (8) square feet in area. One such sign shall be allowed per street front. Such signs shall not be located in a public right-of-way.
- (d) Credit card decals, store hour specifications, "open" or "closed" signs, or similar signs that do not display any advertising message, and do not exceed an aggregate area of eight (8) square feet.
- (e) Signs, which do not exceed eight (8) square feet in size and mounted or attached flat or parallel onto a building face of an administrative, business or professional office building where more than one tenant is located and which has individual and separate entities.
- (f) A sign which advertises the sale of personal property, such as a garage sale, yard, porch or moving sale sign, provided such sign is displayed for a time period not greater than three (3) consecutive days, and is not to be located in a public right-of-way or affixed to any public utility pole or street tree. Such signs shall not be located in such a manner so as to create a safety or visibility hazard.
- (g) Temporary construction signs which display the identification of the construction project, including identification of the contractors, architects and other construction principals. Such construction signs shall be limited to one (1) per construction site, shall not exceed thirty-two (32) square feet in area and shall be removed upon completion of construction or the commencement of occupancy, whichever event occurs first. Such signs shall not be located within the public right-of-way.

- (h) Signs promoting community events and programs which last for a time period of fourteen (14) days or less and which are sponsored by nonprofit, public, educational, religious and charitable organizations. All such signs shall be removed not later than three (3) days after the scheduled activity.
- (i) Signs erected in parks or play fields, denoting sponsorship or support for youth sports or similar activities.
- (j) Signs determined by the Board of Zoning Appeals to be similar to those specified in subsections (a) - (i) herein.
(Ord. 23-18. Passed 11-26-18.)

1317.07 GENERAL REQUIREMENTS; TEMPORARY SIGNS.

Temporary signs shall be subject to the following general requirements:

- (a) Not more than two (2) temporary signs, not including signs as specified in Section 1317.04 and 1317.06 herein, shall be permitted on any individual property at one time. One (1) additional temporary sign may be erected on a property that has frontage on more than one (1) street.
- (b) Temporary signs shall be constructed of such material that will allow the sign to be maintained in good repair for the period it is to be displayed. Generally, the use of unprotected cardboard or paper products as sign material shall be prohibited, unless it is demonstrated that this standard is met.
- (c) Banners less than forty (40) square feet in area are permitted as temporary signs, provided such banners are secured to prevent movement which would allow any portion of the banner to extend into the street right-of-way. Pennants, feather signs and/or streamers are permitted only as temporary signs and may be displayed for two (2) sixty (60) day periods in a calendar year.
- (d) Temporary freestanding changeable copy signs and portable signs shall be considered as Special Exception in nonresidential districts only, and shall require the specific approval of the Board of Zoning Appeals. Such signs shall not be displayed for more than two (2) time period(s) of sixty (60) days each during any calendar year and shall comply with other requirements of this chapter.
- (e) Folding portable A-frame signs, shall be permitted as temporary signs in the CN, CG, CH and CBD Districts, provided such signs are secured and/or anchored so as to prevent accidental collapse or unintended movement.
- (f) Temporary signs proposed in the Lancaster Historic District as designated by City Council shall be subject to additional standards as applicable.
(Ord. 23-18. Passed 11-26-18.)

1317.08 PERMANENT SIGNS.

Permanent signs shall be subject to the following requirements:

- (a) Wall Signs. Wall signs may be erected on any building wall or extension of a building wall which faces a street, parking lot or service drive. Wall signs shall be attached parallel to the building face and may extend outward perpendicular from the building face a maximum of fifteen (15) inches; however, an internally illuminated wall sign may be erected not more than twenty-four (24) inches from the wall surface, provided such distance is required for enclosure of the necessary electrical components. The other requirements for wall signs shall be as cited in the Sign Matrix in Section 1317.09.

