TEMPORARY ORDINANCE NO. 9-24

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 in the last year which must be included in the Codified Ordinances of Lancaster, Ohio; 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 enacted by Council from December 13, 2022, to December 11, 2023 as listed in the Comparative Section Table, are hereby approved and adopted as printed in the 2023 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 herein.

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

Traffic Code

| | |
|---|---|
| 303.991 | Committing an Offense While Distracted Penalty. (Amended) |
| 331.35 | Occupying Travel Trailer, Fifth Wheel Vehicle or Manufactured or Mobile Home While in Motion. (Amended) |
| 333.01 | OVI; Willful Misconduct; Speed. (Amended) |
| 333.03 | Maximum Speed Limits; Assured Clear Distance Ahead. (Amended) |
| 333.11 | Electronic Wireless Communication Device Use Prohibited While Driving. (Amended) |
| 335.07 | Driving Under Suspension or License Restriction. (Amended) |
| 335.071 | Driving Under OVI Suspension. (Amended) |
| 335.072 | Driving Under Financial Responsibility Law Suspension or Cancellation; Driving Under a Nonpayment of Judgment Suspension. (Amended) |
| 335.073 | Driving Without Complying With License Reinstatement Requirements. (Amended) |
| 335.074 | Driving Under License Forfeiture or Child Support Suspension. (Amended) |
| 337.22 | Windshield and Windshield Wiper; Sign or Poster Thereon. (Amended) |
| 341.01 | Commercial Drivers Definitions. (Amended) |

General Offenses Code

| | |
|---|---|
| 501.01 | General Provisions and Penalty Definitions. (Amended) |
| 501.99 | Penalties for Misdemeanors. (Amended) |
| 505.12 | Coloring Rabbits or Baby Poultry; Sale or Display of Poultry. (Amended) |
| 509.04 | Disturbing a Lawful Meeting. (Amended) |
| 509.13 | Impeding Public Passage of an Emergency Service Responder. (Added) |
| 513.01 | Drug Abuse Control Definitions. (Amended) |
| 513.03 | Drug Abuse; Controlled Substance Possession or Use. (Amended) |
| 513.04 | Possessing Drug Abuse Instruments. (Amended) |
| 513.12 | Drug Paraphernalia. (Amended) |
| 513.121 | Marihuana Drug Paraphernalia. (Amended) |
| 517.08 | Raffles. (Amended) |
| 521.09 | Spreading Contagion. (Added) |
| 525.05 | Failure to Report a Crime, Injury or Knowledge of Death. (Amended) |
| 525.15 | Assaulting Police Dog or Horse or an Assistance Dog. (Amended) |
| 529.02 | Sales to and Use By Underage Persons; Securing Public Accommodations. (Amended) |
| 529.07 | Open Container Prohibited. (Amended) |
| 533.01 | Obscenity and Sex Offenses Definitions. (Amended) |
| 533.06 | Voyeurism. (Amended) |
| 533.08 | Procuring; Engagement in Sexual Activity for Hire. (Amended) |
| 537.03 | Assault. (Amended) |
| 537.06 | Menacing. (Amended) |
| 537.07 | Endangering Children. (Amended) |
| 537.15 | Temporary Protection Order. (Amended) |
| 545.05 | Misdemeanor Theft. (Amended) |
| 549.02 | Carrying Concealed Weapons. (Amended) |
| 549.04 | Improperly Handling Firearms 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 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, Kristina Crites, Clerk of Council do hereby certify that on _____, 2024 the Lancaster Eagle Gazette published the summary of this ordinance in accordance with Ohio Revised Code 731.24.

_____
Clerk of Council

INSTRUCTIONS FOR INSERTING
2023 REPLACEMENT PAGES
FOR THE
CODIFIED ORDINANCES OF LANCASTER

All new replacement pages bear the footnote "2023 Replacement". Please discard old pages and insert these new replacement pages immediately as directed in the following table.

| Discard Old Pages | Insert New Pages |
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# CODIFIED ORDINANCES OF THE CITY OF LANCASTER OHIO

Local legislation current through December 11, 2023

State legislation current through April 5, 2023

## 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 11, 2023.

/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

(2023)

COUNCIL

| | |
|---|---|
| David Uhl | President |
| Corey Schoonover | At Large |
| Jeff Porter | At Large |
| Don McDaniel | At Large |
| Presten Ahlers | First Ward |
| Tom James | Second Ward |
| Jack Mattlin | Third Ward |
| Larry Ailes | Fourth Ward |
| Kristina Crites | Fifth Ward |
| Becky Tener | Sixth Ward |
| Teresa Sandy | Clerk |

OFFICIALS

| | |
|---|---|
| David Scheffler | Mayor |
| Patricia Nettles | Auditor |
| Stephanie Hall | Law Director |
| Tom Stoughton | Treasurer |
| Paul Martin | Service-Safety Director |
| Curt Shonk | City Engineer |
| Nicholas Snyder | Police Chief |
| Steve Maffin | Fire Chief |
| James Fields | Municipal Court Judge |
| Randall Ullom | Municipal Court Judge |
| Trevor Innocenti | Municipal Court Magistrate |

The publisher
expresses their appreciation
to

STEPHANIE HALL
Law Director

and

TERESA SANDY
Council Clerk

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

# GENERAL INDEX

EDITOR'S NOTE: References are to individual code sections. As additional aids for locating material, users are directed to:

(a) The comparative Section Table which indicates in the Codified Ordinances the disposition of the ordinances or resolutions integrated therein.

(b) The table of contents preceding each component code, and the sectional analysis preceding each chapter.

(c) The cross references to related material following each chapter analysis.

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failure to obtain 1155.04
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established 1123.01
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| Ord. No. | Date | C.O. Section |
|---|---|---|
| 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 |
| 8-19 | 4-22-19 | 1303.06 |
| 9-19 | 4-22-19 | 903.08 |
| 11-19 | 6-24-19 | 187.01 to 187.03 |
| 13-19 | 9-9-19 | 901.01 to 901.22, 901.99, 902.01 to 902.11, 902.99, 903.01 to 903.10, 903.99, 905.01 to 905.05, 905.99 |
| 23-19 | 11-25-19 | 183.03 |
| 25-20 | 11-23-20 | 183.01 to 183.39, 183.97 to 183.99 |
| 27-20 | 11-23-20 | 183.012, 183.013, 183.02 |
| 5-21 | 2-22-21 | Repeals 133.08 |
| 6-21 | 2-22-21 | Repeals 131.01 to 131.03 |
| 7-21 | 3-8-21 | 1123.01 to 1123.21, 1129.01 to 1129.05, 1133.01 to 1133.05, 1151.01 to 1151.10, 1161.01 |
| 8-21 | 3-8-21 | 1135.01 to 1135.04, 1151.01 to 1151.10, 1161.01 |
| 9-21 | 3-22-21 | 937.01 to 937.18, 937.99 |
| 10-21 | 4-12-21 | 133.09 |
| 12-21 | 4-26-21 | 1303.01 |
| 13-21 | 4-26-21 | 1303.01 |
| 14-21 | 4-26-21 | 1525.01, 1525.02 |
| 15-21 | 4-26-21 | 1125.05 |
| 16-21 | 5-24-21 | 185.01 to 185.03 |
| 18-21 | 6-14-21 | 705.01 to 705.05 |
| 27-21 | 9-13-21 | 1105.03, 1109.06 |
| 32-21 | 10-25-21 | 1157.03 |
| 46-21 | 12-13-21 | 183.013 |
| 51-21 | 12-13-21 | 183.012, 183.013, 183.02 |
| 8-22 | 3-14-22 | 111.01 to 111.38 |
| 19-22 | 6-13-22 | 103.01 to 103.07 |
| 23-22 | 8-8-22 | 303.08, 351.15 |
| 30-22 | 10-24-22 | 911.07, 912.05, 915.04, 915.05, 916.08 |
| 35-22 | 11-28-22 | 911.07 |
| 2-23 | 1-9-23 | 1130.01 to 1130.08 |
| 5-23 | 3-27-23 | 111.06.1 |
| 7-23 | 4-24-23 | 798.01 to 783.03, 798.99 |
| 15-23 | 8-14-23 | 1121.01, 1121.02, 1123.01 to 1123.13, 1125.01 to 1125.03, 1127.01, 1129.01 to 1129.06, 1133.01 to 1133.03, 1135.01, 1135.02, 1137.01 to 1137.08, |

| Ord. No. | Date | C.O. Section |
|---|---|---|
| 15-23 (Cont.) | | 1139.01 to 1139.04, 1141.01 to 1141.13, 1143.01 to 1143.15, 1145.01 to 1145.20, 1147.01 to 1147.16, Ch. 1149, Ch. 1151, 1153.01 to 1153.09, 1155.01 to 1155.09, 1157.01 to 1157.11, 1159.01 to 1159.04, 1161.01 |
| 21-23 | 10-23-23 | 937.01 to 937.18, 937.99 |
| 32-23 | 11-27-23 | 183.01 to 183.39, 183.96 to 183.99 |
| 45-23 | 12-11-23 | 183.013 |
| 46-23 | 12-11-23 | 111.06.1 |
| 47-23 | 12-11-23 | 111.06 |
| 48-23 | 12-11-23 | Repeals Ch. 113 |

TABLE B - EASEMENTS (Cont.)

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

TABLE B - EASEMENTS (Cont.)

| Ord. No. | Date | Description |
|---|---|---|
| 32-17 | 11-13-17 | Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a gas line and appurtenances. |
| 33-17 | 11-13-17 | Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a gas line and appurtenances. |
| 11-18 | 9-10-18 | Grants an easement necessary for the provision of electric services by Ohio Power Company, a unit of American Electric Power. |
| 13-18 | 9-24-18 | Approves an easement for Fairfield Homes, Inc. |
| 4-19 | 2-11-19 | Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace, or remove City utilities and appurtenances from One Write Company. |
| 5-19 | 2-11-19 | Grants a supplemental easement for the provision of electric services. |
| 19-19 | 11-4-19 | Supersedes a previous easement necessary for the construction of electric lines. |
| 6-20 | 4-13-20 | Accepts an easement necessary for a sanitary sewer from Fairfield Commercial Properties, LLC. |
| 9-20 | 6-8-20 | Permanent General Utility Easement Agreement, in a portion of Fulkerson Avenue and a 12-foot alley to be vacated. |
| 2-21 | 1-11-21 | Grants multiple easements to Zayo Group, LLC for the construction of a Fiber Optic Telecommunications System through the City. |
| 23-21 | 8-9-21 | Accepts sanitary sewer easement from Robert E. Ruble. |
| 30-21 | 9-27-21 | Accepts sanitary sewer easements from Lancaster Port Authority. |
| 50-21 | 12-13-21 | Accepts an easement necessary to survey, construct, operate, maintain, remove, replace and control City gas pipeline beginning on Hawthorne Ave. |
| 4-22 | 2-14-22 | Service-Safety Director is hereby authorized to enter into a Supplemental Easement and Partial Release of Easement with AEP to relocate AEP lines and infrastructure in and along City of Lancaster property in Horns Mill Road. |
| 9-22 | 3-28-22 | Authorizes the Law Director to acquire twenty-five year easements from the State of Ohio at Ohio University Lancaster. |
| 16-22 | 4-11-22 | Mayor is hereby authorized to enter into a General Utility Easement with the owners of Fairfield County Auditor Parcel Number 0140112600. |
| 22-22 | 7-18-22 | Grants an easement to Summitig, LLC for the installation and maintenance of a Fiber Optic Telecommunications System over and through 0.554+/- acres of City property. |
| 26-22 | 9-26-22 | Accepts a storm sewer easement in conjunction with a right-of-way (ROW) vacation requested by the Creed of Recovery LLC. |
| 33-22 | 11-14-22 | Releases right of way/easement on Fairfield County Tax Parcel 0535027600. |
| 6-23 | 3-27-23 | Temporary construction easement and permanent general utility easement with the Lancaster Port Authority for the Lateral D Trunk Sewer Project. |
| 14-23 | 7-17-23 | Temporary construction easements and permanent general utility easement with Kraner Acres LLC for the Lateral D Trunk Sewer Project. |
| 18-23 | 8-28-23 | Permanent utility easement and right-of-way with Ohio Power Company, a unit of American Electric Power, for the relocation of facilities necessary for the construction of the new transfer station. |

TABLE D - DEDICATION OF PROPERTY (Cont.)

| Ord. No. | Date | Description |
|---|---|---|
| 49-05 | 6-27-05 | Accepts the final plat for West View Heights Addition No. 3. |
| 50-05 | 7-18-05 | Accepts the final plat for the Overlook Section 1. |
| 54-05 | 8-22-05 | Accepts the final plat for Misty Meadows Section 3. |
| 57-05 | 8-22-05 | Dedicates property described in Exhibit A for public alley way and utility purposes. |
| 71-05 | 11-14-05 | Accepts the final plat for River Valley Highland Section 12, Phase 1. |
| 14-06 | 4-10-06 | Accepts the final plat for the Woods Section 1. |
| 29-06 | 8-14-06 | Accepts the final development plan for Primrose of Lancaster. |
| 31-06 | 8-14-06 | Accepts the final plat for Ewing Run Estates Phase 2A. |
| 33-06 | 8-28-06 | Accepts the final plat for Ety Pointe Centre. |
| 40-06 | 9-11-06 | Accepts the final plat for Ety Pointe Centre North. |
| 47-06 | 11-27-06 | Accept the dedication plat for Countryside Drive. |
| 27-07 | 4-23-07 | Accepts the final plat for Creekside Phase 3. |
| 28-07 | 4-23-07 | Amends the final plat for Ety Pointe Centre. |
| 30-08 | 9-8-08 | Accepts the revisions to the Lancaster Industrial Park final plat. |
| 15-09 | 9-14-09 | Accepts final plat for River Valley Highlands Section 12 Phase 2A. |
| 6-10 | 4-12-10 | Restores the right of one direct access driveway onto West Fair Avenue from Reserve D of the Overlook Section 1 Development. |
| 9-10 | 6-28-10 | Accepts the final plat for the Election House Road relocation. |
| 23-12 | 12-10-12 | Accepts the final plat for River Valley Highlands Section 12 Phase 2B. |
| 24-12 | 12-10-12 | Accepts the final plat for River Valley Highlands Section 12 Phase 3A. |
| 11-13 | 4-8-13 | Amends the approved Planned Unit Development Plan for an undeveloped 17 acre +/- tract in Hunter Trace Estates lying north of the Northern Termini of Trace Drive and Linda Lane, to allow for the construction of a school. |
| 10-14 | 6-23-14 | Accepts the final plat for River Valley Highlands Sections 13 Phase 1. |
| 10-15 | 7-13-15 | Accepts the final plat for River Valley Highlands Section 13 Phase 2. |
| 13-16 | 4-11-16 | Accepts the final plat for River Valley Highlands Section 13 Phase 3. |
| 24-16 | 9-26-16 | Accepts the final development plan for the Primrose Memory Care Facility. |
| 3-17 | 1-9-17 | Accepts the final plat for Ewing Street Business Park. |
| 20-17 | 6-12-17 | Accepts a permanent right-of-way on Sheridan Drive for the turn lane widening and sidewalk project in front of Medill Elementary. |
| 5-18 | 5-7-18 | Accepts the right of way dedication on North Columbus Street (for the turn lane widening project near the intersection of North Columbus Street/Bush Hill Drive/Fairfield Medical Center - Health and Wellness Center Entrance). |
| 10-18 | 8-13-18 | Accepts the final plat for the General Sherman Junior High School Subdivision. |
| 14-19 | 10-14-19 | Accepts the final plat for Misty Meadows Section 4. |

## TABLE D - DEDICATION OF PROPERTY (Cont.)

| Ord. No. | Date | Description |
|---|---|---|
| 18-20 | 10-12-20 | Accepts the replat of Wesley Woods Subdivision, Phase 2. |
| 20-20 | 10-26-20 | Accepts the final plat for the Overlook Section 2. |
| 4-21 | 2-8-21 | Accepts the final plat for Timbertop Phase 1. |
| 36-21 | 10-25-21 | Accepts the final plat for Timbertop Phase 2. |
| 1-23 | 1-9-23 | Accepts the final plat for the Broad and Canal Subdivision. |
| 20-23 | 10-9-23 | Accepts the final plat for Timbertop Subdivision Phase 3. |

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

| Ord. No. | Date | Description |
|---|---|---|
| 10-19 | 5-6-19 | Authorizes the Service-Safety Director to accept approximately 10 acres of property in Township 14, Range 19, Sections 2 & 3, from Fairfield Homes, Inc. |
| 12-19 | 7-5-19 | Authorizes the Service-Safety Director to accept approximately 21 acres, of property in Section 33, Township 15, Range 19, Township of Greenfield, from the estate of D. Merrill Bowers. |
| 17-20 | 9-28-20 | Authorizes the Mayor to enter into an agreement to purchase approximately 0.982 acres, more or less, of real property identified as Parcel Number 0535023192 from Fair-Com Rentals Ltd. |
| 22-20 | 10-26-20 | Authorizes the Mayor to enter into an agreement to purchase approximately 0.14 acres, more or less, of real property identified as Parcel Number 0535118000 from Wayne A. Hedges and Lorena J. Hedges. |
| 29-21 | 9-27-21 | Authorizes the Mayor to enter into an agreement to accept approximately 0.076 acres, more or less, of real property identified as Parcel Number 0532027400, from Fairfield County Land Reutilization Corporation. |
| 3-22 | 1-24-22 | Authorizes the Mayor to execute all documents and pay any fees necessary to accept Canal Land from the State of Ohio. |
| 5-22 | 2-28-22 | Accepts 0.048 acres that the property owner has deeded to the City to provide the City with additional right-of-way for underground utilities. |
| 15-22 | 4-11-22 | Accepts .775 +/- acres of real property from Table Mountain Industries, LLC. |
| 17-22 | 4-25-22 | Accepts property for the dedication of public right of way on Behrens Court. |
| 21-22 | 6-27-22 | Authorizes the Mayor to enter into an agreement to purchase 701 Union Street, approximately 10.716 acres more or less, of real property identified as Tax Parcel Numbers 0531813010 and 0531813000, further identified as the former General Sherman Jr., High School from the Lancaster City School District Board of Education. |
| 4-23 | 2-13-23 | Authorizes the Mayor to accept 4.07 acres, more or less, of property identified as Fairfield County Auditor Parcel Numbers 0140112520 and 0531344030 from the Fairfield County Board of County Commissioners. |
| 16-23 | 8-14-23 | Authorizes the Mayor to enter into an agreement to purchase real property from Anchor Hocking LLC. |

TABLE I - ZONING MAP CHANGES (Cont.)

| Ord. No. | Date | Description |
|---|---|---|
| 11-11 | 9-26-11 | The 10.246 +/- acres known as the Olivedale Annexation zoned Commercial Neighborhood, the same as the other Olivedale property. |
| 11-15 | 8-24-15 | Amends the Zoning Map subject to passage of the annexation of 3.284 acres in Greenfield Township to zone such property Commercial General (CG). |
| 20-15 | 11-23-15 | Amends the Zoning Map subject to the passage of the annexation of 0.838 acres in Pleasant Township. |
| 21-15 | 11-23-15 | Amends the Zoning Map subject to the passage of the annexation of 5.633 acres in Pleasant Township. |
| 2-17 | 1-9-17 | 184.264 acres on the west side of Whiley Road and north of Royalton Road from CH High Intensity Commercial, RM-3 Residential Multifamily and RS-3 Single Family Residential to CH High Intensity Commercial, IH Heavy Industrial and RS-3 Single Family Residential. |
| 18-18 | 10-22-18 | The 4.971 acre property at the southwest corner of the Canal Street and South Maple Street intersection with Parcel Number 0535026000 from IH Industrial Heavy to IL Industrial Light. |
| 4-20 | 3-23-20 | Amends the Zoning Map subject to passage of the annexation of 76.877 +/- acres in Greenfield Township to establish zoning as follows:<br>a. Commercial Neighborhood (CN)<br>b. Residential Multi-Family (RM-2)<br>c. Residential Single Family (RS-3) |
| 11-20 | 6-8-20 | 18.939 acre property between North Memorial Drive and North Columbus Street/Nelson Road Parcel Numbers 0532152400, 0532152600, 0532144900, 0532145000 from RS-3 Residential Single Family and CG Commercial General to RM-2 Residential Multi-Family with a Planned Unit Development (PUD) overlay. |
| 12-20 | 6-8-20 | 21.000 acre property consisting of three parcels located along Campground Road and including the existing residence address 1443 Campground Road Parcel Numbers 0531004100, 0531004300, and 0531004110 from RS-1 Single Family Residential to IH Industrial Heavy District. |
| 13-20 | 6-8-20 | 12.646 acres tract, Parcel Number 0534000700, behind 2535 East Main Street from RS-3 Single Family Residential to CG Commercial General. |
| 38-21 | 11-22-21 | Subject to passage of the annexation of 25.8723 +/- acres in Hocking Township, change of zoning from NB (Neighborhood Business) in Hocking Township to CH (Commercial High Intensity) zoning district in the City of Lancaster. |
| 24-22 | 8-8-22 | 4.083 +/- acres identified as Fairfield County Auditor Tax Parcel Number 0535027600 from Industrial Heavy to Commercial General. |
| 29-22 | 10-24-22 | 20.7 +/- acres identified as Fairfield County Auditor Tax Parcel Number 0533008400 from Commercial General (CG) to Residential Single Family 4 (RS-4). |
| 34-22 | 11-28-22 | Amends the Zoning Map subject to passage of the annexation of 20.611 +/- acres in Greenfield Township from R-1 (Rural Residential) in Greenfield Township to CN (Commercial Neighborhood) zoning district in the City of Lancaster. |

TABLE I - ZONING MAP CHANGES (Cont.)

| Ord. No. | Date | Description |
|---|---|---|
| 42-23 | 12-11-23 | Newly annexed 8.9 ± acres in Greenfield Twp. zoned RM (Residential Multi-Family District). |

TABLE J - ANNEXATION OR DETACHMENT OF TERRITORY (Cont.)

| Ord. No. | Date | Description |
|---|---|---|
| 16-20 | 8-10-20 | Council authorizes the annexation of Parcel No. 0140112530 and Parcel No. 0140112520, for the development of "Bowers Park". |
| 37-21 | 11-22-21 | Accepts a petition for the annexation of 25.8723 +/- acres in Hocking Township. |
| 27-23 | 11-13-23 | Accepts a petition for the annexation of 8.9 +/- acres in Greenfield Township. |

# CODIFIED ORDINANCES OF LANCASTER

## PART ONE - ADMINISTRATIVE CODE

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**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. (Repealed)
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 THREE - Legislative**

Chap. 111. Rules of Council.
Chap. 113. Clerk of Council. (Repealed)
Chap; 115. Ordinances and Resolutions.