- (b) Canopy, Marquee and/or Awning Signs. Canopy and/or awning signs may be painted on an awning area or attached to a canopy or roof which projects beyond the building, provided that no part of such sign may extend above the eave of the roof. Canopy, awning or marquee signs shall be a minimum of nine (9) feet above ground level. The other requirements for canopy, marquee or awning signs shall be as cited in the Sign Matrix in Section 1317.09.
- (c) Projecting Signs. Projecting signs shall be placed not less than nine (9) feet above the sidewalk or ground level, and project not more than eight (8) feet outward from the building face. The other requirements for projecting signs shall be as cited in the Sign Matrix in Section 1317.09.
- (d) Freestanding Signs. No portion of any freestanding sign shall be erected over the street right-of-way. Not more than one (1) freestanding or ground sign shall be erected on any single lot, per one hundred feet (100') of lot frontage or fraction thereof and shall meet all other district setbacks. The other requirements for freestanding signs shall be as cited in the Sign Matrix in Section 1317.09.
- (e) Ground Signs. The requirements for ground signs shall be as cited in the Sign Matrix in Section 1317.09.
- (f) Permanent Window Signs. Permanent window signs shall be limited to signs denoting the identification of the occupant, the address of the premises, and not more than one (1) logo sign for each product or each service offered. The total of all permanent window signs shall be as cited in the Sign Matrix in Section 1317.09.
- (g) Off-Premises Signs. Off-premises signs as defined in Section 1317.02 (b)(19), not including billboards, shall be considered as an accessory use in the zoning districts as identified in the Sign Matrix. The location of such sign(s) shall be approved by the Board of Zoning Appeals. Not more than one (1) off-premises sign with a maximum sign face area as specified in the Sign Matrix is permitted on a single lot.
- (h) Billboards. Billboards as defined in Section 1317.02(b)(4), shall be considered as a permitted and accessory use in the districts as specified in the Sign Matrix. Billboards shall also be allowed within the PUD District, if included in the approved development plan, subject to the approval of the Planning Commission. The erection of billboards shall comply with all federal and state requirements, as well as the following.
 - (1) Height. Any billboard shall maintain a maximum height of forty-five feet (45') and not less than ten feet (10') above ground level of the surface directly below the sign. Notwithstanding the above, if the elevation of the roadway from which the billboard is intended to be viewed (as measured at the centerline of the roadway at the point in closest proximity to the billboard) is more than fifteen feet (15') different from the elevation of the ground level directly below the sign, then such roadway elevation shall be used for measuring the permitted height of the billboard.

- (2) Area. The maximum display area for any one face of any billboard shall not exceed four hundred (400) square feet. Billboards may be back to back, double faced, "V" type and/or multiple faced with not more than two faces facing the same direction, and such structure shall be considered as one billboard, provided that the area of all faces toward one direction shall not exceed 600 square feet. In areas not adjacent to roadways on the Federal Aid Primary Highway System, billboards shall not have more than one face per structure toward each direction.
- (3) Spacing. A minimum distance of five hundred feet (500') shall be maintained between billboards.
- (4) Changes/Alterations. Nothing contained in this chapter shall prohibit the changing or alteration of the display surface of any billboard using mechanical, electronic or other available technology.
- (i) General Requirements for Permanent Signs.
 - (1) Illumination. Illumination for signs shall be from a concealed or indirect light source and shall not flash, blink, fluctuate in intensity, travel, move or in any manner fail to provide constant illumination, and shall not create a hazard or visibility problem or interfere with or impair vehicular traffic. The level of illumination emitted from a sign shall not be of an intensity to constitute a safety hazard to vehicular movement on any street. Illuminated signs shall be constructed and maintained so that the source of illumination is shielded or otherwise prevented from beaming directly onto adjacent properties or streets.
 - (2) Construction. All signs and parts thereof, including any electrical wiring, shall be erected, constructed, and maintained so as to not constitute a safety hazard. The construction and installation of all signs shall be subject to inspection by the City and/or State of Ohio.
 - (3) Location in Right-of-Way Prohibited. No part of any sign shall be placed in, over, or extended onto any public right-of-way, except as specified in Section 1317.08(i)(10) herein.
 - (4) Pennants and/or Streamers. No permanent sign shall contain or consist of banners, streamers, pennants, ribbons, balloons or similar devices.
 - (5) Changeable Copy Signs. Changeable copy signs, as defined in Section 1317.02(b)(6) above, shall be permitted in the districts as specified in the Sign matrix. The number, height and area of changeable copy signs shall be determined by the structural type of the sign, i.e., freestanding, wall, projecting, etc. The light and/or perceived movement from such sign shall not be of such intensity to constitute a safety hazard to vehicular traffic.
 - (6) Permanent Subdivision Identification Signs. Such signs shall be limited to wall mounted or freestanding signs only, with placement on walls, columns or similar architectural or landscaped entrance features used to denote the entrance to the subdivision. Such sign shall be not more than six (6) feet in height and shall set back at least five (5) feet from the right-of-way of both streets.