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## CHAPTER 111
## Rules of Council

111.01 Time of regular meetings.
111.02 Special meetings.
111.03 Calling to order; preliminaries; presiding officer.
111.04 Quorum.
111.05 Permission to leave chamber.
111.06 President Pro Tempore and Clerk of Council.
111.06.1 Standing committees.
111.07 Order of business.
111.08 Exception to order of business.
111.09 Committee or official's reports.
111.10 Speaking.
111.10.1 Voters and taxpayers addressing Council.
111.11 Motions.
111.12 Division of the question.
111.13 Writing out motion.
111.14 Reference of motion to committee.
111.15 Motion to adjourn.
111.16 Motions considered during debate.
111.17 Motion to take from the table.
111.18 Motion to reconsider.
111.19 Previous question.
111.20 Voting.
111.21 Introduction of ordinances.
111.22 Limitations on reference.
111.23 Action of Council; procedure.
111.24 Resolutions and expenditure of money.
111.25 Appeal from decision of the chair.
111.26 Undebatable motions.
111.26.1 Debatable motions.
111.27 Calling member to order.
111.28 Change in rules.
111.29 Action upon failure of committee to report.
111.30 Suspension of rules.
111.31 Chief of Police to preserve order and compel attendance.
111.32 Power to compel attendance.
111.33 Refusal to attend special meetings.
111.34 Use of Robert's Rules of Order.
111.35 Changing rules.
111.36 Tobacco products prohibited at all meetings.
111.37 Providing Council members with ordinance books. (Repealed)
111.38 Schedule of Council.

CROSS REFERENCES

Adoption of ordinances and resolutions - see Ohio R.C. 715.03, 731.17
General powers - see Ohio R.C. 715.03, 731.01, 731.05, 731.47
To establish sewerage rates - see Ohio R. C. 729.49
Composition - see Ohio R. C. 731.01, 731.06
Qualifications - see Ohio R. C. 731.02, 731.44
Election and term - see Ohio R. C. 731.03, 733.09

CROSS REFERENCES (Cont.)
Election of officers - see Ohio R. C. 731.04
President pro tempore - see Ohio R. C. 731.04, 733.08
Powers as to salaries and bonds - see Ohio R. C. 731.07 et seq., 731.49 et seq.
Vacancy - see Ohio R. C. 731.43
Quorum - see Ohio R.C. 731.44
Regular and special meetings - see Ohio R.C. 731.44, 731.46
Rules; journal; expulsion of members - see Ohio R. C. 731.45
Contract restriction - see Ohio R. C. 731.48
Failure to take oath or give bond - see Ohio R. C. 731.49
Mayor and directors to attend meetings - see Ohio R. C. 733.06
President of Council - see Ohio R. C. 733.07 et seq.
President to preside with no vote except for a tie - see Ohio R. C. 733.09
Mayor's reports - see Ohio R. C. 733.32, 733.41
Misconduct - see Ohio R. C. 733.72 et seq.
Contract interest - see Ohio R . C . 733.78

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**111.01 TIME OF REGULAR MEETINGS.**

Regular meetings of Council shall be held at the designated Council Chambers per the adopted schedule for the calendar year, or at such time as maybe ordered by Council. (Ord. 8-22. Passed 3-14-22.)

**111.02 SPECIAL MEETINGS.**

Special meetings of Council may be called by the Mayor, President of Council, or any three members of Council upon written request delivered to the Clerk of Council. No business shall be transacted at any special meeting of Council, except the particular business for the transaction of which such special meeting may be called and the notice to be served on each member requiring his/her attendance at such special meeting shall contain a statement of the business for the transaction of which such special meeting may be called. (Ord. 8-22. Passed 3-14-22.)

**111.03 CALLING TO ORDER; PRELIMINARIES; PRESIDING OFFICER.**

The President or, in his/her absence, the President pro tempore shall take the chair at the prescribed meeting start time, shall immediately call the members to order, and shall proceed with the meeting agenda. In the absence of the President and President pro tempore, if a quorum shall be present, Council shall appoint one of its members President pro tempore for that meeting, or until the appearance of the President or President pro tempore. If a quorum is not present, the members may by a majority vote take a recess for a period not exceeding one hour. The President pro tempore retains his/her right to vote and enter into discussion and debate, even when chairing a session. (Ord. 8-22. Passed 3-14-22.)

**111.04 QUORUM.**

A majority of the members of Council shall constitute a quorum. (Ord. 8-22. Passed 3-14-22.)

**111.05 PERMISSION TO LEAVE CHAMBER.**

No member shall leave the Council chamber while Council is in session, without permission being granted by the presiding officer.
(Ord. 8-22. Passed 3-14-22.)

**111.06 PRESIDENT PRO TEMPORE AND CLERK OF COUNCIL.**

Not later than January 7th of each year in a new term of Council, Council shall hold an Organizational Meeting for the purposes of appointing a President pro tempore and a Clerk of Council. Any Council member may make a motion in this meeting to appoint individuals to these positions. Any such motion must be seconded and passed by a majority vote of Council.
(Ord. 47-23. Passed 12-11-23.)

**111.06.1 STANDING COMMITTEES.**

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

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

(a) Code Enforcement and Zoning Committee. (Certified Building Department, Planning and Zoning and Code Enforcement)
(b) Economic Development Committee. (Annexations, Community Development, and Economic Development)
(c) Finance Committee. (Auditor, Treasure, Income Tax and City Budget)
(d) Law Committee. (General Legal Issues, Law Director's Office, Municipal Court, Clerk of Court, Council, Council Rules, Council Clerk, Mayor's Office and Service-Safety Director).
(e) Administrative Services Committee. (Information technology and Telecommuncations, Graphic Information System, and Human Resources).
(f) Public Works Committee. (Engineering, Transportation, Transit and Cemetery).
(g) Safety Committee. (Police and Fire)
(h) Service Committee. (Gas IT/Telecom, Utilities Collection, Parks and Recreation, Olivedale and Sanitation).
(i) Water/Water Pollution Control Committee. (Water, Wastewater, Storm Water and Environmental Engineering).
(Ord. 46-23. Passed 12-11-23.)

**111.07 ORDER OF BUSINESS.**

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

(a) Prayer
(b) Call to Order
(c) Pledge of Allegiance
(d) Roll Call
(e) Reading and disposing of the Journal
(f) Reports of City Officials
(g) Reading of Communications
(h) Reading of Petitions and Memorials

(i) Special Presentations and Awards
(j) Permission of voters and taxpayers to address Council
(k) Report of Standing Committees
(l) Reports of Special Committees
(m) Scheduled Public Hearings
(n) Resolutions
(o) Ordinances
(p) Unfinished Business
(q) New Business
(r) Announcement of Scheduled Meetings
(s) Reading of Bills
(t) Executive Session (if needed)
(u) Adjournment
(Ord. 8-22. Passed 3-14-22.)

**111.08 EXCEPTION TO ORDER OF BUSINESS.**

It shall be the duty of the President to proceed with the order of business adopted in Section 111.07. The President may, however, at any time permit a member to introduce an ordinance, resolution, motion or order out of the regular order for the same, if there is no objection on the part of a majority vote of Council.
(Ord. 8-22. Passed 3-14-22.)

**111.09 COMMITTEE OR OFFICIAL'S REPORTS.**

Any subject matter having been referred to any committee of Council or City officer shall be reported upon, in writing, by such committee or officer, and at least a majority of each and any committee to which a subject has been referred shall report thereon. Such report shall, in every instance be accompanied by the original papers upon which such report is based and be signed by such members thereof as concur therein, and the same shall be read by the Clerk, or at the Clerk's desk by the member making the report, without motion.
(Ord. 8-22. Passed 3-14-22.)

**111.10 SPEAKING.**

In all cases the member who shall first address the President and attempt to gain the floor shall speak first. However, when two or more members shall address the chair at once, the President shall name the member who is first to speak. No member shall be allowed to speak except from his/her own desk. No member shall speak more than twice on the same subject, nor longer than five minutes without leave, and no member shall speak more than once on the same motion until every member desiring to speak on that motion shall have had an opportunity to do so. Any member, while discussing a question, may read from books, papers or documents, any matter pertinent to the subject under consideration without asking leave.
(Ord. 8-22. Passed 3-14-22.)

**111.10.1 VOTERS AND TAXPAYERS ADDRESSING COUNCIL.**

In order to ensure that the amount of time allowed for voters and taxpayers to address Council is fair to all in attendance, it shall be the duty of the President of Council to enforce a five (5) minute rule. No person speaking during the voter and taxpayer time shall be permitted to speak for longer than five (5) minutes and no person shall receive permission under this agenda item to speak more than once per Council meeting.
(Ord. 8-22. Passed 3-14-22.)

# CHAPTER 113
## Clerk of Council (Repealed)

EDITOR'S NOTE: Former Chapter 113 was repealed by Ordinance 48-23, passed December 11, 2023.

# CHAPTER 183
## Municipal Income Tax Effective January 1, 2018


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

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

### 183.011 AUTHORITY TO LEVY TAX.

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

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.
(Ord. 32-23. Passed 11-27-23.)

**183.012 PURPOSES OF TAX; RATE.**

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

(B) Rate of tax is two and thirty hundredths percent (2.30%) for taxable years that begin on or after January 1, 2023, the rate of tax is two and twenty hundredths percent (2.20%) for taxable years that begin on or after January 1, 2021 and before January 1, 2023, and the rate of tax is one and seventy-five hundredths percent (1.75%) for taxable years that begin before January 1, 2021. (Ord. 32-23. Passed 11-27-23.)

**183.013 ALLOCATION OF FUNDS.**

(A) To provide funds for the purposes of operating, maintaining, repairing, and providing capital facilities for municipal park and recreational activities and facilities, there shall be and is hereby levied an annual tax, in addition to the tax levied by Section 183.012, and any other section imposing a tax on earnings and income, for the period January 1, 2018 through December 31, 2022 upon those classes of earnings and income set forth in Section 183.012 at the rate of fifteen hundredths of one percent (0.15%). To provide funds for the purposes of operating, maintaining, repairing, and providing capital facilities for municipal park and recreational activities and facilities and paying principal and interest on bonds and notes issued for such purposes on and after January 1, 2023, there shall be and is hereby levied an annual tax, in addition to the tax levied by Section 183.012, and any other section imposing a tax on earnings and income, a continuing tax upon those classes of earnings and income set forth in Section 183.012 at the rate of twenty-five hundredths of one percent (0.25%).

(B) Of the remaining total imposed tax at the rate of two and five hundredths percent (2.05%), nine tenths of one percent (0.9%) is to provide funds for the purpose of operating, maintaining, repairing and providing capital facilities for the Fire and Police Departments of the City.

(C) Of the remaining total imposed tax at the rate of one and fifteen hundredths percent (1.15%), fifteen hundredths of one percent (0.15%) is, effective July 1, 2005, to provide funds for the purpose of providing fire services within the City and acquiring equipment for such services and paying principal and interest on securities issued and public obligations incurred to finance such equipment.

(D) Of the remaining total imposed tax at the rate of one percent (1.0%) for the period beginning January 1, 2024, and continuing thereafter, such tax shall be used for the following purposes and in the respective percentages:

General Fund 0.88%
Parks Improvement Fund 0.01%
Cemetery Fund 0.01 %
City Capital Improvement Fund 0.10%

(Ord. 45-23. Passed 12-11-23.)

**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. 32-23. Passed 11-27-23.)

**183.02 EFFECTIVE DATE.**

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

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

(C) Permanent Ordinance No. 27-20, effective January 1, 2021, applies to municipal tax years beginning on or after January 1, 2021. Temporary Ordinance No. 17-21 effective January 1, 2023, applies to municipal tax years beginning on or after January 1, 2023.
(Ord. 32-23. Passed 11-27-23.)

**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:

(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) (i) For tax years through 2023, to the extent authorized under a resolution or ordinance adopted by the municipality before January 1, 2016, all or a portion of the income of individuals or a class of individuals under 16 years of age.

(ii) For tax years 2024 and after, the income of individuals under 18 years of age.

(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. 32-23. Passed 11-27-23.)

## 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 situsted 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 situsted 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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

## 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

(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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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 sitused to a municipal corporation as follows:

(1) Gross receipts from the sale of tangible personal property shall be sitused 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 sitused 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 sitused 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 sitused to the municipal corporation.

(5) Gross receipts from rents and royalties from tangible personal property shall be sitused 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 sitused under this division to the municipal corporation in which the property is located.

(F) This division applies to any taxpayer engaged in a business or profession in City of Lancaster, unless the taxpayer is an individual who resides in City of Lancaster or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the ORC.

(1) Except as otherwise provided in divisions (F)(2) and (G) of this section, net profit from a business or profession conducted both within and without the boundaries of City of Lancaster shall be considered as having a taxable situs in City of Lancaster for purposes of municipal income taxation in the same proportion as the average ratio of the following:

(a) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in City of Lancaster during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;

(b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in City of Lancaster 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 183.051;

(c) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in City of Lancaster to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

(2) (a) If the apportionment factors described in division (F)(1) of this section do not fairly represent the extent of a taxpayer's business activity in City of Lancaster, the taxpayer may request, or the Tax Administrator of City of Lancaster may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:

(i) Separate accounting;

(ii) The exclusion of one or more of the factors;

(iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;

(iv) A modification of one or more of the factors.

(b) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 183.17.

(c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(2)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 183.17.

(d) Nothing in division (F)(2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(3) As used in division (F)(l )(b) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

(a) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:

(i) The employer;

(ii) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

(iii) A vendor, customer, client, or patient of a person described in (F)(3)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.

(b) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

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

(4) For the purposes of division (F)(l)(c) of this section, and except as provided in division (G) of this section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:

(a) Gross receipts from the sale of tangible personal property shall be sitused to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in City of Lancaster if, regardless of where title passes, the property meets any of the following criteria:

(i) The property is shipped to or delivered within City of Lancaster from a stock of goods located within City of Lancaster.

(ii) The property is delivered within City of Lancaster from a location outside City of Lancaster, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within City of Lancaster and the sales result from such solicitation or promotion.

(iii) The property is shipped from a place within City of Lancaster to purchasers outside City of Lancaster, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(b) Gross receipts from the sale of services shall be sitused to City of Lancaster to the extent that such services are performed in City of Lancaster.

(c) To the extent included in income, gross receipts from the sale of real property located in City of Lancaster shall be sitused to (City of Lancaster.

(d) To the extent included in income, gross receipts from rents and royalties from real property located in City of Lancaster shall be sitused to City of Lancaster.

(e) Gross receipts from rents and royalties from tangible personal property shall be sitused to City of Lancaster based upon the extent to which the tangible personal property is used in City of Lancaster

(5) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individuall or by a disregarded entity owned by the individuall shall be subject to City of Lancaster's tax only if the property generating the net profit is located in City of Lancaster or if the individual taxpayer that receives the net profit is a resident of City of Lancaster. City of Lancaster shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit sitused under this division to the municipal corporation in which the property is located.

(6) (a) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be sitused 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 City of Lancaster, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in City of Lancaster to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(b) An individual who is a resident of City of Lancaster shall report the individual's net profit from all real estate activity on the individual's annual tax return for City of Lancaster. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under City of Lancaster's income tax ordinance. (7) When calculating the ratios described in division (F)(1) of this section for the purposes of that division or division (F)(2) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

(7) Left intentionally blank.

(8) Intentionally left blank.

(G) (1) As used in this division:

(a) "Qualifying remote employee or owner" means an individual who is an employee of a taxpayer or who is a partner or member holding an ownership interest in a taxpayer that is treated as a partnership for federal income tax purposes, provided that the individual meets both of the following criteria:

(i) The taxpayer has assigned the individual to a qualifying reporting location.

(ii) The individual is permitted or required to perform services for the taxpayer at a qualifying remote work location.

(b) "Qualifying remote work location" means a permanent or temporary location at which an employee or owner chooses or is required to perform services for the taxpayer, other than a reporting location of the taxpayer or any other location owned or controlled by a customer or client of the taxpayer. "Qualifying remote work location" may include the residence of an employee or owner and may be located outside of a municipal corporation that imposes an income tax in accordance with this chapter. An employee or owner may have more than one qualifying remote work location during a taxable year.

(c) "Reporting location" means either of the following:

(i) A permanent or temporary place of doing business, such as an office, warehouse, storefront, construction site, or similar location, that is owned or controlled directly or indirectly by the taxpayer;

(ii) Any location in this state owned or controlled by a customer or client of the taxpayer, provided that the taxpayer is required to withhold taxes under Section 183.051 of this Ordinance, on qualifying wages paid to an employee for the performance of personal services at that location.

(d) "Qualifying reporting location" means one of the following:

(i) The reporting location in this state at which an employee or owner performs services for the taxpayer on a regular or periodic basis during the taxable year;

(ii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) of this section, the reporting location in this state at which the employee's or owner's supervisor regularly or periodically reports during the taxable year;

(iii) If no reporting location exists in this state for an employee or owner under division (G)(1)(d)(i) or (ii) of this section, the location that the taxpayer otherwise assigns as the employee's or owner's qualifying reporting location, provided the assignment is made in good faith and is recorded and maintained in the taxpayer's business records. A taxpayer may change the qualifying reporting location designated for an employee or owner under this division at any time.

(2) For tax years ending on or after December 31, 2023, a taxpayer may elect to apply the provisions of this division to the apportionment of its net profit from a business or profession. For taxpayers that make this election, the provisions of division (F) of this section apply to such apportionment except as otherwise provided in this division.

A taxpayer shall make the election allowed under this division in writing on or with the taxpayer's net profit return or, if applicable, a timely filed amended net profit return or a timely filed appeal of an assessment. The election applies to the taxable year for which that return, or appeal is filed and for all subsequent taxable years, until the taxpayer revokes the election.

The taxpayer shall make the initial election with the tax administrator of each municipal corporation with which, after applying the apportionment provisions authorized in this division, the taxpayer is required to file a net profit tax return for that taxable year. A taxpayer shall not be required to notify the tax administrator of a municipal corporation in which a qualifying remote employee's or owner's qualifying remote work location is located, unless the taxpayer is otherwise required to file a net profit return with that municipal corporation due to business operations that are unrelated to the employee's or owner's activity at the qualifying remote work location.

After the taxpayer makes the initial election, the election applies to every municipal corporation in which the taxpayer conducts business. The taxpayer shall not be required to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in such municipal corporation. Nothing in this division prohibits a taxpayer from making a new election under this division after properly revoking a prior election.

(3) For the purpose of calculating the ratios described in division (F)(1) of this section, all of the following apply to a taxpayer that has made the election described in division (G)(2):

(a) For the purpose of division (F)(1)(a) of this section, the average original cost of any tangible personal property used by a qualifying remote employee or owner at that individual's qualifying remote work location shall be situsedto that individual's qualifying reporting location.

(b) For the purpose of division (F)(1)(b) of this section, any wages, salaries, and other compensation paid during the taxable period to a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situsedto that individual's qualifying reporting location.

(c) For the purpose of division (F)(1)(c) of this section, and notwithstanding division (F)(4) of this section, any gross receipts of the business or profession from services performed during the taxable period by a qualifying remote employee or owner for services performed at that individual's qualifying remote work location shall be situsedto that individual's qualifying reporting location.

(4) Nothing in this division prevents a taxpayer from requesting, or a tax administrator from requiring, that the taxpayer use, with respect to all or a portion of the income of the taxpayer, an alternative apportionment method as described in division (F)(2) of this section. However, a tax administrator shall not require an alternative apportionment method in such a manner that it would require a taxpayer to file a net profit return with a municipal corporation solely because a qualifying remote employee's or owner's qualifying remote work location is located in that municipal corporation.

(5) Except as otherwise provided in this division, nothing in this division is intended to affect the withholding of taxes on qualifying wages pursuant to Section 183.951 of this Ordinance.

(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. 32-23. Passed 11-27-23.)

**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 situsedto 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 situsedto 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 situsedto 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. 32-23. Passed 11-27-23.)

### 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. 32-23. Passed 11-27-23.)

### 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. 32-23. Passed 11-27-23.)

### 183.066 PERFORMANCE WITHHOLDING INCENTIVE FOR INDUSTRIAL AND ADVANCED TECHNOLOGY JOBS.

(A) The City may offer annual performance-based cash incentives based upon a percentage of actual payroll withholdings for industrial and/or Advanced Technology Companies providing a minimum of thirty (30) new jobs and/or minimum payroll of $1.5 Million (Z). The incentive shall be recommended by the Economic Development Director and approved by a majority approval of the Mayor, Auditor and Law Director. Approval may be provided in person, electronically, or by telephone. The period/duration (Y) will be 1 to 10 years with an incentive range (X) of 10% to 50%.

(B) The City proposes annual incentive payments based upon a percentage (the Incentive Factor) of employee annual withholdings (2.20% of wages). The City proposed an Incentive Factor of (X%) on employee withholdings (net of refunds) for (Y) years. This offer assumes and requires a minimum (Y) year production term.

(Y) Period of 1 to 10 years
(X) Range of 10% to 50%
(Z) Minimum thirty (30) new jobs and/or a minimum payroll of $1.5 million

| Year | Target Payroll | Target Withholdings | X% Payment |
|---|---|---|---|
| 20 ____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| **TOTAL** | | | **$ Sum of this Column** |

If the annual "Target Payroll" is exceeded in any given year, the annual incentive payment would increase based on the formula above. If the annual "Target Payroll" is missed in any particular year, no payment is made for that year; but does not preclude the company from receiving payments in other remaining years. (Ord. 32-23. Passed 11-27-23.)

**183.067 PERFORMANCE WITHHOLDING INCENTIVE FOR HISTORIC DISTRICT JOBS.**

(A) The City may offer annual performance-based cash incentives based upon a percentage of actual payroll withholding for companies currently or newly located in the Historic District providing a minimum of ten (10) new jobs and/or a minimum payroll of $400,000.00(Z). The incentive shall be recommended by the Economic Development Director and approved by a majority approval of the Mayor, Auditor and Law Director. Approval may be provided in person, electronically, or by telephone. The period/duration (Y) will be 3 to 5 years with an incentive range (X) of 10% to 50%.

(B) The City proposes annual incentive payments based upon a percentage (the Incentive Factor) of employee annual withholdings (2.20% of wages). The City proposes an Incentive Factor of (X%) on employee withholdings (Net of refunds) for (Y) years. This offer assumes and requires a minimum (Y) year production term.

(Y) Period of 3 to 5 years
(X) Range of 10% to 50%
(Z) Minimum ten (10) new jobs and/or a minimum payroll of $400,000.00

| Year | Target Payroll | Target Withholdings | X% Payment |
|---|---|---|---|
| 20 ____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| 20____ | $ min. (Z) | 2.20% of Z | X% of Target Withholding |
| **TOTAL** | | | **$ Sum of this Column** |

If the annual "Target Payroll" is exceeded in any given year, the annual incentive payment would increase based on the formula above. If the annual "Target Payroll" is missed in any particular year, no payment is made for that year; but does not preclude the company from receiving payments in other remaining year. (Ord. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**183.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS.**

(A) As used in this section:

(1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.

(2) (a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.

(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(c) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

(B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.

(2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.

(3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.

(C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.

(2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

(D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:

(1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

(2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation. (Ord. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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) (i) 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.

(ii) For tax years 2024 and after; the income of individual taxpayers 18 year of age and older.

(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) Except as otherwise provided in this Chapter, each return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the ORC. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to City of Lancaster. No remittance is required if the net amount due is ten dollars or less.

(2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of City of Lancaster's income tax return. The extended due date of City of Lancaster's income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. For tax years ending on or after January 1, 2023, the extended due date of City of Lancaster's income tax return for a taxpayer that is not an individual shall be the 15th day of the eleventh month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(a) A copy of the federal extension request shall be included with the filing of City of Lancaster's income tax return.

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

(3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension for the filing of City of Lancaster's income tax return. The extended due date of City of Lancaster's income tax return shall be the same as the extended due date of the state income tax return.

(4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by City of Lancaster, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.

(5) If a taxpayer receives an extension for the filing of a municipal income tax return under division (G)(2), (3), or (4) of this section, the tax administrator shall not make any inquiry or send any notice to the taxpayer with regard to the return on or before the date the taxpayer files the return or on or before the extended due date to file the return, whichever occurs first.

If a tax administrator violates division (G)(5) of this section, the municipal corporation shall reimburse the taxpayer for any reasonable costs incurred to respond to such inquiry or notice, up to $150. Division (G)(5) of this section does not apply to an extension received under division (G)(2) of this section if the tax administrator has actual knowledge that the taxpayer failed to file for a federal extension as required to receive the extension under division (G)(2) of this section or failed to file for an extension under division (G)(2)(b) of this section.

(6) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (0), (P), or (Q) of this section, the provisions in divisions (N), (0), (P), or (Q) prevail.

(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. 32-23. Passed 11-27-23.)

## 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. 32-23. Passed 11-27-23.)

### 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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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) Should any taxpayer, employer, agent of the employer, or other payer for any reason fails, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the-City of Lancaster any return required to be filed, the following penalties and interest shall apply:

(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.

(2) (a) With respect to unpaid income tax and unpaid estimated income tax, City of Lancaster may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

(b) With respect to any unpaid withholding tax, City of Lancaster may impose a penalty equal to fifty percent (50%) of the amount not timely paid.

(3) (a) For tax years ending on or before December 31, 2022, with respect to returns other than estimated income tax returns, City of Lancaster may impose a penalty of twenty-five dollars ($25.00) for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains untiled regardless of the liability shown thereon. The penalty shall not exceed one hundred fifty dollars ($150.00) for each failure.

(b) For tax years ending on or after January 1, 2023, with respect to returns other than estimated income tax returns, City of Lancaster may impose a penalty not exceeding twenty-five dollars ($25.00) for each failure to timely file each return, regardless of the liability shown thereon, except that City of Lancaster shall abate or refund the penalty assessed on a taxpayer's first failure to timely file a return after the taxpayer files that 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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

### 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. 32-23. Passed 11-27-23.)

### 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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

## 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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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 situsedto the municipal corporation under section 183.26 of the Codified Ordinances, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the municipal corporation.

(B) "Adjusted federal taxable income," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation as described in division (D)(5) of section 718.01 of the Revised Code and section 183.03 of the Codified Ordinances, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

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

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

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

(4) (a) Except as provided in division (B)(4)(b) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.

(b) Division (B)(4)(a) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

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

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

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

(8) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.

(9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of section 183.30 of the Codified Ordinances.

(10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of section 183.30 of the Codified Ordinances.

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

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

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

(D) "Tax return" or "return" means the notifications and reports required to be filed pursuant to sections 183.24 to 183.39 of the Codified Ordinances for the purpose of reporting municipal income taxes, and includes declarations of estimated tax.

(E) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the calculation of the taxpayer's adjusted federal taxable income is based pursuant to this chapter. If a taxpayer's taxable year is changed for federal income tax purposes, the taxable year for purposes of sections 183.24 to 183.39 of the Codified Ordinances is changed accordingly but may consist of an aggregation of more than one taxable year for federal income tax purposes. The tax commissioner may prescribe by rule an appropriate period as the taxable year for a taxpayer that has had a change of its taxable year for federal income tax purposes, for a taxpayer that has two or more short taxable years for federal income tax purposes as the result of a change of ownership, or for a new taxpayer that would otherwise have no taxable year.

(F) "Assessment" means a notice of underpayment or nonpayment of a tax issued pursuant to section 183.34 of the Codified Ordinances.

(Ord. 32-23. Passed 11-27-23.)

**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.

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. 32-23. Passed 11-27-23.)

## 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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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.

(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 to 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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**183.96 ELECTION TO BE SUBJECT ORC 718.80 TO 718.95.**

(A) City of Lancaster hereby adopts and incorporates herein by reference Sections 718.80 to 718.95 of the ORC for tax years beginning on or after January 1, 2018.

(B) A taxpayer, as defined in division (C) of this section, may elect to be subject to Sections 718.80 to 718.95 of the ORC in lieu of the provisions of this Chapter.

(C) "Taxpayer" has the same meaning as in section 718.01 of the ORC, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Chapter 5745 of the ORC.

(D) "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.
(Ord. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

**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. 32-23. Passed 11-27-23.)

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

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

**303.087 TOWING ROTATION AND IMPOUNDING.**

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

**303.09 PROVIDING FALSE INFORMATION TO POLICE OFFICER.**

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

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

**303.10 DISPOSITION OF FINES AND REVENUES.**

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

**303.99 GENERAL TRAFFIC CODE PENALTIES.**

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

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

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

(ORC 2929.24; 2929.28)

**303.991 COMMITTING AN OFFENSE WHILE DISTRACTED PENALTY.**

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

(1) "Distracted" means doing either of the following while operating a vehicle:

A. Using an electronic wireless communications device, as defined in Ohio R.C. 4511.204, in violation of that section.

B. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.

(2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Section 331.43.

(3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage or a circumstance affecting the health or safety of individuals.

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

A. "Utility" means an entity specified in division (A), (C), (D), (E) or (G) of Ohio R.C. 4905.03.

B. "Utility service vehicle" means a vehicle owned or operated by a utility.

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

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

## TITLE FIVE - Vehicles

Chap. 331. Operation Generally.
Chap. 333. OVI; Willful Misconduct; Speed.
Chap. 335. Licensing; Accidents.
Chap. 337. Safety and Equipment.
Chap. 339. Commercial and Heavy Vehicles.
Chap. 341. Commercial Drivers.
Chap. 343. Storage of Junk and Other Motor Vehicles.
Chap. 345. Low-Speed Vehicles.

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## CHAPTER 331
## Operation Generally

**331.01 Driving upon right side of roadway; exceptions.**
**331.02 Passing to right when proceeding in opposite directions.**
**331.03 Overtaking, passing to left; driver's duties.**
**331.04 Overtaking and passing upon right.**
**331.05 Overtaking, passing to left of center.**
**331.06 Additional restrictions on riving upon left side of roadway.**
**331.07 Hazardous or no passing zones.**
**331.08 Driving in marked lanes or continuous lines of traffic.**
**331.09 Following too closely.**
**331.10 Turning at intersections.**
**331.11 Turning into private driveway, alley or building.**
**331.12 "U" turns restricted.**
**331.13 Starting and backing vehicles.**
**331.14 Signals before changing course, turning or stopping.**
**331.15 Hand and arm signals.**
**331.16 Right of way at intersections.**
**331.17 Right of way when turning left.**
**331.18 Operation of vehicle at yield signs.**
**331.19 Operation of vehicle at stop signs.**
**331.20 Emergency or public safety vehicles at stop signals or signs.**
**331.21 Right of way of public safety or coroner's vehicle.**
**331.211 Report of vehicle failing to yield right of way to public safety vehicle.**
**331.22 Driving onto roadway from place other than roadway: duty to yield.**
**331.23 Driving onto roadway from place other than roadway; stopping at sidewalk.**
**331.24 Right of way of funeral procession.**
**331.25 Driver's view and control to be unobstructed by load or persons.**
**331.26 Driving upon street posted as closed for repair.**
**331.27 Following and parking near emergency or safety vehicles.**
**331.28 Driving over fire hose.**
**331.29 Driving through safety zone.**
**331.30 One-way streets and rotary traffic islands.**
**331.31 Driving upon divided roadways.**
**331.32 Entering and exiting controlled-access highway.**
**331.33 Obstructing intersection, crosswalk or grade crossing.**
**331.34 Failure to control; weaving; full time and attention.**
**331.35 Occupying travel trailer, fifth wheel vehicle, or manufactured or mobile home while in motion.**
**331.36 Squealing tires, "peeling", cracking exhaust noises.**
**331.37 Driving upon sidewalks, street lawns or curbs.**

**331.38 Stopping for school bus; discharging children.**
**331.39 Driving across grade crossing.**
**331.40 Stopping at grade crossing.**
**331.41 Shortcutting; avoiding traffic control devices.**
**331.42 Littering from motor vehicle.**
**331.43 Wearing earplugs or earphones prohibited.**
**331.44 Advertising from vehicle.**
**331.45 Alleys restricted to use for abutting lots.**
**331.46 Fire lane, fire door, fire exit, blocking prohibited.**
**331.47 Vehicular operation on street closed due to rise in water level.**

CROSS REFERENCES
See sectional histories for similar State law
Obedience to traffic control devices - see TRAF. 313.01
Operation of bicycles and motorcycles - see TRAF. 373.01 et seq.
School bus operation - see OAC Ch. 4501-3

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**331.01 DRIVING UPON RIGHT SIDE OF ROADWAY; EXCEPTIONS.**

(a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction, or when making a left turn under the rules governing such movements;

(2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

(3) When driving upon a roadway divided into three or more marked lanes for traffic under the rules applicable thereon;

(4) When driving upon a roadway designated and posted with signs for one-way traffic;

(5) When otherwise directed by a police officer or traffic control device.

(b) (1) Upon all roadways any vehicle proceeding at less than the prevailing and lawful speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, and far enough to the right to allow passing by faster vehicles if such passing is safe and reasonable, except under any of the following circumstances:

A. When overtaking and passing another vehicle proceeding in the same direction;

B. When preparing for a left turn;

C. When the driver must necessarily drive in a lane other than the right-hand lane to continue on the driver's intended route.

(2) Nothing in subsection (b)(1) of this section requires a driver of a slower vehicle to compromise the driver's safety to allow overtaking by a faster vehicle.

(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 TRAVEL TRAILER, FIFTH WHEEL VEHICLE, OR MANUFACTURED OR MOBILE HOME WHILE IN MOTION.

(a) Except as provided in subsection (b) of this section, no person shall occupy any travel trailer, fifth wheel trailer, or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

(b) (1) Subsection (a) of this section does not apply to a fifth wheel trailer when both of the following apply:

A. Any child riding in the fifth wheel trailer is properly secured in the manner provided in Ohio R.C. 4511.81.

B. The operator of the vehicle towing the fifth wheel trailer has some means of viable communication with the passengers riding in the trailer.

(2) As used in this section, "viable communication" includes a cellular or satellite telephone, a radio or any other similar electronic wireless communications device.

(c) (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) 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 4511.701)

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

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

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

**331.37 DRIVING UPON SIDEWALKS, STREET LAWNS OR CURBS.**

(a) (1) No person shall drive any vehicle, other than a bicycle or an electric bicycle if the motor is not engaged, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

(2) This prohibition does not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle with the motor engaged while in the performance of the officer's duties.

(3) Nothing in this section shall be construed as prohibiting local authorities from regulating the operation of bicycles or electric bicycles, except that no local authority may require that bicycles or electric bicycles be operated on sidewalks. (ORC 4511.711(A))

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

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

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

**331.38 STOPPING FOR SCHOOL BUS; DISCHARGING CHILDREN.**

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

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

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

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

(d) School buses operating on divided highways 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) As used in this section:
- (1) "Earphones" means any device that covers all or a portion of both ears and that does either of the following:
  - A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
  - B. Provides hearing protection.

  "Earphones" does not include speakers or other listening devices that are built into protective headgear.
- (2) "Earplugs" means any device that can be inserted into one or both ears and that does either of the following:
  - A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
  - B. Provides hearing protection.

(b) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears.

(c) This section does not apply to:
- (1) Any person wearing a hearing aid;
- (2) Law enforcement personnel while on duty;
- (3) Fire Department personnel and emergency medical service personnel while on duty;
- (4) Any person engaged in the operation of equipment for use in the maintenance or repair of any highway;
- (5) Any person engaged in the operation of refuse collection equipment;

(6) Any person wearing earphones or earplugs for hearing protection while operating a motorcycle.

(d) Except as otherwise provided in this division, 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 rescurer incurred in rescuing the person, excluding any cost of transporting the rescued person to a hospital or other facility for treatment of injuries, up to a cumulative maximum of two thousand dollars ($2,000). If more than one rescuer was involved in the emergency response, the court shall allocate the reimbursement proportionately, according to the cost each rescuer incurred. A financial sanction imposed under this section is a judgment in favor of the rescuer and, subject to a determination of indigency under division (B) of Ohio R.C. 2929.28, a rescuer may collect the financial sanction in the same manner as provided in Ohio R.C. 2929.28.

(d) As used in this section:

(1) "Emergency medical service organization", "firefighting agency" and "private fire company" have the same meanings as in Ohio R.C. 9.60.

(2) "Rescuer" means a state agency, political subdivision, firefighting service, private fire company, or emergency medical service organization. (ORC 4511.714.)

# CHAPTER 333
# OVI; Willful Misconduct; Speed


**333.01 Driving or physical control while under the influence.**
**333.02 Operation in willful or wanton disregard of safety.**
**333.03 Maximum speed limits; assured clear distance ahead.**
**333.031 Approaching a stationary public safety, emergency, or road service vehicle.**
**333.04 Stopping vehicle; slow speed; posted minimum speeds.**
**333.05 Speed limitations over bridges.**
**333.06 Speed exceptions for emergency or safety vehicles.**
**333.07 Street racing prohibited.**
**333.08 Operation without reasonable control.**
**333.09 Reckless operation on streets, public or private property.**
**333.10 Operation in violation of immobilization order.**
**333.11 Electronic wireless communication device use prohibited while driving.**


CROSS REFERENCES
See sectional histories for similar State law
Drug of abuse defined - see Ohio R.C. 3719.011(A)
Alcohol defined - see Ohio R.C. 4301.01(B)(1)
Alteration of prima-facie speed limits - see Ohio R.C. 4511.21, 4511.22(B), 4511.23
Failure to control vehicle - see TRAF. 331.34
Walking on highway while under the influence - see TRAF. 371.09

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## 333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

(a) (1) Operation Generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.

B. The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

C. The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

F. The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.

G. The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.

H. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.

I. The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.

J. Except as provided in subsection (m) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:

1. The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
2. The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
3. The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
4. The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.

6. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
8. Either of the following applies:
   a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
   b. The person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
9. The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
10. The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
11. The State Board of Pharmacy has adopted a rule pursuant to Ohio R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this

Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.

(2) No person who, within twenty years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of this subsection or a substantially equivalent state law or municipal ordinance, a violation of subsection (a)(1) of this section or a substantially equivalent state law or municipal ordinance, or any other equivalent offense shall do both of the following:

A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;

B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

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

(1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

(2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

(3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

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

(c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.19)

(d) Physical Control.

(1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.

(2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:

1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.

2. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.

3. Except as provided in subsection (d)(3) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in subsection (a)(1)J. hereof.

B. No person under twenty-one years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.

(3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in subsection (a)(1)J. hereof, if both of the following apply:

A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(e) Evidence; Tests.

(1) A. In any criminal prosecution or juvenile court proceeding for a violation of (a)(1)A. of this section or for any equivalent offense, that is vehicle-related the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.

B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a) or (b) of this section or for an equivalent offense that is vehicle related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio R.C. 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this section when a person submits to a blood, breath, urine or other bodily substance test at the request of a law enforcement officer under Ohio R.C. 4511.191, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this subsection may refuse to withdraw blood under this subsection, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

The bodily substance withdrawn under subsection (e)(1)B. hereof shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R.C. 3701.143.

C. As used in subsection (e)(1)B. of this section, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than five hundred twenty-five dollars ($525.00) and not more than one thousand six hundred twenty-five dollars ($1,625).
4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of one to seven years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for ninety days. (ORC 4511.193)

C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than eight hundred fifty dollars ($850.00) and not more than two thousand seven hundred fifty dollars ($2,750).
4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of two to twelve years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)
6. In all cases, the court shall order the offender to participate with a community addiction services provider authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in Ohio R.C. 2941.1413, is guilty of a felony to be prosecuted under appropriate state law.

(i) Vehicle Operation After Underage Alcohol Consumption Penalty. Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:

(1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under subsection (i)(1) of this section as required under that section.

(2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.

(3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28, in an amount not exceeding five thousand dollars ($5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the violation of subsection (b) of this section.
(ORC 4511.19)

(j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4511.194)

(k) Compliance With Ohio R.C. Chapter 5119 Standards.

(1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.

(2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

(l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:

(1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(o) Conflict of Terms. All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C . 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)

(p) Indigent Drivers Alcohol Treatment Fund. Twenty-five dollars ($25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193.
(ORC 4511.193)

(q) Definitions. As used in this section:

(1) "Equivalent offense" means any of the following:

A. A violation of division (A) of Ohio R.C. 4511.19;

B. A violation of a municipal OVI ordinance;

C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;

D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;

E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;

F. A violation of division (A) of Ohio R.C. 1547.11;

G. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine;

H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) of Ohio R.C. 4511.19 or division (A) of Ohio R.C. 1547.11;

I. A violation of a former law of this State that was substantially equivalent to division (A) of Ohio R.C. 4511.19 or division (A) of Ohio R.C. 1547.11;

(2) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:

A. Except as specifically authorized under this section, the term must be served in a jail.

B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to Ohio R.C. 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.

(3) "Municipal OVI ordinance" and "municipal OVI offense" mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum, or plasma, breath or urine.

(4) "Community residential sanction", "continuous alcohol monitoring", "jail", "mandatory prison term", "mandatory term of local incarceration", "sanction" and "prison term" have the same meanings as in Ohio R.C. 2929.01.

(5) "Drug of abuse" has the same meaning as in Ohio R.C. 4506.01.

(6) "Equivalent offense that is vehicle-related" means an equivalent offense that is any of the following:

A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;

B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19;

C. A violation of a former law of this state that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19. (ORC 4511.181)

**333.02 OPERATION IN WILLFUL OR WANTON DISREGARD OF SAFETY.**

(a) No person shall operate a vehicle on any street or highway in willful or wanton disregard of the safety of persons or property. (ORC 4511.20)

(b) No person shall operate a vehicle on any public or private property other than streets or highways, in willful or wanton disregard of the safety of persons or property.

This subsection does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.201)

(j) (1) A violation of any provision of this section is one of the following:

A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;

B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;

C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.

(2) If the offender operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, faster than fifty miles an hour in other portions of a municipal corporation, or faster than thirty-five miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree. This subsection does not apply if penalties may be imposed under subsections (j)(1)B. or (j)(1)C. of this section.

(3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.

(4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.21)

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

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

(1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and

traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.

(2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.

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

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

(d) (1) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(2) Notwithstanding Section 303.99(b), upon a finding that a person operated a motor vehicle in violation of subsection (c) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.

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

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

**333.04 STOPPING VEHICLE; SLOW SPEED; POSTED MINIMUM SPEEDS.**

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

(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 ELECTRONIC WIRELESS COMMUNICATION DEVICE USE PROHIBITED WHILE DRIVING.**

(a) No person shall operate a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using, holding, or physically supporting with any part of the person's body an electronic wireless communications device.

(b) Subsection (a) of this section does not apply to any of the following:

(1) A person using an electronic wireless communications device to make contact, for emergency purposes, with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity.

(2) A person driving a public safety vehicle while using an electronic wireless communications device in the course of the person's duties.

(3) A person using an electronic wireless communications device when the person's motor vehicle is in a stationary position and is outside a lane of travel, at a traffic control signal that is currently directing traffic to stop, or parked on a road or highway due to an emergency or road closure;

(4) A person using and holding an electronic wireless communications device directly near the person's ear for the purpose of making, receiving, or conducting a telephone call, provided that the person does not manually enter letters, numbers, or symbols into the device;

(5) A person receiving wireless messages on an electronic wireless communications device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle, provided that the person does not hold or support the device with any part of the person's body;

(6) A person using the speaker phone function of the electronic wireless communications device, provided that the person does not hold or support the device with any part of the person's body;

(7) A person using an electronic wireless communications device for navigation purposes, provided that the person does not do either of the following during the use:

A. Manually enter letters, numbers, or symbols into the device;
B. Hold or support the device with any part of the person's body;

(8) A person using a feature or function of the electronic wireless communications device with a single touch or single swipe, provided that the person does not do either of the following during the use:
A. Manually enter letters, numbers, or symbols into the device;
B. Hold or support the device wtih any part of the person's body;

(9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;

(10) A person operating a utilty service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals;

(11) A person using an electronic wireless communications device in conjunction with a voice-operated or hands-free feature or function of the vehicle or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe, provided the person does not hold or support the device with any part of the person's body;

(12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:
A. Manually enter letters, numbers, or symbols into the device;
B. Hold or support the device with any part of the person's body;

(13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.

(c) If a law enforcement officer issues an offender a ticket, citation or summons for a violation of subsection (a) of this section, the officer shall do both of the following:

(1) Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;

(2) Ensure that such report indicates the offender's race.

(d) (1) Whoever violates subsection (a) of this section is guilty of operating a motor vehicle while using an electronic wireless communication device, an unclassified misdemeanor.
A. Except as provided in subsections (d)(1)B., (d)(1)C., (d)(1)D. and (d)(2) of this section, the court shall impose upon the offender a fine of not more than one hundred fifty dollars ($150.00).
B. If, within two years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of this section, Ohio R.C. 4511.204, or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than two hundred fifty dollars ($250.00).
C. If, within two years of the violation, the offender has been convicted of or pleaded guilty to two or more prior violations of this section, Ohio R.C. 4511.204, or a substantially equivalent or municipal ordinance, the court shall impose upon the offender a fine of not more than five hundred dollars ($500.00). The court also may impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for ninety days.

D. Notwithstanding subsections (d)(1)A. to (d)(1)C. of this section, if the offender was operating the motor vehicle at the time of the violation in a construction zone where a sign was posted in accordance with 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 amount imposed for the violation under subsections (d)(1)A., (d)(1)B., or (d)(1)C. of this section, as applicable.

(2) In lieu of payment of the fine of one hundred fifty dollars ($150.00) under subsection (d)(1)A. of this section and the assessment of points under subsection (d)(4) of this section, the offender instead may elect to attend the distracted driving safety course, as described in Section 303.991. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall not be required to pay the fine and shall not have the points assessed against that offender's driver's license if the offender submits the written evidence to the court.

(3) The court may impose any other penalty authorized under Ohio R.C. 2929.21 to 2929.28. However, the court shall not impose a fine or a suspension not otherwise specified in subsection (d)(1) of this section. The court also shall not impose a jail term or community residential sanction.

(4) Except as provided in subsection (d)(2) of this section, points shall be assessed for a violation of subsection (a) of this section in accordance with Ohio R.C. 4510.036.

(5) 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.

(e) A prosecution for an offense in violation of this section does not preclude a prosecution for an offense in violation of Ohio R.C. 4511.204 based on the same conduct. However, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(f) (1) A law enforcement officer does not have probable cause and shall not stop the operator of a motor vehicle for the purposes of enforcing this section unless the officer visually observes the operator using, holding, or physically supporting with any part of the person's body the electronic wireless communications device.

(2) A law enforcement officer who stops the operator of a motor vehicle for a violation of subsection (a) of this section shall inform the operator that the operator may decline a search of the operator's electronic wireless communications device. The officer shall not do any of the following:

A. Access the device without a warrant unless the operator voluntarily and unequivocally gives consent for the officer to access the device;

B. Confiscate the device while awaiting the issuance of a warrant to access the device;

C. Obtain consent from the operator to access the device through coercion or any other improper means. Any consent by the operator to access the device shall be voluntary and unequivocal before the officer may access the device without a warrant.

(g) As used in this section:

(1) "Electronic wireless communications device", includes any of the following:

A. A wireless telephone;
B. A text-messaging device;
C. A personal digital assistant;
D. A computer, including a laptop computer and a computer tablet;
E. Any device capable of displaying a video, movie, broadcast television image, or visual image;
F. Any other substantially similar wireless device that is designed or used to communicate text, initiate or receive communication, or exchange information or data.

An "electronic wireless communications device" does not include a two-way radio transmitter or receiver used by a person who is licensed by the federal communications commission to participate in the amateur radio service.

(2) "Utility" means an entity specified in Ohio R.C. 4905.03(A), (C), (D), (E) or (G).

(3) "Utility service vehicle" means a vehicle owned or operated by a utility.

(4) "Voice-operated or hands-free feature or function" means a feature or function that allows a person to use an electronic wireless communications device without the use of either hand, except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.

(ORC 4511.204)

(f) Any order of criminal forfeiture under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of the copy of the order from the court, neither the Ohio Registrar of Motor Vehicles nor a deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that lead to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar shall then take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

(g) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars ($5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section. (ORC 4510.11)

(h) Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender under this section and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of driving under a twelve-point suspension, a misdemeanor of the first degree. The court shall sentence the offender to a minimum term of three days in jail. No court shall suspend the first three days of jail time imposed pursuant to this subsection. (ORC 4510.037)

(i) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency. (ORC 4510.04)

**335.071 DRIVING UNDER OVI SUSPENSION.**

(a) No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under Ohio R.C. 4511.19, 4511.191, or 4511.196 or under Ohio R.C. 4510.07 for a conviction of a violation of a municipal OVI ordinance shall operate any motor vehicle upon the public roads or highways within this Municipality during the period of the suspension.

(b) Whoever violates this section is guilty of driving under OVI suspension. The court shall sentence the offender under Ohio R.C. Chapter 2929, subject to the differences authorized or required by this section.

(1) Except as otherwise provided in subsection (b)(2) or (3) of this section, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of three consecutive days. The three-day term shall be imposed, unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than thirty consecutive days of house arrest with electronic monitoring. A period of house arrest with electronic monitoring imposed under this subsection shall not exceed six months. If the court imposes a mandatory three-day jail term under this subsection, the court may impose a jail term in addition to that term, provided that in no case shall the cumulative jail term imposed for the offense exceed six months.

B. A fine of not less than two hundred fifty dollars ($250.00) and not more than one thousand dollars ($1,000).

C. A license suspension under subsection (e) of this section.

(2) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of this section or one equivalent offense, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of ten consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The ten-day mandatory jail term shall be imposed unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than ninety consecutive days of house arrest with electronic monitoring. The period of house arrest with electronic monitoring shall not exceed one year.

B. Notwithstanding the fines provided for in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars ($500.00) and not more than two thousand five hundred dollars ($2,500).

C. A license suspension under subsection (e) of this section.

(3) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of this section or two or more equivalent offenses, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of thirty consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The court shall not sentence the offender to a term of house arrest with electronic monitoring in lieu of the mandatory portion of the jail term.

B. Notwithstanding the fines set forth in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars ($500.00) and not more than two thousand five hundred dollars ($2,500).

C. A license suspension under subsection (e) of this section.

(c) No court shall impose an alternative sentence of house arrest with electronic monitoring under subsection (b)(1) or (2) of this section unless, within sixty days of the date of sentencing, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the jail term imposed, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing.

An offender sentenced under this section to a period of house arrest with electronic monitoring shall be permitted work release during that period.

(d) Fifty per cent of any fine imposed by a court under subsection (b)(1), (2) or (3) of this section shall be deposited into the county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation pursuant to division (H) of Ohio R.C. 4511.191.

(e) In addition to or independent of all other penalties provided by law or ordinance, the trial judge of any court of record or the mayor of a mayor's court shall impose on an offender who is convicted of or pleads guilty to a violation of this section a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.

When permitted as specified in Ohio R.C. 4510.021, if the court grants limited driving privileges during a suspension imposed under this section, the privileges shall be granted on the additional condition that the offender must display restricted license plates, issued under Ohio R.C. 4503.231, on the vehicle driven subject to the privileges, except as provided in division (B) of that section.

A suspension of a commercial driver's license under this section shall be concurrent with any period of suspension or disqualification under Ohio R.C. 3123.58 or 4506.16. No person who is disqualified for life from holding a commercial driver's license under Ohio R.C. 4506.16 shall be issued a driver's license under Ohio R.C. Chapter 4507 during the period for which the commercial driver's license was suspended under this section, and no person whose commercial driver's license is suspended under this section shall be issued a driver's license under Ohio R.C. Chapter 4507 during the period of the suspension.

(f) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars ($5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense that is a misdemeanor of the first degree under this section for which the offender is sentenced. (ORC 4510.14)

(g) (1) If a person is convicted of or pleads guilty to a violation of a municipal ordinance that is substantially equivalent to Ohio R.C. 4510.14, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, shall do whichever of the following is applicable:

A. If, within six years of the current offense, the offender has not been convicted of or pleaded guilty to a violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for thirty days of the vehicle involved in the offense and the impoundment for thirty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.

B. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for sixty days of the vehicle involved in the offense and the impoundment for sixty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.

C. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02 or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the criminal forfeiture to the State of the vehicle the offender was operating at the time of the offense.

(2) An order for immobilization and impoundment of a vehicle under this section shall be issued and enforced in accordance with Ohio R.C 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(3) An order for criminal forfeiture of a vehicle under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of a copy of the order from the court, neither the Registrar of Motor Vehicles nor a Deputy Registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar then shall take the necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle. (ORC 4510.161)

(h) As used in this section:

(1) "Electronic monitoring" has the same meaning as in Ohio R.C. 2929.01.

(2) "Equivalent offense" means any of the following:

A. A violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to subsection (a) of this section;

B. A violation of a former law of this State that was substantially equivalent to subsection (a) of this section.

(3) "Jail" has the same meaning as in Ohio R.C. 2929.01.

(4) "Mandatory jail term" means the mandatory term in jail of three, ten, or thirty consecutive days that must be imposed under subsection (b)(1), (2) or (3) of this section upon an offender convicted of a violation of subsection (a) of this section and in relation to which all of the following apply:

A. Except as specifically authorized under this section, the term must be served in a jail.

B. Except as specifically authorized under this section, the term cannot be suspended, reduced, or otherwise modified pursuant to any provision of the Ohio Revised Code. (ORC 4510.14)

(i) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency. (ORC 4510.04)

## 335.072 DRIVING UNDER FINANCIAL RESPONSIBILITY LAW SUSPENSION OR CANCELLATION; DRIVING UNDER A NONPAYMENT OF JUDGMENT SUSPENSION.

(a) No person, whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to Ohio R.C. Chapter 4509, shall operate any motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period of the suspension or cancellation, except as specifically authorized by Ohio R.C. Chapter 4509. No person shall operate a motor vehicle within this Municipality, or knowingly

permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period in which the person is required by Ohio R.C. 4509.45 to file and maintain proof of financial responsibility for a violation of Ohio R.C. 4509.101, unless proof of financial responsibility is maintained with respect to that vehicle.

(b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality if the person's driver's or commercial driver's license or temporary instruction permit or nonresident operating privilege has been suspended pursuant to Ohio R.C. 4509.37 or 4509.40 for nonpayment of a judgment.

(c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth and social security number of a person charged with a violation of subsection (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under either a financial responsibility law suspension at the time of the alleged violation of subsection (a) of this section or a nonpayment of judgment suspension at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsection (a) or (b) of this section may offer evidence to rebut this prima-facie evidence.

(d) Whoever violates subsection (a) of this section is guilty of driving under financial responsibility law suspension or cancellation and shall be punished as provided in subsection (d) hereof. Whoever violates subsection (b) of this section is guilty of driving under a nonpayment of judgment suspension and shall be punished as provided in subsection (d) hereof.

(1) Except as otherwise provided in subsection (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars ($1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.

(2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.16, or any combination of two violations of Ohio R.C. 4510.16 or Ohio R.C. 4510.11 or 4510.111, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree.

(3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars ($5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.16)

(e) No person who has knowingly failed to maintain proof of financial responsibility in accordance with Ohio R.C. 4509.101 shall produce any document or present to a peace officer an electronic wireless communications device that is displaying any text or images with the purpose to mislead a peace officer upon the request of a peace officer for proof of financial responsibility made in accordance with Ohio R.C. 4509.101. Whoever violates this subsection (e) hereof is guilty of falsification, a misdemeanor of the first degree. (ORC 4509.102)

(f) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency. (ORC 4510.04)

**335.073 DRIVING WITHOUT COMPLYING WITH LICENSE REINSTATEMENT REQUIREMENTS.**

(a) No person whose driver's license, commercial driver's license, temporary instruction permit, or nonresident's operating privilege has been suspended shall operate any motor vehicle upon a public road or highway or any public or private property after the suspension has expired unless the person has complied with all license reinstatement requirements imposed by the court, the Bureau of Motor Vehicles, or another provision of the Ohio Revised Code.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima-facie evidence that the license of the person had not been reinstated by the person at the time of the alleged violation of subsection (a) hereof. The person charged with a violation of subsection (a) hereof may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates this section is guilty of failure to reinstate a license and shall be punished as follows:

(1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars ($1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.

(2) If, within three years of a violation of subsection (a) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of Ohio R.C. 4510.21(A) or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.

(3) In all cases, the court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary driver's license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4510.21)

(d) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency. (ORC 4510.04)

**335.074 DRIVING UNDER LICENSE FORFEITURE OR CHILD SUPPORT SUSPENSION.**

(a) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality whose driver's or commercial driver's license has been suspended pursuant to Ohio R.C. 2151.354, 2151.87, 2935.27, 3123.58, 4301.99, 4510.032, 4510.22 or 4510.33.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under suspension at the time of the alleged violation of subsection (a) of this section. The person charged with a violation of subsection (a) of this section may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates subsection (a) of this section is guilty of driving under suspension and shall be punished as provided in subsection (c) of this section.

(1) Except as otherwise provided in subsection (c)(2) of this section, the offense is an unclassified misdemeanor. The offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars ($1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.