- (7) Joint Identification Signs. Joint identification signs shall be limited to wall or freestanding signs, and to premises where there are two (2) or more uses located on one (1) or more public street(s). If the property fronts on one (1) public street, only one (1) joint identification sign is permitted. If the property fronts on two (2) public streets, two (2) joint identification signs shall be permitted. Each joint identification sign shall not exceed the requirements of the zoning district in the Sign Matrix.
- (8) Murals. Murals, as defined in Section 1317.02(b)(17) herein shall be allowed as a Special Exception in the districts as specified in the Sign Matrix, subject to approval by the Board of Zoning Appeals. In addition, if such mural(s) is located within the designated Historic District, such mural(s) shall be approved by the Historic Lancaster Commission.
- (9) Maintenance and Copy Change. Signs shall be maintained in good repair. Such maintenance and repair including, changes of copy, shall be permitted provided the size and structural shape of the sign is not be changed or altered.
- (10) Signs In CBD Central Business District. Notwithstanding the provisions of Section 1317.03 (d) herein, a proposed sign within the CBD may extend into the right-of-way, provided the applicant demonstrates that, due to the location of the building or other physical characteristics of the lot, the erection of an alternate sign outside the right-of-way is not feasible. In addition, such applicant shall obtain a Right-Of-Way Permit from the City of Lancaster, and shall certify that such sign shall be subject to removal at the owner's expense, if so subsequently required by the City.
- (11) PUD District. Signs in the PUD District shall reflect the standards for similar uses in other districts. The applicant shall submit a total signage plan for the proposed non-residential portions of the development as part of the required site plan for the development.
(Ord. 23-18. Passed 11-26-18.)

1317.09 SIGN MATRIX.

The area, height and setback requirements for signs within the various districts shall be as specified in the Sign Matrix set forth at the end of this chapter, which is hereby made a part of this Chapter or as approved in a final development plan. The area requirements for particular sign types shall be based on permitted square feet per linear foot (sf/lf) of building wall or total square footage as listed.
(Ord. 23-18. Passed 11-26-18.)

1317.10 MEASUREMENT OF SIGNS.

For the purposes of this Chapter, the measurement of sign area shall comply with the following standards:

- (a) Sign area shall include the face of all the display area of the sign not including bracing, framing and structural supports of the sign, unless such support members are made part of the message or face of the design.

- (b) The display surface area of a ground, freestanding, projecting, off-premise directional, changeable copy, joint identification, directory, temporary or similar signs shall mean the area enclosed by the minimum imaginary rectangles which fully contains all extremities of the sign, exclusive of its supports. This rectangle is to be calculated from an orthographic projection of the sign viewed horizontally. A view point for this projection is to be taken which gives the largest rectangle of that kind as the viewpoint is rotated horizontally around the sign. If elements of the sign are movable or flexible, the measurement shall be taken when the elements are fully extended and parallel to the plane of view.
- (c) The display surface area of a wall, awning, marquee, canopy or similar sign shall be measured as the sum of the areas of the minimum imaginary rectangles enclosing each work attached to any particular façade.
- (d) The display surface area for window signs shall mean the sum of the areas of the minimum imaginary rectangles enclosing each word, figure, design and symbol if the window or other transparent material forms the background, or the entire area of the background material when such material is translucent or opaque.
- (e) The display surface area for permanent subdivision or similar signs shall mean the area of the minimum imaginary rectangle enclosing the sign including the support except when the support a wall, building or other architectural feature. In those cases, the sign shall be measured as a wall sign.
- (f) Where a sign has two or more display faces, the area of all faces of the sign shall be included in determining the area of the sign, unless two (2) display faces join back to back and parallel to each other. Back to back sign faces shall be located not more than twenty-four inches (24") apart. For purposes of these regulations, a V-shaped sign with an angle of separation not exceeding 30 degrees shall be considered a back-to-back sign. Billboards shall be exempt from this requirement, but shall comply with the requirements of Section 1317.08 (h)(2).
- (g) For spherical signs, the sphere shall be bisected by an imaginary line through the center of the sphere, and the surface area of the half sphere shall be counted as the sign face. For cubical signs, the area of all display faces shall be included in determining the area of the sign.
- (h) The area of the letters, numbers or emblems mounted directly on a building wall or wall extension shall be computed by enclosing the entire word or words formed by such letters, numbers or emblems with the smallest single continuous perimeter consisting of rectangular or series of rectangles, and determining the area within such perimeter.
(Ord. 23-18. Passed 11-26-18.)

1317.11 NONCONFORMING SIGNS.

(a) Abandonment. An existing sign which was lawfully existing at the time of enactment of this chapter, but does not meet the regulations and requirements of this chapter, shall be deemed a nonconforming sign. The continuance of such nonconforming sign shall terminate by abandonment when any of the following conditions exist:

- (1) When the sign is associated with an abandoned use.
- (2) When the sign remains after the termination of a business. A business is considered terminated if it has ceased operations and/or if it is closed to the public for at least ninety (90) consecutive days. Seasonal businesses are exempt from this requirement.

- (3) When the sign is not maintained or does not conform to the following:
 - A. All signs, together with all supports, braces, guys and anchors shall be kept in a proper state of repair.
 - B. Every sign and the immediate surrounding premises shall be maintained by the owner, or his agent, in a clean, sanitary and inoffensive condition, free from all obnoxious substances, rubbish and weeds.
- (4) When the sign is damaged or partially destroyed to the extent of more than fifty percent (50%) of its current replacement cost at the time of damage.

Upon finding that the sign is abandoned, the right to maintain and use such sign shall terminate immediately.

(b) Relocation or Replacement. A nonconforming sign shall not be structurally relocated or replaced unless it is brought into compliance with the provisions of this Section. Should any replacement or relocation occur without being brought into compliance, the sign shall be subject to removal.

(c) Maintenance. A nonconforming sign shall be maintained or repaired, provided the size and structural shape of the sign is not be changed or altered.

(d) Inspection and Removal. If any sign is found, upon inspection by the Zoning Inspector, to constitute a hazard to public safety, such sign shall be subject to immediate removal by order of the Zoning Inspector.

(e) Proposed Sign Encroaching on a Front Setback. Where an existing sign or signs on the same side of the street and within the same block encroach on the required front setback, the required sign setback for a new sign shall be established as follows:

- (1) If the proposed sign is to be located more than two hundred (200) feet from an encroaching sign, the proposed sign shall meet the setback established for the district in which the proposed sign is to be located.
- (2) If the proposed sign is to be located between adjacent signs which conform to the required setback, or between a conforming sign and an intersecting street, the proposed sign shall conform to the setback established for the district in which the proposed sign is to be located.
- (3) If the proposed sign is to be located within two hundred (200) feet of an encroaching sign on both sides and there are no intervening signs, the setback shall be the average of the setback of the two (2) nearest front edges or faces of the encroaching signs nearest the front property line or right-of-way.
- (4) If the proposed sign is to be located within two hundred (200) feet of an encroaching sign on one (1), but not both sides, and there are no intervening signs, the front setback shall be the average of the otherwise required front setback and the setback of the nearest front plane of the encroaching sign.
- (5) Sign cabinets or any other architectural feature may not project into the calculated setback achieved through subsections (a), (b), (c) or (d).

Provided, however, in the application of subsections (c) or (d) above, the front setback shall not be reduced to less than five (5) feet and does not create a hazard for drivers pulling out onto any street or highway.

(Ord. 23-18. Passed 11-26-18.)

1317.12 VARIANCES.

Variances to this Chapter may be granted by the Board of Zoning Appeals pursuant to the procedures and policies set forth for area variances in Chapter 1157.09 of the Codified Ordinances. (Ord. 23-18. Passed 11-26-18.)

1317.13 REGISTRATION.

No person or company shall install a sign requiring a permit unless a sign installer is registered as a contractor with the Certified Building Department. The zoning inspector or building official may decline the need to register as a contractor as set forth in section 1317.05(e) of this code. (Ord. 23-18. Passed 11-26-18.)

1317.14 REGISTRATION FEE.

A registration fee shall be required of persons or companies installing a sign that requires a permit. (Ord. 23-18. Passed 11-26-18.)

1317.15 ENFORCEMENT.

(a) Any violation of the provisions of this chapter shall be enforced by the Zoning Inspector after serving notice. The Zoning Inspector shall give to the owner or person in charge of the sign written notice specifying the violation, ordering the cessation thereof and requiring either the removal of the sign or the carrying out of remedial work in the time and in the manner that the notice shall specify. Such notice shall be posted by registered mail, return receipt requested.

(b) In the event of failure to comply after thirty days from receipt of such notice, the Zoning Inspector may remove or cause such remedial work to be done and the costs thereof shall be recoverable by the Municipality by summary process at law in any court of competent jurisdiction. In the event of default of payment of such assessed costs, then a charge shall be placed upon the property and such costs, when certified by the Treasurer, shall be entered in the Collector's Roll and collected in the same manner as taxes shown thereon.