(2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of subsection (A) of Ohio R.C. 4510.111, or any combination of two or more violations of subsection (A) of Ohio R.C. 4510.111, or Ohio R.C. 4510.11 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree and the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars ($5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.111)

(d) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.
(ORC 4510.04)

**335.08 OPERATION OR SALE WITHOUT CERTIFICATE OF TITLE.**

(a) No person shall do any of the following:

(1) Operate in this Municipality a motor vehicle for which a certificate of title is required without having that certificate in accordance with Ohio R.C. Chapter 4505 or, if a physical certificate of title has not been issued for a motor vehicle, operate the motor vehicle in this Municipality knowing that the ownership information relating to the vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;

(2) Display or display for sale or sell as a dealer or acting on behalf of a dealer, a motor vehicle without having obtained a manufacturer's or importer's certificate, a certificate of title, or an assignment of a certificate of title for it as provided in Ohio R.C. Chapter 4505;

(3) Fail to surrender any certificate of title or any certificate of registration or license plates upon cancellation of the same by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4505;

(4) Fail to surrender the certificate of title to a clerk of a court of common pleas as provided in Ohio R.C. Chapter 4505 in case of the destruction or dismantling or change of a motor vehicle in such respect that it is not the motor vehicle described in the certificate of title;

(5) Violate any rules adopted pursuant to Ohio R.C. Chapter 4505;

(6) Except as otherwise provided in Ohio R.C. Chapter 4505 and Chapter 4517, sell at wholesale a motor vehicle the ownership of which is not evidenced by an Ohio certificate of title, or the current certificate of title issued for the motor vehicle, or the manufacturer's certificate of origin, and all title assignments that evidence the seller's ownership of the motor vehicle, and an odometer disclosure statement that complies with Ohio R.C. 4505.06 and subchapter IV of the "Motor Vehicle Information and Cost Savings Act", 86 Stat. 961 (1972), 15 U.S.C. 1981;

(7) Operate in this Municipality a motor vehicle knowing that the certificate of title to the vehicle or ownership of the vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) This section does not apply to persons engaged in the business of warehousing or transporting motor vehicles for the purpose of salvage disposition.

(c) Whoever violates this section shall be fined not more than two hundred dollars ($200.00) or imprisoned not more than ninety days, or both.
(ORC 4505.18)

**335.09 DISPLAY OF LICENSE PLATES OR VALIDATION STICKERS; REGISTRATION.**

(a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any county identification sticker and any validation sticker when required by and issued under Ohio R.C. 4503.19 and 4503.191. However a commercial tractor shall display the license plate on the front of the commercial tractor.

(2) The license plate shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.

(3) No person to whom a temporary motor vehicle license registration has been issued for the use of a motor vehicle under Ohio R.C. 4503.182, and no operator of that motor vehicle, shall fail to display the temporary motor vehicle license registration in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle.

(4) No person shall cover a temporary motor vehicle license registration by any material that obstructs its visibility.
(ORC 4503.21(A))

(b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(2) The offenses established under subsection (a) of this section are strict liability offenses and Ohio R.C. 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
(ORC 4503.21(B), (C))

**335.091 OPERATING WITHOUT DEALER OR MANUFACTURER LICENSE PLATES.**

(a) No person shall operate or cause to be operated upon a public road or highway a motor vehicle of a manufacturer or dealer unless the vehicle carries and displays a placard, except as provided in Ohio R.C. 4503.21, issued by the Director of Public Safety that displays the registration number of its manufacturer or dealer.

(b) Whoever violates subsection (a) of this section is guilty of illegal operation of a manufacturer's or dealer's motor vehicle, a minor misdemeanor.
(ORC 4549.10)

**335.10 EXPIRED OR UNLAWFUL LICENSE PLATES.**

(a) No person who is the owner of a motor vehicle which is parked or operated upon the public streets or highways shall fail to annually file the application for registration or to pay the tax therefor, as required by Ohio R.C. Chapter 4503. (ORC 4503.11)

(b) No person shall operate, drive or park upon the public streets or highways a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration. (ORC 4549.11)

(c) No person who is the owner of a motor vehicle and a resident of Ohio shall operate, drive or park the motor vehicle upon the public streets or highways, while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of Ohio relating to the registration and identification of motor vehicles. (ORC 4549.12)

(d) No person shall park or operate any vehicle upon any public street or highway upon which is displayed an expired license plate or an expired validation sticker.

(e) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates not legally registered and issued for such vehicle, or upon which are displayed any license plates that were issued on an application for registration that contains any false statement by the applicant.

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

**335.11 USE OF ILLEGAL LICENSE PLATES; TRANSFER OF REGISTRATION.**

(a) No person shall operate or drive a motor vehicle upon the streets in this Municipality if it displays a license plate or a distinctive number or identification mark that meets any of the following criteria:
(1) Is fictitious;
(2) Is a counterfeit or an unlawfully made copy of any distinctive number or identification mark;
(3) Belongs to another motor vehicle, provided that this section does not apply to a motor vehicle that is operated on the streets in this Municipality when the motor vehicle displays license plates that originally were issued for a motor vehicle that previously was owned by the same person who owns the motor vehicle that is operated on the streets in this Municipality, during the thirty-day period described in subsection (c) hereof.

(b) Whoever violates subsection (a)(1), (2) or (3) of this section is guilty of operating a motor vehicle bearing an invalid license plate or identification mark, a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense. (ORC 4549.08)

(c) Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle expires, and the original owner shall immediately remove the license plates from the motor vehicle. The transfer of the registration and, where applicable, the license plates from the motor vehicle for which they originally were issued to a succeeding motor vehicle purchased by the same person in whose name the original registration and license plates were issued shall be done within a period not to exceed thirty days. During that thirty-day period, the license plates from the motor vehicle for which they originally were issued may be displayed on the succeeding motor vehicle, and the succeeding motor vehicle may be operated on the streets of the Municipality.

(d) Whoever violates subsection (c) of this section is guilty of a misdemeanor of the fourth degree. (ORC 4503.12)

**335.111 REGISTRATION WITHIN THIRTY DAYS OF RESIDENCY.**

(a) Within thirty days of becoming a resident of this State, any person who owns a motor vehicle operated or driven upon the public roads or highways shall register the vehicle in this State. If such a person fails to register a vehicle owned by the person, the person shall not operate any motor vehicle in this Municipality under a license issued by another state.

(b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(c) For purposes of subsection (a) of this section, "resident" means any person to whom any of the following applies:

(1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.

(2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01. (ORC 4503.111)

**335.12 STOPPING AFTER ACCIDENT UPON STREETS; COLLISION WITH UNATTENDED VEHICLE.**

(a) (1) In the case of a motor vehicle accident or collision with persons or property on a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, immediately shall stop the operator's motor vehicle at the scene of the accident or collision. The operator shall remain at the scene of the accident or collision until the operator has given the operator's name and address and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, to all of the following:

A. Any person injured in the accident or collision;

B. The operator, occupant, owner or attendant of any motor vehicle damaged in the accident or collision;

C. The police officer at the scene of the accident or collision.

(2) In the event an injured person is unable to comprehend and record the information required to be given under subsection (a)(1) of this section, the other operator involved in the accident or collision shall notify the nearest police authority concerning the location of the accident or collision, and the operator's name, address and the registered number of the motor vehicle the operator was operating. The operator shall remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance.

(3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.

(b) (1) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after an accident is a misdemeanor of the first degree.

(2) If the accident or collision results in serious physical harm to a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.

(3) If the accident or collision results in the death of a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.

(4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars ($5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.02)

## 335.13 STOPPING AFTER ACCIDENT UPON PROPERTY OTHER THAN STREET.

(a) (1) In the case of a motor vehicle accident or collision resulting in injury or damage to persons or property on any public or private property other than a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, shall stop at the scene of the accident or collision. Upon request of any person who is injured or damaged, or any other person, the operator shall give that person the operator's name and address, and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, and, if available, exhibit the operator's driver's or commercial driver's license.

(2) If the operator of the motor vehicle involved in the accident or collision does not provide the information specified in subsection (a)(1) of this section, the operator shall give that information, within twenty-four hours after the accident or collision, to the Police Department.

(3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required under subsection (a)(1) of this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.

(b) (1) Whoever violates subsection (a) of this section is guilty of failure to stop after a nonpublic road accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after a nonpublic road accident is a misdemeanor of the first degree.

(2) If the accident or collision results in serious physical harm to a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.

(3) If the accident or collision results in the death of a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.

(4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars ($5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.021)

**335.14 VEHICLE ACCIDENT RESULTING IN DAMAGE TO REALTY.**

(a) The driver of any vehicle involved in an accident resulting in damage to real property, or personal property attached to real property, legally upon or adjacent to a public road or highway immediately shall stop and take reasonable steps to locate and notify the owner or person in charge of the property of that fact, of the driver's name and address, and of the registration number of the vehicle the driver is driving and, upon request and if available, shall exhibit the driver's or commercial driver's license.

If the owner or person in charge of the property cannot be located after reasonable search, the driver of the vehicle involved in the accident resulting in damage to the property, within twenty-four hours after the accident, shall forward to the police authority in the municipality in which the accident or collision occurred, the same information required to be given to the owner or person in control of the property and give the location of the accident and a description of the damage insofar as it is known.

(b) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident involving the property of others, a misdemeanor of the first degree.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars ($5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.03)

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| | From a speed of 20 miles per hour | |
|---|---|---|
| | Stopping distance in feet | Deceleration in feet per second per second |
| Brakes on all wheels | 30 | 14 |
| Brakes not on all four wheels | 40 | 10.7 |

(10) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (ORC 4513.20)

(b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.99)

**337.19 HORN, SIREN AND THEFT ALARM SIGNAL.**

(a) Every motor vehicle when operated upon a street shall be equipped with a horn which is in good working order and capable of emitting sound audible, under normal conditions, from a distance of not less than 200 feet.

(b) No motor vehicle shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal. Every emergency or public safety vehicle shall be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the Ohio Director of Public Safety. Such equipment shall not be used except when such vehicle is operated in response to an emergency call or is in the immediate pursuit of an actual or suspected violator of the law, in which case the driver of the emergency or public safety vehicle shall sound such equipment when it is necessary to warn pedestrians and other drivers of the approach thereof.

(c) No person shall use the horn of a motor vehicle except to give warning to other drivers or pedestrians.

(d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.21)

**337.20 MUFFLER; MUFFLER CUTOUT; EXCESSIVE SMOKE, GAS OR NOISE.**

(a) Every motor vehicle and motorcycle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, by-pass or similar device upon a motor vehicle on a highway. Every motorcycle muffler shall be equipped with baffle plates.

(b) No person shall own, operate or have in the person's possession any motor vehicle or motorcycle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle, or equipped in any other way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle, other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation.

(c) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.22)

**337.21 REAR-VIEW MIRROR; CLEAR VIEW TO FRONT, BOTH SIDES AND REAR.**

(a) Every motor vehicle and motorcycle shall be equipped with a mirror so located as to reflect to the operator a view of the street to the rear of such vehicle or motorcycle. Operators of vehicles and motorcycles shall have a clear and unobstructed view to the front and to both sides of their vehicles or motorcycles and shall have a clear view to the rear of their vehicles or motorcycles by mirror.

(b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.23)

**337.22 WINDSHIELD AND WINDSHIELD WIPER; SIGN OR POSTER THEREON.**

(a) No person shall drive any motor vehicle on a street or highway, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.

(b) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.

(2) Subsection (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if either of the following apply to the device:

A. It is a "vehicle safety technology" as defined in 49 C.F.R. §393.5 and complies with 49 C.F.R. §393.60(e)(1)(ii).

B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals, and it does not conceal the vehicle identification number.

(3) Subsection (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if either of the following apply to the device:

A. It is a "vehicle safety technology" as defined in 49 C.F.R. §393.5 and complies with 49 C.F.R. §393.60(e)(1)(ii).

B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals, and it is mounted not more than eight and one-half inches below the upper edge of the windshield.

(c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.

(d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.24)

# CHAPTER 341
# Commercial Drivers


**341.01 Definitions.**
**341.02 Exemptions.**
**341.03 Prerequisites to operation of a commercial motor vehicle.**
**341.04 Prohibitions.**
**341.05 Criminal offenses.**
**341.06 Employment of drivers of commercial vehicles.**


CROSS REFERENCES

See sectional histories for similar State law
Disqualification - see Ohio R.C. 4506.16
Suspension or revocation of license - see Ohio R.C. 4507.16
Warning devices when disabled on freeways - see Ohio R.C. 4513.28
Arrest notice of driver - see Ohio R.C. 5577.14
Load limits - see TRAF. Ch. 339

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## 341.01 DEFINITIONS.

As used in this chapter:

(a) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:
  (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
  (2) Two hundred ten liters of breath;
  (3) One hundred milliliters of urine.

(b) "Commercial driver's license".
  (1) A license issued in accordance with Ohio R.C. Chapter 4506 that authorizes an individual to drive a commercial motor vehicle. Except as otherwise specifically provided, "commercial driver's license" includes an "enhanced commercial driver's license."
  (2) "Enhanced commercial driver's license" means a commercial driver's license issued in accordance with Ohio R.C. 4507.021 and 4506.072 that denotes citizenship and identity and is approved by the United States Secretary of Homeland Security or other designated federal agency for purposes of entering the United States.

(c) "Commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:
  (1) Any combination of vehicles with a gross vehicle weight or combined gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight or gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
  (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of 26,001 pounds or more;
  (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen or more passengers including the driver;

(4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than sixteen passengers including the driver;

(5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;

(6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.

(d) "Controlled substance" means all of the following:

(1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;

(2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;

(3) Any drug of abuse.

(e) "Disqualification" means any of the following:

(1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;

(2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;

(3) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.

(f) "Drive" means to drive, operate or be in physical control of a motor vehicle.

(g) "Driver" means any person who drives, operates or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.

(h) "Driver's license" means a license issued by the Ohio Bureau of Motor Vehicles that authorizes an individual to drive.

(i) "Drug of abuse" means any controlled substance, dangerous drug as defined in Ohio R.C. 4729.01, harmful intoxicant as defined in Ohio R.C. 2925.01, or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.

(j) "Employer" means any person, including the Federal Government, any state and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.

(k) "Endorsement" means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.

(l) "Farm truck" means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this subsection and is not used in the operations of a motor carrier, as defined in Ohio R.C. 4923.01.

# CODIFIED ORDINANCES OF LANCASTER

## PART FIVE - GENERAL OFFENSES CODE

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## CHAPTER 501
## General Provisions and Penalty


**501.01 Definitions.**
**501.02 Classification of offenses.**
**501.03 Common law offenses abrogated.**
**501.04 Rules of construction.**
**501.05 Criminal law jurisdiction.**
**501.06 Limitation of criminal prosecution.**
**501.07 Requirements for criminal liability.**
**501.08 Culpable mental states.**
**501.09 Attempt.**
**501.10 Complicity.**
**501.11 Organizational criminal liability.**
**501.12 Personal accountability for organizational conduct.**
**501.13 Conspiracy.**
**501.99 Penalties for misdemeanors.**


CROSS REFERENCES
See sectional histories for similar State law
Limitation of prosecution for income tax violations - see Ohio R.C. 718.06
Modification of sentence - see Ohio R.C. 2929.10(C), (D)
Penalty considerations - see Ohio R.C. 2929.22
Citation issuance for minor misdemeanors - see Ohio R.C. 2935.26 et seq.

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### 501.01 DEFINITIONS.

As used in the Codified Ordinances:

(a) "Force" means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.

(b) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.

(c) "Physical harm to persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.

(d) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.

(e) "Serious physical harm to persons" means any of the following:

(1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(2) Any physical harm that carries a substantial risk of death;

(3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

(4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;

(5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.

(f) "Serious physical harm to property" means any physical harm to property that does either of the following:

(1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;

(2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.

(g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

(h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.

(i) "Offense of violence" means any of the following:

(1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.18, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2917.321, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2903.34(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio R.C. 2907.12;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section listed in subsection (i)(1) hereof;

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) hereof.

(5) A violation of division (C) of Ohio R.C. 959.131.

(j) (1) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

(2) As used in this section, "trade secret" has the same meaning as in Ohio R.C. 1333.61, and "telecommunications service" and "information service" have the same meanings as in Ohio R.C. 2913.01.

(3) As used in this section, "cable television service", "computer", "computer software", "computer system", "computer network", "data", and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

(k) "Law enforcement officer" means any of the following:

(1) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or State highway patrol trooper;

(2) An officer, agent or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, Charter or ordinance, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;

(3) A mayor or manager in the mayor's or manager's capacity as chief conservator of the peace within the mayor's or manager's municipal corporation;

(4) A member of an auxiliary police force organized by county, township or municipal law enforcement authorities, within the scope of the member's appointment or commission;

(5) A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;

(6) A person appointed by a mayor pursuant to Ohio R.C. 737.10 as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;

(7) A member of the organized militia of this State or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;

(8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or municipal prosecutor;

(9) A veterans' home police officer appointed under Ohio R.C. 5907.02;

(10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y);

(11) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28;

(12) The Senate Sergeant of Arms and or Assistant Sergeant at Arms;

(13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in Section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States Department of Transportation as provided in Parts 1542 and 1544 of Title 49 of the Code of Federal Regulations, as amended.

(l) "Privilege" means an immunity, license or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office or relationship, or growing out of necessity.

(m) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:

(1) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device, or paraphernalia;
(2) Any unlawful gambling device, or paraphernalia;
(3) Any dangerous ordnance or obscene material.

(n) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in Ohio R.C. 2901.05, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.

(o) (1) A. Subject to subsection (o)(2) hereof, as used in any section contained in Part Five - General Offenses Code that sets forth a criminal offense, "person" includes all of the following:
1. An individual, corporation, business trust, estate, trust, partnership, and association;
2. An unborn human who is viable.

B. As used in any section contained in Part Five - General Offenses Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership and association.

C. As used in subsection (o)(1)A. hereof:
1. "Unborn human" means an individual organism of the species Homo sapiens from fertilization until live birth.
2. "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding subsection (o)(1)A. hereof, in no case shall the portion of the definition of the term "person" that is set forth in subsection (o)(1)A.2. hereof be applied or construed in any section contained in Part Five - General Offenses Code that sets forth a criminal offense in any of the following manners:

A. Except as otherwise provided in subsection (o)(2)A. hereof, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.151, 2919.17 or 2919.18, may be punished as a violation of Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.151, 2919.17 or 2919.18, as applicable. Consent is sufficient under this subsection if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with Ohio R.C. 2919.12.

B. In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

"The testimony of an accomplice that is supported by other evidence does not become inadmissible because of the accomplice's complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect the witness' credibility and make the witness' testimony subject to grave suspicion, and requires that it be weighed with great caution.

It is for you, as jurors, in light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth".

(3) "Conspiracy", as used in subsection (h)(1) of this section, does not include any conspiracy that results in an attempt to commit an offense or in the commission of an offense.

(i) The following are affirmative defenses to a charge of conspiracy:

(1) After conspiring to commit an offense, the actor thwarted the success of the conspiracy under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

(2) After conspiring to commit an offense, the actor abandoned the conspiracy prior to the commission of or attempt to commit any offense that was the object of the conspiracy, either by advising all other conspirators of the actor's abandonment, or by informing any law enforcement authority of the existence of the conspiracy and of the actor's participation in the conspiracy.

(j) Whoever violates this section is guilty of conspiracy, which is a misdemeanor of the first degree, when the most serious offense that is the object of the conspiracy is a felony of the fifth degree.

(k) This section does not define a separate conspiracy offense or penalty where conspiracy is defined as an offense by one or more sections of this Code, other than this section. In such a case, however:

(1) With respect to the offense specified as the object of the conspiracy in the other section or sections, subsection (a) hereof defines the voluntary act or acts and culpable mental state necessary to constitute the conspiracy;

(2) Subsections (b) to (i) hereof are incorporated by reference in the conspiracy offense defined by the other section or sections of this Code.

(l) (1) In addition to the penalties that otherwise are imposed for conspiracy, a person who is found guilty of conspiracy to engage in a pattern of corrupt activity is subject to divisions (B)(2) and (3) of Ohio R.C. 2923.32, division (A) of Ohio R.C. 2981.04 and division (D) of Ohio R.C. 2981.06.

(2) If a person is convicted of or pleads guilty to conspiracy and if the most serious offense that is the object of the conspiracy is a felony drug trafficking, manufacturing, processing or possession offense, in addition to the penalties or sanctions that may be imposed for the conspiracy under subsection (j) hereof and Ohio R.C. Chapter 2929, both of the following apply:

A. The provisions of divisions (D), (F) and (G) of Ohio R.C. 2925.03, division (D) of Ohio R.C. 2925.04, division (D) of Ohio R.C. 2925.05, division (D) of Ohio R.C. 2925.06 and division (E) of Ohio R.C. 2925.11 that pertain to mandatory and additional fines, driver's or commercial driver's license or permit suspensions, and professionally licensed persons and that would apply under the

appropriate provisions of those divisions to a person who is convicted of or pleads guilty to the felony drug trafficking, manufacturing, processing, or possession offense that is the most serious offense that is the basis of the conspiracy shall apply to the person who is convicted of or pleads guilty to the conspiracy as if the person had been convicted or pleaded guilty to the felony drug trafficking, manufacturing, processing or possession offense that is the most serious offense that is the basis of the conspiracy.