(c) If a sign which has been removed is not reclaimed and fines paid within ninety days of its removal, such sign may be sold or otherwise disposed of by the City. If a sign is found to be an immediate and serious danger to the public because of its unsafe condition, it may be removed without notice and written notice of removal and the reasons for such shall be served as soon as possible. The Mayor shall revoke the registration of any person or company erecting a nonconforming sign. The registration shall be revoked for a period of one year from the date of such violation.
(Ord. 23-18. Passed 11-26-18.)

1317.16 MAINTENANCE AND REMOVAL OF SIGNS.

All signs and sign structures shall be maintained in a safe condition and shall not exhibit evidence of significant wear, deterioration or damage. Whenever the Chief Building Official has ordered the repair or removal of a permanent or temporary sign, due to its hazardous condition or due to the lack of an appropriate required permit, and such action has not been taken within forty-eight hours of delivery of such notice to the person or entity which owns the sign or on whose property it is displayed, the Chief Building Official may cause the repair or removal of the sign at the expense of such person or other entity. If in the opinion of the Chief Building Official, the sign is so hazardous as to constitute an immediate danger to human life, the Chief Building Official shall promptly cause the repair or removal of the sign at the expense of such person or other entity without the necessity of waiting forty-eight hours. In either case, the cost of the repair shall be assessed to the property.
(Ord. 23-18. Passed 11-26-18.)

1317.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than two hundred and fifty dollars (\$250.00).

(Ord. 23-18. Passed 11-26-18.)

Revised Sign Matrix				
AG Agricultural District				
Sign Type	Permitted	Area	Height	Setback
Permanent Signs				
Wall/Projecting	X	1sf/1lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee				
Awning	X	1sf/1lf bldg wall		Bldg
Projecting	X	6 sf	Ht Eave	Bldg
Freestanding (including changeable copy portions)	X	12 sf	6 ft	20' from R/W
Ground (including changeable copy portions)	X	20 sf	6 ft	20' from R/W
Off-Premises Directional Sign	E	12 sf	6 ft	20' from R/W
Billboard	X	400 sf	45 ft	100' from R/W
Changeable Copy, Electronic Permanent Subdivision (total structure)	X	150 sf	6 ft	5' from R/W
Joint Identification Sign				
Murals	X	BZA	BZA	BZA
Window Signs, Permanent	X	33% of window		
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary	X	33% of Window		
*Directory Signs	X	8 sf	6 ft	5 ft R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame				
*Campaign Sign	X	8 SF	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	10 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants	X	40 sf	35 ft	5' from R/W
*Streamers	X		35 ft	5' from R/W
*Feather signs	X		10' high	5' from R/W
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building	sf= square feet		R/W= Right of Way	
BZA = Board of Zoning Appeals	sf/lf= square feet per lineal foot			
ft = foot	X= Use by Right			
ht = height	E= Special Exception			

Revised Sign Matrix				
Sign Type		Parking Districts		
Permanent Signs	Permitted	Area	Height	Setback
Wall/Projecting	X	1sf/lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee	X	1 sf/lf bldg wall	Ht Eave	Bldg
Awning	X	1 sf/lf bldg wall		Bldg
Projecting	X	12 sf	Ht Eave	Bldg
Freestanding including	X	20 sf	10 ft	20' from R/W
Changeable Copy Portions				
Ground including	X	20 sf	6 ft	20' from R/W
Changeable Copy Portions				
Off-Premises Directional Sign	E	12 sf	6 ft	20' from R/W
Billboard	E	400 sf	45 ft	20' from R/W
Changeable Copy	X	20 sf	10 ft	20' from R/W
Permanent Subdivision				
(total structure)				
Joint Identification Sign	X	20 sf	10 ft	20' R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% of Window		
*Temporary Signs (60 Days)				
*Sponsor Signs				
* Window Signs	X	33% of window		
*Directory Signs	X	8 sf	6 ft	20' ft from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5 ft from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	20' from R/W
*Folding Portable A-frame	X	8 sf	4 ft	5 ft from R/W
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5 ft from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5 ft from R/W
*Pennants				
*Streamers				
*Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		Revised 11/2018

		Revised Sign Matrix		
Sign Type		CBD Central Business District		
Permanent Signs	Permitted	Area	Height	Setback
Wall/Projecting	X	1 sf/lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee				
Awning	X	1 sf/lf bldge wall		Bldg
Projecting	E	24 sf	Ht Eave	Bldg
Freestanding (including changeable copy portions)	X	50 sf	15ft	20' from R/W
Ground (including changeable copy portions)	X	20 sf	6 ft	20' from R/W
Off-Premises Directional Sign	E	12 sf	6 ft	20' from R/W
Billboard				
Changeable Copy, Electronic	E	20 sf	15 ft	20' from R/W
Permanent Subdivision (total structure)	E	150 sf	6 ft	5' from R/W
Joint Identification Sign	X	20 sf	15 ft	20' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% Window		
*Temporary Signs (60 days)				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary	X	33% Window		
*Directory Signs	X	8 sf	6 ft	Outside R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame	X	8 sf	4 ft	5' from R/W
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants	X	40 sf	35 ft	5' from R/W
*Streamers				
*Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		Revised 11/2018

		Revised Sign Matrix		
Sign Type		CG Commercial General District		
Permanent Signs	Permitted	Area	Height	Setback
Wall/Projecting	X	2 sf/lf bldg wall	Ht Eave	Bldg
Canopy	X	2 sf/lf bldg wall	35 ft	20' from R/W
Marquee	X	2 sf/lf bldg wall	Ht Eave	20' from R/W
Awning	X	1 sf/lf bldg wall		Bldg
Projecting	X	24 sf	Ht Eave	Bldg
Freestanding (including changeable copy portions)	X	100 sf	35 ft	20' from R/W
Ground (including changeable copy portions)	X	20 sf	6 ft	10' from R/W
Off-Premises Directional Sign	E	12sf	6 ft	10' from R/W
Billboard	X	400 sf	45 ft	20' from R/W
Changeable Copy, Electronic	E	20 sf	35 ft	20' from R/W
Permanent Subdivision (total structure)	E	150 sf	6 ft	5' from R/W
Joint Identification Sign	X	20 sf	35 ft	10' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% Window		
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary	X	33% of Window		
*Directory Signs	X	8 sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Eave	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame	X	8 sf	4 ft	5' from R/W
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants	X	40 sf	35 ft	5' from R/W
*Streamers				
*Feather Signs	X		10' high	5' from R/W
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		Revised 11/2018

Revised Sign Matrix				
CH Commercial High Intensity District				
Sign Type	Permitted	Area	Height	Setback
Permanent Signs				
Wall/Projecting	X	2 sf/lf bldg wall	Ht eave	Bldg
Canopy	X	2sf/lf canopy	35 ft	20' from R/W
Marquee	X	2 sf/lf bldg wall	Ht eave	20' from R/W
Awning	X	2 sf/lf bldg wall		Bldg
Projecting	X	24 sf	Ht eEave	Bldg
Freestanding (including changeable copy portions)	X	100 sf	35 ft	20' from R/W
Ground (including changeable copy portions)	X	20 sf	6 ft	20' from R/W
Off-Premises Directional Sign	X	12 sf	6 ft	20' R/W
Billboard	X	400 sf	45 ft	20' from R/W
Changeable Copy, electronic	E	20 sf	35 ft	20' from R/W
Permanent Subdivision (total structure)	E	150 sf	6 ft	5' from R/W
Joint Identification Sign	X	20 sf	35 ft	20' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% of Window		
*Temporary Signs (60 days)				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary	X	33% of Window		
*Directory Signs	X	8 sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame	X	8 sf	4 ft	5' from R/W
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants	X	40 sf	35 ft	5' from R/W
*Streamers				
*Feather signs	X		10' high	5' from R/W
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building			sf = square feet	R/W= Right of Way
BZA = Board of Zoning Appeals				sf/lf = Square foot per lineal foot
ft = foot			X = Use by Right	
ht = height			E = Special Exception	Revised 11/2018

Revised Sign Matrix				
Sign Type		CN Commercial Neighborhood District		
Permanent Signs	Permitted	Area	Height	Setback
Wall/Projecting	X	1 sf/lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee				
Awning	X	1sf/lf bldg wall		Bldg
Projecting	X	12 sf	Ht Eave	Bldg
Freestanding (including changeable copy portions)	X	50 sf	15 ft	20' from R/W
Ground (including changeable copy portions)	X	20 sf	6 ft	10' from R/W
Off-Premises Directional Sign	E	12 sf	6 ft	20' from R/W
Billboard				
Changeable Copy	E	20 sf	10 ft	20' from R/W
Permanent Subdivision (total structure)	X	150 sf	6 ft	5' from R/W
Joint Identification Sign	X	20 sf	10 ft	20' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% of Window		
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary	X	33% of Window		
*Directory Signs	X	8 sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners				
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame	X	8 sf	4 ft	5 ft from R/W
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants				
*Streamers				
Feather signs	X		10' high	5' from R/W
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		Revised 11/2018