B. The court that imposes sentence upon the person who is convicted of or pleads guilty to the conspiracy shall comply with the provisions identified as being applicable under subsection (l)(2) of this section, in addition to any other penalty or sanction that it imposes for the conspiracy under subsection (j) of this section and Ohio R.C. Chapter 2929.

(m) As used in this section:

(1) "Felony drug trafficking, manufacturing, processing or possession offense" means any of the following that is a felony:

A. A violation of Ohio R.C. 2925.03, 2925.04, 2925.05, or 2925.06;

B. A violation of Ohio R.C. 2925.11 that is not a minor drug possession offense.

(2) "Minor drug possession offense" has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.01)

**501.99 PENALTIES FOR MISDEMEANORS.**

(a) Financial Sanctions. In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing a sentence upon an offender for a misdemeanor committed under the Codified Ordinances, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section and, if the offender is being sentenced for a criminal offense as defined in Ohio R.C. 2930.01, shall sentence the offender to make restitution pursuant to this section and Ohio R.C. 2929.281. If the court, in its discretion or as required by this section, imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Restitution.

A. Unless the misdemeanor offense could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or the victim's estate, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this section if the offense could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

B. The court shall determine the amount of restitution to be paid by the offender. The victim, victim's representative, victim's attorney, if applicable, the prosecutor or the prosecutor's designee, and the offender may provide information relevant to the determination of the amount of restitution. The amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result of the offense. If the court decides to or is required to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, victim's representative, victim's attorney, if applicable, or victim's estate disputes the amount of restitution. The court shall determine the amount of full restitution by a preponderance of the evidence.

C. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or the victim's estate against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.

D. The court may order that the offender pay a surcharge, of not more than five percent (5%) of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

E. The victim, victim's attorney, if applicable, or the attorney for the victim's estate may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate but shall not reduce the amount of restitution ordered, except as provided in Ohio R.C. 2929.281(A).

(2) Fines. A fine in the following amount:

A. For a misdemeanor of the first degree, not more than one thousand dollars ($1,000);

B. For a misdemeanor of the second degree, not more than seven hundred fifty dollars ($750.00);

C. For a misdemeanor of the third degree, not more than five hundred dollars ($500.00);

D. For a misdemeanor of the fourth degree, not more than two hundred fifty dollars ($250.00);

E. For a minor misdemeanor, not more than one hundred fifty dollars ($150.00).

(3) Reimbursement of costs of sanctions.

A. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:

1. All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021 and the costs of global positioning system device monitoring;

2. All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined.

B. The amount of reimbursement ordered under subsection (a)(3)A. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that subsection. If the court does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section. (ORC 2929.28)

(b) Jail Terms.

(1) Except as provided in Ohio R.C. 2929.22 or 2929.23 of the Revised Code, and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this General Offenses Code, the court shall impose a definite jail term that shall be one of the following:

A. For a misdemeanor of the first degree, not more than one hundred eighty days;

B. For a misdemeanor of the second degree, not more than ninety days;

C. For a misdemeanor of the third degree, not more than sixty days;

D. For a misdemeanor of the fourth degree, not more than thirty days.

(2) A. A court that sentences an offender to a jail term under this section may permit the offender to serve the sentenced in intermittent confinement or may authorize a limited release of the offender as provided in Ohio R.C. 2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

B. 1. If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.

2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.

(3) Whoever violates subsection (d) hereof is guilty of a misdemeanor of the first degree.

(4) A. A court may order a person who is convicted of or pleads guilty to a violation of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.

B. A court may order a person who is convicted of or pleads guilty to a violation of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.

(5) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling. (Ord. 13-15. Passed 10-12-15.)

**505.08 NUISANCE CONDITIONS PROHIBITED.**

(a) No person shall keep or harbor any animal or fowl in the Municipality so as to create noxious, or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.

(b) Whoever violates this section is guilty of a minor misdemeanor.

**505.09 BARKING OR HOWLING DOGS.**

(a) No person shall keep or harbor any dog within the Municipality which, by frequent and habitual barking, howling or yelping, creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the Municipality. Any person who shall allow any dog habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure, which he occupies or owns, shall be considered as harboring such dog.

(b) Whoever violates this section is guilty of a minor misdemeanor.

**505.10 ANIMAL BITES; REPORTS AND QUARANTINE.**

(a) Whenever any person is bitten by a dog or other animal, report of such bite shall be made to the Health Commissioner within twenty-four hours. Whenever it is reported to the Health Commissioner that any dog or cat has bitten a person, that dog or cat shall be quarantined under an order issued by the Health Commissioner. The dog or cat shall be quarantined by its owner or by a harborer, or shall be quarantined in a pound or kennel. In all cases, such quarantine shall be under the supervision of the Health Commissioner and shall be at the expense of the owner or harborer. Quarantine shall continue until the Health Commissioner determines that the dog or cat is not afflicted with rabies. The quarantine period hereby required shall not be less than ten days from the date on which the person was bitten. If at any time during the quarantine, the Health Commissioner requires the dog or cat to be examined for symptoms of rabies, then the examination shall be by a licensed doctor of veterinary medicine. The veterinarian shall report to the Health Commissioner the conclusions reached as a result of the examinations. The examination by a veterinarian shall be at the expense of the owner or harborer. No dog or cat shall be released from the required quarantine unless and until it has been properly vaccinated against rabies.

No person shall fail to comply with the requirements of this section or with any order of the Health Commissioner made pursuant thereto, nor fail to immediately report to the Health Commissioner any symptoms or behavior suggestive of rabies.

(b) Whoever violates this section is guilty of a minor misdemeanor.

**505.11 HUNTING PROHIBITED.**

(a) No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms, bow and arrow, air rifle or any other means within the corporate limits of the Municipality.

(b) Whoever violates this section is guilty of a minor misdemeanor.

**505.12 COLORING RABBITS OR BABY POULTRY; SALE OR DISPLAY OF POULTRY.**

(a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffle or give away any rabbit or poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than three. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times. (ORC 925.62)

(b) Whoever violates this section is guilty of a minor misdemeanor.

**505.13 DANGEROUS WILD ANIMALS AND RESTRICTED SNAKES.**

(a) For purposes of this section, "dangerous wild animal" and "restricted snake" have the same meanings as set forth in Ohio R.C. 935.01.

(b) (1) Except for a restricted snake specified in Ohio R.C. 935.01(L)(1), no person shall sell or offer for sale at auction a dangerous wild animal or restricted snake.

(2) Except for a microchip removed for purposes of a medical emergency by a veterinarian that is qualified to provide veterinary care to the dangerous wild animal, no person shall knowingly remove a microchip that is implanted in a dangerous wild animal as required in Ohio R.C. 935.04.

(3) No person that possesses a dangerous wild animal or restricted snake shall fail to post and display any of the following:

A. On each cage in which a dangerous wild animal is confined, signs warning the public that a dangerous wild animal is confined in the cage;

B. At each entrance to the property where a dangerous wild animal is confined, a sign warning the public that a dangerous wild animal is on the property;

C. On each container in which a restricted snake is confined, a sign warning the public that a restricted snake is in the container;

D. At the main entrance to each structure where a restricted snake is confined, a sign warning the public that a restricted snake is in the structure;

E. On a vehicle that is used to transport a dangerous wild animal or restricted snake, a sign warning that a dangerous wild animal or restricted snake, as applicable, is in the vehicle.

# CHAPTER 509
## Disorderly Conduct and Peace Disturbance


**509.01 Riot.**
**509.011 Inciting to violence.**
**509.02 Failure to disperse.**
**509.03 Disorderly conduct; intoxication.**
**509.04 Disturbing a lawful meeting.**
**509.05 Misconduct at an emergency.**
**509.06 Inducing panic.**
**509.07 Making false alarms.**
**509.08 Disturbing the peace/sound amplifying devices.**
**509.081 Unlawful use or operation of Citizen Band (CB) radio.**
**509.09 Intoxication.**
**509.10 Unlawful congregation on sidewalks, public grounds.**
**509.11 Curfew.**
**509.12 Unlawful panhandling and fraudulent solicitations.**
**509.13 Impeding public passage of an emergency service responder.**
**509.99 Penalty.**


CROSS REFERENCES
See sectional histories for similar State law
Use of force to suppress riot - see Ohio R.C. 2917.05
Cordoning off riot areas, prohibiting sales of firearms and explosives - see Ohio R.C. 3761.16
Emergency suspension of permits and sales by Director of Liquor Control - see Ohio R.C. 4301.251
Criminal trespass - see GEN. OFF. 541.05

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**509.01 RIOT.**

(a) No person shall participate with four or more others in a course of disorderly conduct in violation of Section 509.03:

(1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;

(2) With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder, impede or obstruct a function of government;

(3) With purpose to hinder, impede or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at such institution.

(b) No person shall participate with four or more others with purpose to do an act with unlawful force or violence, even though such act might otherwise be lawful.

(c) Whoever violates this section is guilty of riot, a misdemeanor of the first degree. (ORC 2917.03)

**509.011 INCITING TO VIOLENCE.**

(a) No person shall knowingly engage in conduct designed to urge or incite another to commit any offense of violence, when either of the following apply:

(1) The conduct takes place under circumstances that create a clear and present danger that any offense of violence will be committed;

(2) The conduct proximately results in the commission of any offense of violence.

(b) Whoever violates this section is guilty of inciting to violence. If the offense of violence that the other person is being urged or incited to commit is a misdemeanor, inciting to violence is a misdemeanor of the first degree. (ORC 2917.01)

**509.02 FAILURE TO DISPERSE.**

(a) Where five or more persons are participating in a course of disorderly conduct in violation of Section 509.03, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance or alarm, a law enforcement officer or other public official may order the participants and such other persons to disperse. No person shall knowingly fail to obey such order.

(b) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

(c) (1) Whoever violates this section is guilty of failure to disperse.

(2) Except as otherwise provided in subsection (c)(3) hereof, failure to disperse is a minor misdemeanor.

(3) Failure to disperse is a misdemeanor of the fourth degree if the failure to obey the order described in subsection (a) hereof, creates the likelihood of physical harm to persons or is committed at the scene of a fire, accident, disaster, riot, or emergency of any kind. (ORC 2917.04)

**509.03 DISORDERLY CONDUCT; INTOXICATION.**

(a) No person shall recklessly cause inconvenience, annoyance or alarm to another by doing any of the following:

(1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;

(2) Making unreasonable noise or offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person, which by its very utterance or usage inflicts injury or tends to incite an immediate breach of the peace;

(3) Insulting, taunting or challenging another, under circumstances in which that conduct is likely to provoke a violent response;

(4) Hindering or preventing the movement of persons on a public street, road, highway or right of way, or to, from, within or upon public or private property, so as to interfere with the rights of others, and by any act that serves no lawful and reasonable purpose of the offender;

(5) Creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.

(b) No person, while voluntarily intoxicated shall do either of the following:

(1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if the offender were not intoxicated, should know is likely to have that effect on others;

(2) Engage in conduct or create a condition that presents a risk of physical harm to the offender or another, or to the property of another.

(c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (b) hereof.

(d) If a person appears to an ordinary observer to be intoxicated, it is probable cause to believe that person is voluntarily intoxicated for purposes of subsection (b) hereof.

(e) (1) Whoever violates this section is guilty of disorderly conduct.

(2) Except as otherwise provided in subsections (e)(3) and (e)(4), disorderly conduct is a minor misdemeanor.

(3) Disorderly conduct is a misdemeanor of the fourth degree if any of the following applies:

A. The offender persists in disorderly conduct after reasonable warning or request to desist.

B. The offense is committed in the vicinity of a school or in a school safety zone.

C. The offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot or emergency of any kind.

D. The offense is committed in the presence of any emergency facility person who is engaged in the person's duties in an emergency facility.

(4) If an offender previously has been convicted of or pleaded guilty to three or more violations of subsection (b) of this section, a violation of subsection (b) of this section is a misdemeanor of the fourth degree.

(f) As used in this section:

(1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.

(2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.

(3) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04.

(4) "Committed in the vicinity of a school" has the same meaning as in Ohio R.C. 2925.01. (ORC 2917.11)

**509.04 DISTURBING A LAWFUL MEETING.**

(a) No person, with purpose to prevent or disrupt a lawful meeting, procession or gathering, shall do either of the following:

(1) Do any act which obstructs or interferes with the due conduct of such meeting, procession or gathering;

(2) Make any utterance, gesture or display which outrages the sensibilities of the group.

(b) Whoever violates this section is guilty of disturbing a lawful meeting. Except as otherwise provided in this section, disturbing a lawful meeting is a misdemeanor of the fourth degree. Disturbing a lawful meeting is a misdemeanor of the first degree if either of the following applies:

(1) The violation is committed with the intent to disturb or disquiet any assemblage of people met for religious worship at a tax-exempt place of worship, regardless of whether the conduct is within the place at which the assemblage is held or is on the property on which that place is located and disturbs the order and solemnity of the assemblage.

(2) The violation is committed with the intent to prevent, disrupt, or interfere with a virtual meeting or gathering of people for religious worship, through use of a computer, computer system, telecommunications device, or other electronic device or system, or in any other manner.

(c) As used in this section:
(1) "Computer" has the same meaning as in Ohio R.C. 2913.01.
(2) "Computer system" has the same meaning as in Ohio R.C. 2913.01.
(3) "Telecommunications device" has the same meaning as in Ohio R.C. 2913.01.
(4) "Virtual meeting or gathering" means a meeting or gathering by interactive video conference or teleconference, or by a combination thereof.
(ORC 2917.12)

**509.05 MISCONDUCT AT AN EMERGENCY.**

(a) No person shall knowingly do any of the following:
(1) Hamper the lawful operations of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person, engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind;
(2) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;
(3) Fail to obey the lawful order of any law enforcement officer engaged in the law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.

(b) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.

(c) Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this subsection, misconduct at an emergency is a misdemeanor of the fourth degree. If a violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.

(d) As used in this section:
(1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
(2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
(3) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04.

**509.06 INDUCING PANIC.**

(a) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:
(1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that such report or warning is false;
(2) Threatening to commit any offense of violence;
(3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(b) Division (a) hereof does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree. If inducing panic results in physical harm to any person, economic harm of one thousand dollars ($1,000) or more, if the public place involved in a violation of this section is a school or an institution of higher education, or if the violation pertains to a purported, threatened or actual use of a weapon of mass destruction, inducing panic is a felony and shall be prosecuted under appropriate State law.

(d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section:

(1) "Economic harm" means any of the following:

A. All direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" as described in this division includes, but is not limited to, all of the following:

1. All wages, salaries, or other compensation lost as a result of the criminal conduct;
2. The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
3. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
4. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

B. All costs incurred by the Municipality as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or Section 509.07, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.

(2) "School" means any school operated by a board of education or any school for which the state board of education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a violation of this section is committed.

(3) "Weapon of mass destruction" means any of the following:

A. Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

B. Any weapon involving a disease organism or biological agent;

C. Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;

D. Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of "destructive device" pursuant to 18 U.S.C. 921(a)(4) and regulations issued under that section:

1. Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;

2. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (e)(3)D.1. of this section and from which an item or device described in that division may be readily assembled.

(4) "Biological agent" has the same meaning as in Ohio R.C. 2917.33.

(5) "Emergency medical services personnel" has the same meaning as in Ohio R.C. 2133.21.

(6) "Institution of higher education" means any of the following:

A. A state university or college as defined in Ohio R.C. 3345.12(A)(1), community college, state community college, university branch, or technical college;

B. A private, nonprofit college, university or other post-secondary institution located in this State that possesses a certificate of authorization issued by the Ohio Board of Regents pursuant to Ohio R.C. Chapter 1713.

C. A post-secondary institution with a certificate of registration issued by the State Board of Career Colleges and Schools under Ohio R.C. Chapter 3332. (ORC 2917.31)

**509.07 MAKING FALSE ALARMS.**

(a) No person shall do any of the following:

(1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;

(2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;

(3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.

(4) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to impede the operation of a critical infrastructure facility.

(b) This section does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. If a violation of this section results in economic harm of one thousand dollars ($1,000) or more, or if a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony and shall be prosecuted under appropriate State law.

(d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section:

(1) "Critical infrastructure facility" has the same meaning as in Ohio R.C. 2911.21.

(2) "Economic harm"and "weapon of mass destruction" have the same meaning as in Section 509.06. (ORC 2917.32)

**509.08 DISTURBING THE PEACE/SOUND AMPLIFYING DEVICES.**

(a) Disturbing the Peace. No person shall make or continue, or cause to be made or continued, any loud, unnecessary or unreasonable noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of ordinary sensitivities in the area of the noise. In determining whether a noise is of such a character as to unreasonably disturbs the peace and quiet of the neighborhood, a court shall consider the following factors:

(1) Complaints of neighbors regarding the noise.
(2) Time of day at which the noise takes place.
(3) The intensity and duration of the noise.
(4) The type of noise produced.
(5) The alternative means audible without excessive noise.

(b) Sound Amplifying Devices on Private Property. No person shall generate or permit to be generated unreasonable noise or loud sound which is likely to cause inconvenience or annoyance to persons of ordinary sensibilities by means of a radio, phonograph, television, tape player, loud speaker or any other sound amplifying device or by any horn, drum, piano or other musical or percussion instrument. It is prima facie unlawful for a person to generate or permit to be generated sound by the above described devices or instruments in the following circumstances:

(1) On private property where the sound is plainly audible more than fifty feet from the property line of the property on which the source of the sound is located.

(c) Sound Amplifying Devices in a Motor Vehicle. No person shall generate or permit to be generated unreasonable noise or loud sound which is likely to cause inconvenience or annoyance to persons of ordinary sensibilities by means of a radio, phonograph, television, tape player, loud speaker or any other sound amplifying device or by any horn, drum, piano or other musical or percussion instrument on an street, highway or in the public right of way when the sound is plainly audible fifty feet from the devises generating the sound.

(d) Definitions. "Plainly audible" means any sound produced by a radio, tape player, or other mechanical or electronic sound making devices, or instrument, from within the interior or exterior of a motor vehicle or on property, including sound produced by a portable sound making device, that can be clearly heard by a person using his/her normal hearing faculties, at a distance of fifty feet or more from the motor vehicle or property.

(e) Measurement. Any law enforcement personnel who hears a sound that is plainly audible, as defined herein, shall be entitled to measure the sound according to the following standards:

(1) The primary means of detection shall be by means of the officer's ordinary auditory senses, so long as the officer's hearing is not enhanced by any mechanical device, such as a microphone or hearing aide.
(2) The officer must have a direct line of sight and hearing to the motor vehicle producing the sound so that he can readily identify the offending motor vehicle if involving a motor vehicle.
(3) The officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound.

(f) Permitting Violations. No person, being the owner, or person in possession of a premises or person in control of the premises by reason of employment, agency, or otherwise whether such ownership, possession or control is exclusive or joint, shall permit a violation of this section.

(g) Exemptions. The following uses and activities shall be exempt from this section.

(1) Noises of safety signals, warning devices, and emergency pressure relief valves;

(2) Emergency vehicles;

(3) Emergency work;

(4) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the City;

(5) Any aircraft operated in conformity with, or pursuant to, Federal law, Federal air regulations, and air traffic control instruction;

(6) Noises resulting from the normal use of churches, schools, athletic fields, fairgrounds, parks and auditoriums; and

(7) City projects and work;

(8) Vehicles used in a parade, as specified in Section 311.02, and the person or organization conducting the parade has obtained a permit from the appropriate City agency;

(9) Authorized public activities - authorized public events means one time or annual special indoor/outdoor events conducted pursuant to and in accordance with a City issued permit or authorization, including, but not limited to Lancaster Festival events, Friday Night Bandstand, Fairfield County Fair events;

(10) Industrial noises.

(h) Penalty. Whoever violates this section shall be guilty of a minor misdemeanor. A second offense shall be an unclassified misdemeanor punishable with up to a two hundred fifty dollars ($250.00) fine. (Ord. 47-99. Passed 9-13-99.)