Revised Sign Matrix				
I Industrial Districts (All)				
Sign Type	Permitted	Area	Height	Setback
<u>Permanent Signs</u>				
Wall/Projecting	X	2 sf/lf bldg wall	Ht Eave	Bldg
Canopy	X	1 sf/lf canopy	35 ft	20' from R/W
Marquee	X	2 sf/lf bldg wall	Ht Eave	20' from R/W
Awning	X	1 sf/lf bldg wall		Bldg
Projecting	X	24 sf	Ht Eave	Bldg
Freestanding (including changeable copy portions)	X	150 sf	35 ft	20' from R/W
Ground (including changeable copy portions)	X	100 sf	6 ft	20' from R/W
Off-Premises Directional Sign	X	12 sf	6 ft	20' from R/W
Billboard	X	400 sf	45 ft	20' from R/W
Changeable Copy, Electronic	E	20 sf	35 ft	20' from R/W
Permanent Subdivision (total structure)	E	150 sf	6 ft	5' from R/W
Joint Identification Sign	X	20 sf	35 ft	20' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% Window		
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary				
*Directory Signs	X	8 sf	6 ft	Outside R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	X	20 sf	6 ft	5' from R/W
*Folding Portable A-frame				
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/w
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants				
*Streamers				
Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		Revised 11/2018

Revised Sign Matrix				
Sign Type		O & SR Office and Scientific Research Districts		
Permanent Signs	Permitted	Area	Height	Setback
Wall/Projecting	X	1 sf/lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee	X	1 sf/lf bldg wall	Ht Eave	20' from R/W
Awning	X	1 sf/lf bldg wall		Bldg
Projecting	X	12 sf	Ht Eave	Bldg
Freestanding including	X	50 sf	15 ft	20' from R/W
Changeable Copy Portions				
Ground including	X	20 sf	6 ft	20' from R/W
Changeable Copy Portions				
Off-Premises Directional Sign	E	12 sf	6 ft	20' from R/W
Billboard				
Changeable Copy	X	20 sf	35 ft	20' from R/W
Permanent Subdivision	X	150 sf	6 ft	5 ft from R/W
(total structure)				
Joint Identification Sign	X	50 sf	15 sf	20' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent				
*Temporary Signs (60 Days)				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs				
*Directory Signs	X	8 sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame				
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	16 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants				
*Streamers				
*Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		Revised 11/2018

Revised Sign Matrix				
RE Residential Estates				
Sign Type	Permitted	Area	Height	Setback
<u>Permanent Signs</u>				
Wall/Projecting	E	1sf/1lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee				
Awning	X	1sf/1lf bldg wall		Bldg
Projecting				
Freestanding (including changeable copy portions)	X	12 sf	6 ft	10' from R/W
Ground (including changeable copy portions)	E	20 sf	6 ft	10' from R/W
Off-Premises Directional Sign	E	12 sf	6 ft	10' from R/W
Billboard	E	400 sf	35 ft	20' from R/W
Changeable Copy, Electronic				
Permanent Subdivision (total structure)	X	150 sf	6 ft	5' from R/W
Joint Identification Sign				
Murals				
Window Signs, Permanent	X	33% of Window		
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5ft from R/W
*Window Signs, Temporary	X	33% of Window		
*Directory Signs	X	8 sf	6 ft	5' R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame				
*Campaign Sign	X	8 SF	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants			?	
*Streamers				
*Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building			sf = square feet	R/W= Right of Way
BZA = Board of Zoning Appeals				sf/lf = Square foot per lineal foot
ft = foot			X = Use by Right	Revised 11/2018
ht = height			E = Special Exception	

Revised Sign Matrix				
Sign Type		RM All Multi-Family Residential; & RMH		
Permanent Signs	Permitted	Area	Height	Setback
Wall/Projecting	X	1sf/lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee				
Awning	X	1sf/lf bldg wall		Bldg
Projecting	X	6 sf	Ht Eave	Bldg
Freestanding including	X	12 sf	6 ft	10' from R/W
Changeable Copy Portions				
Ground including	X	20 sf	6 ft	10' from R/W
Changeable Copy Portions				
Off-Premises Directional Sign	E	12 sf	6 ft	10' from R/W
Billboard				
Changeable Copy				
Permanent Subdivision	X	150 sf	6 ft	5' from R/W
(total structure)				
Joint Identification Sign	X	20 sf	6 ft	10' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33%		
*Temporary Signs (60 days)				
*Sponsor Signs	X	40 sf	Ht Bldg	5ft from R/W
*Window Signs, Temporary				
*Directory Signs	X	8 sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	X	20 sf	6 ft	5' from R/W
*Folding Portable A-frame				
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants				
*Streamers				
*Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		Revised 11/2018