**509.081 UNLAWFUL USE OR OPERATION OF CITIZEN BAND (CB) RADIO.**

(a) Definitions:

(1) The Citizens Band (CB) Radio Services includes all private, two-way, short-distance voice communications service for personal or business activities of the general public. The CB Radio Service may also be used for voice paging. See 47CFR95.401(a).

(2) CB station means a radio station transmitting in the CB Radio Service. See 47CFR95.402(f). A CB station includes all of the radio equipment (inclusive of antennas) that is used in order to transmit signals. See 47CFR95.402(f) and 47CFR95.426(b). A station that is licensed by the Federal Communications Commission (Commission) pursuant to Section 301 of the Communications Act of 1934 in any radio service for the operation at issue shall not be subject to the provisions of this Section. See Section (f)(2) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a).

(3) Use or operation is the act of using a CB radio or other equipment to transmit a signal in the CB Radio Service. Use or operation involves all radio equipment that is part of a CB station.

(4) Electronic devices include any electrical, electronic or any other devices capable of receiving interference.

(5) Interference is any abnormal sound, noise, rectification or operation of an electronic device that would be indicative of that device being subjected to a high radio-frequency field.

(6) Antenna means the radiating system (for transmitting, receiving or both) and the structure holding it up (tower, pole or mast). It also means everything else attached to the radiating system and the structure. See 47CFR95.408(a).

(7) CB radio equipment is any radio or other equipment capable of transmitting or propagating any RF transmissions within the CB Radio Services, including accessories, such as antennas.

(b) CB stations may transmit only on the following channels (frequencies):

| Channel | Frequency (megahertz--MHZ) | Channel | Frequency (megahertz--MHZ) |
|---|---|---|---|
| 1 | 26.965 | 21 | 27.215 |
| 2 | 26.975 | 22 | 27.225 |
| 3 | 26.985 | 23 | 27.255 |
| 4 | 27.005 | 24 | 27.235 |
| 5 | 27.015 | 25 | 27.245 |
| 6 | 27.035 | 26 | 27.265 |
| 7 | 27.035 | 27 | 27.275 |
| 8 | 27.055 | 28 | 27.285 |
| 9 | 27.065 | 29 | 27.295 |
| 10 | 27.075 | 30 | 27.305 |
| 11 | 27.085 | 31 | 27.315 |
| 12 | 27.105 | 32 | 27.325 |
| 13 | 27.115 | 33 | 27.335 |
| 14 | 27.125 | 34 | 27.345 |
| 15 | 27.135 | 35 | 27.355 |
| 16 | 27.155 | 36 | 27.365 |
| 17 | 27.165 | 37 | 27.375 |
| 18 | 27.175 | 38 | 27.385 |
| 19 | 27.185 | 39 | 27.395 |
| 20 | 27.205 | 40 | 27.405 |

See Title 47, Sec. 95.407(a)

(c) No operator of a CB station shall transmit, or any owner of a CB station shall allow another to transmit, on any frequency between 24MHz and 35 MHZ, other than those specified in subsection (b).

(1) Channel 9 may be used only for emergency communications or for traveler assistance. See 47CFR95.407(b).

(2) Each CB transmitter must be maintained within a frequency tolerance of 0.005%. See 47CFR95.625(b).

(d) No person shall operate a CB station's transmitter with power output exceeding the following values under any conditions:

(1) AM (Amplitude Modulation)--4 watts (carrier power);

(2) SSB (Single Side-Band)--12 watts (peak envelope power). See 47CFR95.410(a).

(e) No person shall use or operate a CB transmitter unless it is certificated pursuant to the Communications Act of 1934 and its amendments (no CB transmitter manufactured after September 10, 1976 shall fail to possess a FCC certification). See 47CFR95.409(a).

(f) No person shall operate a CB transmitter that has been altered or modified without actual written permission allowing such modification, unless the modification is limited to the repair or servicing of a CB station transmitter or to the changing of plug-in modules. See 47CFR95.409(b).

(g) No person shall use or operate in any way:

(1) External radio frequency (RF) power amplifier (sometimes called linears or linear amplifiers). See 47CFR95.411(a)(1).

(2) Any other device which, when used with a radio transmitter as a signal source, are capable of amplifying the signal. See 47CFR95.411(a)(2).

(3) A CB transmitter with frequency determining circuitry (including crystals) and programming controls that are external to the transmitter or that are accessible from the exterior of the transmitter operating panel or from the exterior of the transmitter enclosure. See 47CFR95.655(b).

(4) Add-on devices, whether internal or external, the function of which is to extend the transmitting frequency capability of a CB transmitter beyond its original capability. See 47CFR95.655(c).

(h) If the subject matter of a complaint presented to a governmental agency involves CB radio transmissions interfering with electronic devices, such as speakers, garage door openers, home entertainment systems, data networks, electronic organs, televisions, radios, and telephones, not exclusively, the investigating agency may begin an investigation to determine if any CB radio operators are transmitting above the maximum allowable power output in the general vicinity of where the interference is being observed. However, violations of CB radio operators transmitting above the maximum allowable power output shall not be enforceable unless citizens (complainants) from two or more residences sign and attest that they are receiving interference from a CB station.

(1) Initial investigations of possible violations of CB radio operators transmitting above the maximum allowable power output should contain the following:

A. A record from each complainant containing dates, day of the week, and time of the day that the interference has occurred. This logbook should encompass a time of no less than four (4) weeks.

B. Locations and type of equipment that the complainant is receiving interference.

C. An address, location and description of the person and premises that the complainant feels is causing the interference from a CB radio station.

D. Physical evidence such as a large antenna and/or radio supporting tower or other antennas mounted to a house or other structure on the property.

E. If possible, actual recordings of the interference received.

F. Any other evidence that would assist in determining the person and location of the source of the interference.

(2) Probable cause to obtain a search warrant will be determined from a variety of factors and may include the following:

A. A drive-by inspection of the suspected violator's premises to determine the presence of CB radio type antennas, towers and any other relevant evidence.

B. Determinations made by the investigating agency of the power output of the CB station using field strength meters up to one-fourth mile of the CB station.

C. Monitoring of the C.B. radio frequency spectrum including radio frequencies above and below the radio frequencies allocated by the FCC for legal operations in and around the suspected area.

D. The log entries made by the investigative agency of the radio frequencies used during suspected illegal radio transmissions.

E. Records and observations made by the complainants.

F. Any other factors that would cause a reasonable person to believe that the alleged violator is using a CB radio or other equipment to violate the provisions of this Section.

G. Not all of the above factors need be met for a court of proper jurisdiction to find probable cause for the issuance of a search warrant; however, search warrant standards and procedures shall comply with O.R.C. Section 2933 and Crim.R. 41.

(3) All property seized pursuant to a search warrant shall be kept until the accused is tried or the claimant's right is otherwise ascertained. The disposition of property seized under this Section and held by a law enforcement agency shall comply with O.R.C. Sections 2981.01 et seq., if applicable, 2933.42 and 2933.43.

(i) The enforcement of this ordinance shall not preclude the Federal Communications Commission from enforcing its own regulation concurrently. See Section (f)(5) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a).

(j) Nothing in this ordinance shall be construed to diminish or otherwise affect the jurisdiction of the Commission. See Section (f)(6) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a).

(k) The enforcement of this ordinance with regard to citizens band radio equipment on board a 'commercial motor vehicle' as defined in Section 31101 of Title 49, United States Code, shall require probable cause to find that the commercial motor vehicle or the individual operating the vehicle is in violation of the ordinance herein. See Section (f)(7) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a).

(l) In addition to any other remedy authorized by law, a person affected by the decision of a local government agency in enforcing this statute may submit to the Commission an appeal of the decision on the grounds that the State or local government enacted a statute or ordinance outside the authority granted under Section 302 of the Communications Act of 1934. See Section (f)(4)(A) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a). Such appeal shall be submitted to the Commission no later than 30 days after the date on which the decision by the local government agency becomes final, but prior to seeking judicial review of such decision. See Section (f)(4)(B) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a).

(m) The Commission shall make a determination on an appeal submitted under subparagraph (l) not later than 180 days after its submittal. See Section (f)(4)(C) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a). However, any CB radio equipment seized pursuant to a validly issued warrant shall remain in the custody of the local law enforcement agency during the pendency of the appeal. CB radio equipment that was seized shall only be returned if the Commission determines that relevant provisions of this ordinance exceeded the authority granted under Section 302 of the Communications Act of 1934 or if a court of proper jurisdiction determines that no violation occurred within this Section.

(n) All owners of a CB station shall keep all relevant correspondence from the FCC, hereafter known as "station records," such as written permission received from the FCC, at the CB station. A violation of this subsection may only occur if sufficient factors enumerated under subsections (s) or (t) indicate that modified or altered equipment requiring FCC permission for use was actually used or operated. See 47CFR95.427(b) and 47CFR95.426(a).

(o) Violations of subsections (c), (d), (e), (f), (g) or (n) shall be construed as strict liability offenses.

(p) Pursuant to O.R.C. Section 2901.01(13)(c), any CB radio equipment, inclusive of any antenna, that was used or operated, as determined under subsections (s) or (t), in violation of this Section shall be contraband.

(q) All persons using radio monitoring measurement instruments should be a holder of a "General Radiotelephone Operator" License issued by the FCC or an equivalent license issued by a certified industry standard testing board.

(r) All test instruments used for determining relative field strength and radio frequency power output should be of a commercial grade type typically used in a commercial two-way radio facility and annually checked for calibration against specifications contained in the operation manual or a known calibrated referenced source. For purposes of investigation, the variable gain control may be adjusted based on calibration check readings to compensate for any variations in battery voltage.

(s) In determining if CB radio equipment is being unlawfully used or operated on a frequency between 24 MHz and 35 MHz, a court, law enforcement officer or investigating agency shall consider, in addition to other relevant factors, the following:

(1) Possession of the equipment;
(2) The proximity of the equipment to other CB radio equipment;
(3) Any statement by the owner, or by anyone in control, of the CB radio equipment, concerning its use;
(4) Whether the CB radio equipment is directly or indirectly connected to an antenna;
(5) The proximity in time or space of the CB radio equipment, or of the act relating to the CB radio equipment, to a violation of this Section;
(6) Direct or circumstantial evidence of the use or operation of unlawful or unauthorized CB radio equipment.

(t) A court of law shall presume a person has a linear or other RF power amplifier if:

(1) It is in a person's possession or on a person's property; and
(2) There is other evidence that a person has operated a CB station with more power than allowed pursuant to subsection (d) of this Section. See 47CFR95.411(c).

(u) A court has proper venue to hear a case filed under this Section if the interference to electronic devices occurs within the City of Lancaster's legal boundaries or if the use or operation of a CB radio station occurs within the legal boundaries of the City of Lancaster.

(v) If any part of this Section is determined to be unconstitutional by a court of law or any part of this Section is determined to be outside the authority bestowed upon the City of Lancaster by Congress then the remainder of this Section shall remain in full force and effect. In addition, should any part of this Section be determined to be unconstitutional and/or outside the City's allowable authority then the court or agency must review the facts of the case to determine whether the City of Lancaster engaged in any actual conduct to enforce the unconstitutional and/or unauthorized provision. Only if the City of Lancaster acted outside its authority in enforcing this Section, shall the Commission preempt the decision enforcing this Section.

(w) (1) Whoever violates subsection (c) is guilty of unlawful use of CB radio equipment, a misdemeanor of the first degree.
(2) Whoever violates subsection (d), (f) or (g) is guilty of unauthorized operation of CB radio equipment, a misdemeanor of the first degree.

(3) Whoever violates subsection (e) is guilty of unlawful use of CB radio equipment without proper FCC certification, a misdemeanor of the fourth degree.

(4) Whoever violates subsection (n) is guilty of failure to keep station records, a misdemeanor of the Fourth degree.
(Ord. 30-02. Passed 8-26-02.)

**509.09 INTOXICATION.**

(a) No person shall be found in a state of intoxication or under the influence of any drug of abuse, or being intoxicated or under the influence of a drug of abuse, shall disturb the peace and good order, or shall conduct himself in a disorderly manner.
(Ord. 18-73. Passed 3-12-73.)

(b) Whoever violates this section is guilty of a minor misdemeanor.

**509.10 UNLAWFUL CONGREGATION ON SIDEWALKS, PUBLIC GROUNDS.**

(a) No person shall congregate with others on the sidewalk, street corner, or within the parks or public grounds, with intent to provoke a breach of the peace; or whereby a breach of the peace may be occasioned by the serious annoyance to pedestrians or by threatening, insulting or abusive conduct to them; and refuse to move on when ordered by a police officer.

(b) Whoever violates this section is guilty of a minor misdemeanor.

**509.11 CURFEW.**

(a) Hours for Minors Under Twelve. No minor under the age of twelve years shall loiter, idle, wander, stroll or play in or upon the public streets, other public places, places of amusement and entertainment, vacant lots or other unsupervised places during the period from darkness to dawn. However, the provisions of this section do not apply to a minor accompanied by his parent, guardian or other adult person having the care of and custody of the minor, or when the minor is engaged in any activity not prohibited by law and such activity is authorized by his parent, guardian or other adult person having the care and custody of such minor.

(b) Hours for Minors Under Eighteen.. No minor under the age of eighteen years shall loiter, idle, wander, stroll or play in or upon the public streets, other public places, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 11:00 p.m. and 4:30 a.m. the following day. However, the provisions of this section do not apply to a minor accompanied by his parent, guardian or other adult person having the care of and custody of the minor, or when the minor is engaged in any activity not prohibited by law and such activity is authorized by his parent, guardian or other adult person having the care and custody of such minor.

(c) Enforcement against Parent or Guardian. The parent, guardian or person having the legal custody and control of any minor violating any of the provisions hereof is guilty of a minor misdemeanor. (Ord. 13-66. Passed 2-14-66.)

**509.12 UNLAWFUL PANHANDLING AND FRAUDULENT SOLICITATIONS.**

(a) For purposes of this section, "panhandling" means any solicitation made in person requesting an immediate donation of money. A donation shall be considered as the purchase of an item for an amount exceeding its value, under circumstances where a reasonable person would understand that the purchase is, in substance, a donation. "Panhandling" does not include passively standing or sitting with a sign or other nonverbal indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person

(b) No persons shall panhandle at any of the following locations:
(1) At any bus stop, or transit vehicle stop;
(2) In a public transportation vehicle or facility;
(3) In a vehicle on the street;
(4) On private property, unless the panhandler has written permission from the owner or occupant; or
(5) At any ATM machine.

(c) No person shall panhandle on any street, sidewalk, public right-of-way, or public property by:
(1) Blocking the path of the person being asked for the donation;
(2) Following a person who walks away from the panhandler; or
(3) Making any statement, gesture or other communication in which the panhandler knowingly causes another to believe that the panhandler will cause or threaten to cause harm to the person or their property.

(d) No person shall knowingly make any false or misleading representation in the course of panhandling. False or misleading representations include, but are not limited to, the following:
(1) Stating that the donation is needed to meet a specified need, when the panhandler already has sufficient funds to meet that need and does not disclose that fact;
(2) Stating that the donation is needed to meet a need which does not exist;
(3) Stating that the panhandler is from out of town and stranded, when that is not true;
(4) Wearing a military uniform or other indication of military service, when the panhandler is neither a present nor a former member of the service indicated;
(5) Wearing or displaying an indication of physical disability, when the panhandler does not suffer the disability indicated;
(6) Use of make-up or any device to simulate any deformity; or
(7) Stating that the panhandler is homeless, when that is not true.

(e) No person shall panhandle stating that the donation is needed for a specific purpose and then spend the donation received for a different purpose.

(f) This section shall in no way be interpreted to prohibit the solicitation of donations by members of any schools, civic organizations or other nonprofit organizations soliciting donations by legitimate means and for legitimate purposes.

(g) Whoever violates any provision of this section is guilty of a misdemeanor of the fourth degree on the first offense. A subsequent offence shall be an misdemeanor of the third degree. A third offense shall be an misdemeanor of the first degree.
(Ord. 31-08. Passed 9-8-08.)

### 509.13 IMPEDING PUBLIC PASSAGE OF AN EMERGENCY SERVICE RESPONDER.

(a) No person, without privilege to do so, shall recklessly obstruct any highway, street, sidewalk, or any other public passage in such a manner as to render the highway, street, sidewalk, or passage impassable without unreasonable inconvenience or hazard if both of the following apply:

(1) The obstruction prevents an emergency vehicle from accessing a highway or street, prevents an emergency service responder from responding to an emergency, or prevents an emergency vehicle or an emergency service responder from having access to an exit from an emergency.

(2) Upon receipt of a request or order from an emergency service responder to remove or cease the obstruction, the person refuses to remove or cease the obstruction.

(b) Subsection (a) of this section does not limit or affect the application of Ohio R.C. 2921.31 or any other section of the Ohio Revised Code. Any conduct that is a violation of subsection (a) of this section and that also is a violation of Ohio R.C. 2921.31 or any other section of the Ohio Revised Code may be prosecuted under this section, the other section of the Ohio Revised Code or both sections.

(c) Whoever violates this section is guilty of unlawfully impeding public passage of an emergency service responder, a misdemeanor of the first degree.

(d) As used in this section, "emergency service responder" has the same meaning as in Ohio R.C. 2921.01. (ORC 2917.14)

**509.99 PENALTY.**

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

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

(5) An amount equal to or exceeding 200 solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid;

(6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, if the defendant is charged with a violation of Ohio R.C. 2925.11 and the sentencing provisions set forth in Ohio R.C. 2925.11(C)(10)(b) and (C)(11) will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (1), (2), (3), (4), or (5) of this definition for the other Schedule III, Schedule IV, or Schedule V controlled substance that is combined with the fentanyl-related compound.

(e) "Certified grievance committee." A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.

(f) "Cocaine." Any of the following:

(1) A cocaine salt, isomer or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.

(2) Coca leaves or a salt, compound, derivative or preparation of coca leaves, including ecgonine, a salt, isomer or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.

(3) A salt, compound, derivative or preparation of a substance identified in subsection (e)(1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.

(g) "Committed in the vicinity of a juvenile." An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

(h) "Committed in the vicinity of a school." An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.

(i) "Committed in the vicinity of a substance addiction services provider or a recovering addict". An offense is "committed in the vicinity of a substance addiction services provider or a recovering addict" if either of the following apply:

(1) The offender commits the offense on the premises of a substance addiction services provider's facility, including a facility licensed prior to June 29, 2019, under Ohio R.C. 5119.391 to provide methadone treatment or an opioid treatment program licensed on or after that date under Ohio R.C. 5119.37, or within 500 feet of the premises of a substance addiction services provider's facility and the offender knows or should know that the offense is being committed within the vicinity of the substance addiction services provider's facility.

(2) The offender sells, offers to sell, delivers, or distributes the controlled substance or controlled substance analog to a person who is receiving treatment at the time of the commission of the offense, or received treatment within 30 days prior to the commission of the offense, from a substance addiction services provider and the offender knows that the person is receiving or received that treatment.

(j) "Controlled substance." Has the same meaning as in Ohio R.C. 3719.01.

(k) "Controlled substance analog." Has the same meaning as in Ohio R.C. 3719.01.

(l) "Counterfeit controlled substance." Any of the following:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to the trademark, trade name or identifying mark.

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it.

(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its markings, labeling, packaging, distribution or the price for which it is sold or offered for sale.

(m) "Cultivate." Includes planting, watering, fertilizing or tilling.

(n) "Dangerous drug." Has the same meaning as in Ohio R.C. 4729.01.

(o) "Deception." Has the same meaning as in Ohio R.C. 2913.01.

(p) "Disciplinary counsel." The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.

(q) "Dispense." Has the same meaning as in Ohio R.C. 3719.01.

(r) "Distribute." Has the same meaning as in Ohio R.C. 3719.01.

(s) "Drug." Has the same meaning as in Ohio R.C. 4729.01.

(t) "Drug abuse offense." Any of the following:

(1) A violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs, or any violation of Ohio R.C. 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37.

(2) A violation of an existing or former law of any municipality, state or of the United States, that is substantially equivalent to any section listed in subsection (r)(1) of this definition.

(3) An offense under an existing or former law of any municipality, state or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element.