Revised Sign Matrix				
RS All Single-Family Residential Districts				
Sign Type	Permitted	Area	Height	Setback
<u>Permanent Signs</u>				
Wall/Projecting	X	1 sf/lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee				
Awning	E	1sf/lf bldg wall		Bldg
Projecting				
Freestanding (including	X	12 sf	6 ft	20' from R/W
changeable copy portions)				
Ground (including	X	20 sf	6 ft	20' from R/W
changeable copy portions)				
Off-Premises Directional Sign	E	12 sf	6 ft	20' from R/W
Billboard				
Changeable Copy, Electronic				
Permanent Subdivision	X	150 sf	6 ft	5' from R/W
(total structure)				
Joint Identification Sign				
Window Signs, Permanent				
Murals				
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary				
*Directory Signs	X	8 sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy				
*Folding Portable A-frame				
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants				
*Streamers				
*Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		Revised 11/2018

Sign Type	East Main St. Corridor- Commercial Districts Only			
Permanent Signs	Permitted	Area	Height	Setback
Wall/Projecting	X	2 sf/lf bldg wall	Ht Eave	Bldg
Canopy	X	2 sf/lf bldg wall	35 ft	10' from R/W
Marquee	X	2 sf/lf bldg wall	Ht Eave	10' from R/W
Awning	X	1 sf/lf bldg wall		Bldg
Projecting	X	24 sf	Ht Eave	Bldg
Freestanding including	X	100 sf	35 ft	10' from R/W
Changeable Copy Portions				
Ground including	X	20 sf	6 ft	10' from R/W
Changeable Copy Portions				
Off-Premises Directional Sign	E	12 sf	6 ft	10' from R/W
Billboard	X	400 sf	45 ft	20' from R/W
Changeable Copy, Electronic	E	20 sf	35 ft	10' from R/W
Permanent Subdivision	E	150 sf	6 ft	5' from R/W
(total structure)				
Joint Identification Sign	X	20 sf	35 ft	10' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% Window		
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary	X	33% Window		
*Directory Signs	X	8sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Eave	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame	X	8 sf	4 ft	5' from R/W
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants	X	40 sf	35 ft	5' from R/W
*Streamers				
*Feather signs	X		10' high	5' from R/W
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		
R/W = Right of Way				Revised 11/2018

- (32) "Special Flood Hazard Area" also known as "Areas of Special Flood Hazard", means the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special Flood Hazard Areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.
- (33) "Start of Construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.
- (34) "Structure" means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.
- (35) "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (36) "Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include
- A. Any improvement to a structure that is considered "new construction,"
 - B. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - C. Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure".

- (37) "Variance" means a grant of relief from the standards of this chapter consistent with the variance conditions herein.
- (38) "Violation" means the failure of a structure or other development to be fully compliant with these regulations.
(Ord. 17-11. Passed 11-14-11.)

1331.06 LANDS TO WHICH THIS CHAPTER APPLY.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Lancaster, Ohio as identified in Section 1331.07, including any additional areas of special flood hazard annexed by the City of Lancaster, Ohio.
(Ord. 17-11. Passed 11-14-11.)

1331.07 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

For the purposes of these regulations, the following studies and/or maps are adopted:

- (a) Flood Insurance Study Fairfield County, Ohio and Incorporated Areas effective July 19, 2018 and the accompanying Flood Insurance Rate Map Fairfield County, Ohio and Incorporated Areas Effective January 6, 2012 and July 19, 2018.
- (b) Other studies and/or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
- (c) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the City of Lancaster as required by Section 1331.15(a)(4) Subdivisions and Large Scale Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the Certified Building Department, 121 E. Chestnut Street, Suite 102, Lancaster OH 43130.
(Ord. 7-18. Passed 6-11-18.)

1331.08 RESERVED.

1331.09 ABROGATION AND GREATER RESTRICTIONS.

This Chapter is not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not impair any deed restriction covenant or easement but the land subject to such interests shall also be governed by the regulations. (Ord. 17-11. Passed 11-14-11.)

1331.10 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
 - (b) Liberally construed in favor of the governing body; and,
 - (c) Deemed neither to limit nor repeal any other powers granted under State statutes.
- Where a provision of this chapter may be in conflict with a State or Federal law, such State or Federal law shall take precedence over the Chapter.
(Ord. 17-11. Passed 11-14-11.)