(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under subsection (r)(1), (2) or (3) of this definition.

(u) "Drug of abuse." Has the same meaning as in Ohio R.C. 3719.011.

(v) "Felony drug abuse offense." Any drug abuse offense that would constitute a felony under the laws of this state, any other state or the United States.

(w) "Fentanyl-related compound." Any of the following:
(1) Fentanyl;
(2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
(3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-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]-- phenylpropanamide);
(8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide;
(9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide;
(10) Alfentanil;
(11) Carfentanil;
(12) Remifentanil;
(13) Sufentanil;
(14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide); and
(15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:
A. A chemical scaffold consisting of both of the following:
1. A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;
2. An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.
B. A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;
C. An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and
D. The compound has not been approved for medical use by the United States food and drug administration.

(x) "Harmful intoxicant." Does not include beer or intoxicating liquor, but means any of the following:
(1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes but is not limited to any of the following:
A. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline or other preparation containing a volatile organic solvent.

B. Any aerosol propellant.
C. Any fluorocarbon refrigerant.
D. Any anesthetic gas.

(2) Gamma Butyrolactone;
(3) 1,4 Butanediol.

(y) "Hashish".
(1) A resin or a preparation of a resin to which both of the following apply:
A. It is contained in or derived from any part of the plant of the genus cannabis, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
B. It has a delta-9 tetrahydrocannabinol concentration of more than 0.3%.
(2) The term does not include a hemp byproduct in the possession of a licensed hemp processor under Ohio R.C. Chapter 928, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under Ohio R.C. 928.03.

(z) "Hypodermic." Has the same meaning as in Ohio R.C. 3719.01.
(aa) "Juvenile." A person under eighteen years of age.
(bb) "Licensed health professional authorized to prescribe drugs." Has the same meaning as in Ohio R.C. 4729.01.
(cc) "L.S.D." Lysergic acid diethylamide.
(dd) "Major drug offender." Has the same meaning as in Ohio R.C. 2929.01.
(ee) "Mandatory prison term." Has the same meaning as in Ohio R.C. 2929.01.
(ff) "Manufacture." To plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.
(gg) "Manufacturer." Has the same meaning as in Ohio R.C. 3719.01.
(hh) "Marihuana." Has the same meaning as in Ohio R.C. 3719.01, except that it does not include hashish.
(ii) "Methamphetamine." Methamphetamine, any salt, isomer or salt of an isomer of methamphetamine, or any compound, mixture, preparation or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.
(jj) "Minor drug possession offense." Either of the following:
(1) A violation of Ohio R.C. 2925.11, as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
(2) A violation of Ohio R.C. 2925.11, as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.
(kk) "Official written order." Has the same meaning as in Ohio R.C. 3719.01.
(ll) "Person." Has the same meaning as in Ohio R.C. 3719.01.
(mm) "Person with a drug dependency" has the same meaning as in Ohio R.C. 3719.011.
(nn) "Pharmacist." Has the same meaning as in Ohio R.C. 3719.01.
(oo) "Pharmacy." Has the same meaning as in Ohio R.C. 3719.01.
(pp) "Possess" or "possession." Having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
(qq) "Premises of a substance addiction services provider's facility". Means the parcel of real property on which any substance addiction service provider's facility is situated.
(rr) "Prescription." Has the same meaning as in Ohio R.C. 4729.01.

(ss) "Presumption for a prison term" or "presumption that a prison term shall be imposed." A presumption as described in Ohio R.C. 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under Ohio R.C. 2929.11.

(tt) "Professional license." Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate or temporary registration that is described in Ohio R.C. 2925.01(W)(1) to (W)(37) and that qualifies a person as a professionally licensed person.

(uu) "Professionally licensed person." Any of the following:

(1) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Ohio R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;

(2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Ohio R.C. Chapter 4703;

(3) A person who is registered as a landscape architect under Ohio R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;

(4) A person licensed under Ohio R.C. Chapter 4707;

(5) A person who has been issued a certificate of registration as a registered barber under Ohio R.C. Chapter 4709;

(6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Ohio R.C. Chapter 4710;

(7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Ohio R.C. Chapter 4713;

(8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license or a dental hygienist's teacher's certificate under Ohio R.C. Chapter 4715;

(9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Ohio R.C. Chapter 4717;

(10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Ohio R.C. Chapter 4723;

(11) A person who has been licensed to practice optometry or to engage in optical dispensing under Ohio R.C. Chapter 4725;

(12) A person licensed to act as a pawnbroker under Ohio R.C. Chapter 4727;

(13) A person licensed to act as a precious metals dealer under Ohio R.C. Chapter 4728;

(14) A person licensed under Ohio R.C. Chapter 4729 as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;

(15) A person licensed under Ohio R.C. Chapter 4729 as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;

(16) A person who is authorized to practice as a physician assistant under Ohio R.C. Chapter 4730;

(17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Ohio R.C. Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;

(18) A person licensed as a psychologist, independent school psychologist, or school psychologist under Ohio R.C. Chapter 4732;

(19) A person registered to practice the profession of engineering or surveying under Ohio R.C. Chapter 4733;

(20) A person who has been issued a license to practice chiropractic under Ohio R.C. Chapter 4734;

(21) A person licensed to act as a real estate broker or real estate salesperson under Ohio R.C. Chapter 4735;

(22) A person registered as a registered environmental health specialist under Ohio R.C. Chapter 4736;

(23) A person licensed to operate or maintain a junkyard under Ohio R.C. Chapter 4737;

(24) A person who has been issued a motor vehicle salvage dealer's license under Ohio R.C. Chapter 4738;

(25) A person who has been licensed to act as a steam engineer under Ohio R.C. Chapter 4739;

(26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Ohio R.C. Chapter 4741;

(27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Ohio R.C. Chapter 4747;

(28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under Ohio R.C. Chapter 4749;

(29) A person licensed to practice as a nursing home administrator under Ohio R.C. Chapter 4751;

(30) A person licensed to practice as a speech-language pathologist or audiologist under Ohio R.C. Chapter 4753;

(31) A person issued a license as an occupational therapist or physical therapist under Ohio R.C. Chapter 4755;

(32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Ohio R.C. Chapter 4757;

(33) A person issued a license to practice dietetics under Ohio R.C. Chapter 4759;

(34) A person who has been issued a license or limited permit to practice respiratory therapy under Ohio R.C. Chapter 4761;

(35) A person who has been issued a real estate appraiser certificate under Ohio R.C. Chapter 4763;

(2) A. As used in subsection (b)(2) of this section:

1. "Community addiction services provider" has the same meaning as in Ohio R.C. 5119.01.
2. "Community control sanction" and "drug treatment program" have the same meanings as in Ohio R.C. 2929.01.
3. "Health care facility" has the same meaning as in Ohio R.C. 2919.16.
4. "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.
5. "Post-release control sanction" has the same meaning as in Ohio R.C. 2967.28.
6. "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
7. "Public agency" has the same meaning as in Ohio R.C. 2930.01.
8. "Qualified individual" means a person who is acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
9. "Seek or obtain medical assistance" includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.

B. Subject to subsection (b)(2)E. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted or penalized pursuant to this chapter for a minor drug possession offense or a violation of Ohio R.C. 2925.12, Ohio R.C. 2925.14(C)(1) or Ohio R.C. 2925.141 if all of the following apply:

1. The evidence of the obtaining, possession or use of the controlled substance or controlled substance analog, drug abuse instruments, or drug paraphernalia that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.
2. Subject to subsection (b)(2)F. of this section, within thirty days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.

3. Subject to subsection (b)(2)F. of this section, the qualified individual who obtains a screening and receives a referral for treatment under subsection (b)(2)B.2. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that subsection. The documentation shall be limited to the date and time of the screening obtained and referral received.

C. If a person who is serving a community control sanction or is under a sanction on post-release control acts pursuant to subsection (b)(2)B. of this section, then Ohio R.C. 2929.141(B), Ohio R.C. 2929.15(B)(2), Ohio R.C. 2929.25(D)(3) or Ohio R.C. 2967.28(F)(3) applies to the person with respect to any violation of the sanction or post-release control sanction based on a minor drug possession offense, as defined in Ohio R.C. 2925.11, or a violation of Ohio R.C. 2925.12, Ohio R.C. 2925.14(C)(1), or Ohio R.C. 2925.141.

D. Nothing in subsection (b)(2)B. of this section shall be construed to do any of the following:

1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of subsection (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense or a violation of Ohio R.C. 2925.12, Ohio R.C. 2925.14(C)(1) or Ohio R.C. 2925.141 committed by a person who qualifies for protection pursuant to subsection (b)(2)B. of this section;
2. Limit any seizure of evidence or contraband otherwise permitted by law;
3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;
4. Limit, modify or remove any immunity from liability available pursuant to law in effect prior to September 13, 2016, to any public agency or to an employee of any public agency.

E. Subsection (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under subsection (b)(2)B. of this section. No person shall be granted an immunity under subsection (b)(2)B. of this section more than two times.

F. Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996", 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.

(c) Whoever violates subsection (a) hereof is guilty of one of the following:

(1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (a) hereof is guilty of possession of drugs. Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows: possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony and shall be prosecuted under appropriate State law.

(2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates subsection (a) hereof is guilty of possession of marihuana. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:

A. Except as otherwise provided in subsection (c)(2)B. hereof, possession of marihuana is a minor misdemeanor.

B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.

(3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof is guilty of possession of hashish. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the maximum amount specified in subsection (c)(3)B. hereof. The penalty for the offense shall be determined as follows:

A. Except as otherwise provided in subsection (c)(3)B. hereof, possession of hashish is a minor misdemeanor.

B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

(d) In addition to any other sanction that is imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 2925.11)

**513.04 POSSESSING DRUG ABUSE INSTRUMENTS.**

(a) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.

(b) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.

(2) Division (B)(2) of Ohio R.C. 2925.11 applies with respect to a violation of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

(c) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.12)

**513.05 PERMITTING DRUG ABUSE.**

(a) No person, who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle as defined in Ohio R.C 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.

(b) No person, who is the owner, lessee or occupant, or who has custody, control or supervision of premises, or real estate, including vacant land, shall knowingly permit the premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.

(c) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree. If the felony drug abuse offense in question is a violation of Ohio R.C. 2925.02, 2925.03, 2925.04 or 2925.041 as provided in Ohio R.C. 2925.13, permitting drug abuse is a felony and shall be prosecuted under appropriate State law.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences a person who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(5) The date on which the controlled substance was dispensed or supplied;
(6) The name, quantity and strength of the controlled substance and, if applicable, the name of the distributor or manufacturer.

(c) The requirements of subsection (b) of this section do not apply when a controlled substance is prescribed or supplied for administration to an ultimate user who is institutionalized.

(d) A licensed health professional authorized to prescribe drugs who personally furnishes a controlled substance to a patient shall comply with division (A) of ORC 4729.291 with respect to labeling and packaging of the controlled substance.

(e) No person shall alter, deface, or remove any label affixed pursuant to this section as long as any of the original contents remain.

(f) Every label for a schedule II, III or IV controlled substance shall contain the following warning:
"Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed". (ORC 3719.08)

(g) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.07 or 3719.08 or a drug abuse offense, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 3719.99)

**513.10 HYPODERMIC POSSESSION, DISPLAY AND DISPENSING.**

(a) Possession of a hypodermic is authorized for the following:
(1) A manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, and any authorized agent or employee of that manufacturer, distributor or dealer, in the regular course of business;
(2) Terminal distributor of dangerous drugs, in the regular course of business;
(3) A person authorized to administer injections, in the regular course of the person's profession or employment;
(4) A person, when the hypodermic was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;
(5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;
(6) A farmer, for the lawful administration of a drug to an animal;
(7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.

(b) No manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, or their authorized agents or employees, and no terminal distributor of dangerous drugs, shall display any hypodermic for sale. No person authorized to possess a hypodermic pursuant to division (a) of this section shall negligently fail to take reasonable precautions to prevent any hypodermic in the person's possession from theft or acquisition by any unauthorized person. (ORC 3719.172)

(c) Whoever violates this section is guilty of a misdemeanor of the third degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.05, 3719.06, 3719.13, 3719.172(B) or (E), or 3719.31 or a drug abuse offense, a violation is a misdemeanor of the first degree. (ORC 3719.99)

## 513.11 HARMFUL INTOXICANTS; POSSESSING NITROUS OXIDE IN MOTOR VEHICLE.

(a) As used in this section, "motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.

(b) Unless authorized under Ohio R.C. Chapter 3719, 4715, 4729, 4731, 4741 or 4765, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:

(1) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking;

(2) While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.

(c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.

(d) In addition to any other sanction imposed upon an offender for possessing nitrous oxide in a motor vehicle, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. (ORC 2925.33)

## 513.12 DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or Ohio R.C. Chapter 2925. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:

(1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;

(2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;

(3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;

(4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;

(5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance, except for those exempted in subsection (d)(4) of this section;

(6) A scale or balance for weighing or measuring a controlled substance;

(7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;

(8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;

(9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;

(10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;

(11) A container or device for storing or concealing a controlled substance;
(12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
(13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; 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), (d)(3) and (d)(4) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.

(2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.

(3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this State, if the person knows that the purpose of the advertisement is to promote the illegal sale in the State of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.

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

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

(3) Division (B)(2) of Ohio R.C. 2925.11 applies with respect to a violation of subsection (c)(1) of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

(4) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound.

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

(f) (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.

(2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.

(3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.

(4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

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

**513.121 MARIHUANA DRUG PARAPHERNALIA.**

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

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

(c) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

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

(e) (1) Subsection (e) of Section 513.12 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(2) Division (B)(2) of Ohio R.C. 2925.11 applies with respect to a violation of this subsection when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

(f) (1) Whoever violates subsection (c) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.

(2) Arrest or conviction for a violation of subsection (c) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(g) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall do the following if applicable:

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

B. If the offender is a professionally licensed person, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.141)

**513.13 COUNTERFEIT CONTROLLED SUBSTANCES.**

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

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

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

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

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

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

**513.15 SALE OF DEXTROMETHORPHAN.**

(a) As used in this section:

(1) "Dextromethorphan" means the dextrorotatory isomer of 3-methoxy-N-methylmorphinan, including its salts, but not including its racemic or levorotatory forms.

(2) "Evidence of majority and identity" means a document issued by the federal government or a state, county, or municipal government, or a subdivision or agency of any of the foregoing, including a driver's or commercial driver's license, an identification card issued under Ohio R.C. 4507.50 to 4507.52, a military identification card, or any other form of identification that bears the name, date of birth, description and picture of the person identified.

(3) "Retailer" means a place of business that offers consumer products for sale to the general public, including a terminal distributor of dangerous drugs that is licensed under Ohio R.C. Chapter 4729 and operated as a pharmacy.

(b) No retailer or employee of a retailer shall knowingly supply, deliver, give or otherwise provide a drug, material, compound, mixture, preparation or substance containing any quantity of dextromethorphan through the sale of any product to a person under eighteen years of age, unless the person has been issued a prescription for the product being purchased.

(c) For purposes of subsection (b) of this section, the person making the sale of a product containing dextromethorphan shall require and obtain evidence of majority and identity from the purchaser, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be twenty-five years of age or older. Proof that the person making the sale demanded, was shown, and acted in reasonable reliance on the purchaser's evidence of majority and identity is a defense to any charge of a violation of subsection (b) of this section.

(d) A retailer or employee of a retailer is not liable for damages in a civil action for injury, death or loss to person or property that allegedly arises from an act or omission associated with a failure to prevent the sale of a product containing dextromethorphan to a person under eighteen years of age, unless the act or omission constitutes willful or wanton misconduct.

(e) Whoever violates subsection (b) of this section is guilty of illegally selling dextromethorphan, a minor misdemeanor.
(ORC 2925.62)

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

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

**517.07 INSTANT BINGO CONDUCT.**

(a) No charitable organization that conducts instant bingo shall do any of the following:

(1) Fail to comply with the requirements of divisions (A)(1), (2), and (3) of Ohio R.C. 2915.09;

(2) Conduct instant bingo unless either of the following applies:

A. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(3) of the Internal Revenue Code, is a charitable organization as defined in Section 517.01, is in good standing in the State pursuant to Ohio R.C. 2915.08, and is in compliance with Ohio R.C. Chapter 1716;

B. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's organization described in subsection 501(c)(4) of the Internal Revenue Code, and conducts instant bingo under Section 517.14.

(3) Conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license issued pursuant to Ohio R.C. 2915.08;

(4) Permit any person whom the organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of instant bingo;

(5) Purchase or lease supplies used to conduct instant bingo or punch board games from any person except a distributor licensed under Ohio R.C. 2915.081;

(6) Sell or provide any instant bingo ticket or card for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare;

(7) Sell an instant bingo ticket or card to a person under eighteen (18) years of age;

(8) Fail to keep unsold instant bingo tickets or cards for less than three (3) years;

(9) Pay any compensation to a bingo game operator for conducting instant bingo that is conducted by the organization or for preparing, selling, or serving food or beverages at the site of the instant bingo game, permit any auxiliary unit or society of the organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at an instant bingo game conducted by the organization, or permit any auxiliary unit or society of the organization to prepare, sell, or serve food or beverages at an instant bingo game conducted by the organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;

(10) Pay fees to any person for any services performed in relation to an instant bingo game, except as provided in Section 517.09(d);

(11) Pay fees to any person who provides refreshments to the participants in an instant bingo game;

(12) A. Allow instant bingo tickets or cards to be sold to bingo game operators at a premises at which the organization sells instant bingo tickets or cards or to be sold to employees of a D permit holder who are working at a premises at which instant bingo tickets or cards are sold;

B. Subsection (a)(12)A. of this section does not prohibit a licensed charitable organization or a bingo game operator from giving any person an instant bingo ticket as a prize in place of a cash prize won by a participant in an instant bingo game. In no case shall an instant bingo ticket or card be sold or provided for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare.

(13) Fail to display its bingo license, and the serial numbers of the deal of instant bingo tickets or cards to be sold, conspicuously at each premises at which it sells instant bingo tickets or cards;

(14) Possess a deal of instant bingo tickets or cards that was not purchased from a distributor licensed under Ohio R.C. 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by Section 517.11(f);

(15) Fail, once it opens a deal of instant bingo tickets or cards, to continue to sell the tickets or cards in that deal until the tickets or cards with the top two (2) highest tiers of prizes in that deal are sold;

(16) Possess bingo supplies that were not obtained in accordance with Ohio R.C. 2915.01 to 2915.13.

(b) A charitable organization may purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards.

(c) Whoever violates subsection (a) of this section or a rule adopted under Ohio R.C. 2915.091(C) is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (a) of this section or of such a rule, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law. (ORC 2915.091)

**517.08 RAFFLES.**

(a) (1) Subject to subsection (a)(2) of this section, a person or entity may conduct a raffle to raise money for the person or entity and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit if the person or entity is any of the following:

A. Exempt from federal income taxation under IRC §501(a) and described in IRC §501(c)(3);

B. A school district, community school established under Ohio R.C. Chapter 3314, STEM school established under Ohio R.C. Chapter 3326, college-preparatory boarding school established under Ohio R.C. Chapter 3328, or chartered nonpublic school;

C. Exempt from federal income taxation under IRC §501(a) and described in IRC §501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10) or 501(c)(19).

(2) If a person or entity that is described in subsection (a)(1)C. of this section conducts a raffle, the person or entity shall distribute at least fifty percent (50%) of the net profit from the raffle to a charitable purpose described in Section 517.01(j) or to a department or agency of the federal government, the state, or any political subdivision.

(b) Except as provided in subsection (a) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not for profit.

(c) Whoever violates subsection (b) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this subsection, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (b) of this section, illegal conduct of a raffle is a felony and shall be prosecuted under appropriate State law. (ORC 2915.092)

**517.09 CHARITABLE INSTANT BINGO ORGANIZATIONS.**

(a) As used in this section, "retail income from all commercial activity" means the income that a person receives from the provision of goods, services, or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.

(b) (1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session under a type III license issued under Ohio R.C. 2915.08, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.

(2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session under a type III license issued under Ohio R.C. 2915.08 is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five (5) days per calendar year and not more than ten (10) hours per day.

(c) Except as provided in subsection (f) of this section, no charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.

(d) The owner or lessor of a location that enters into a contract pursuant to subsection (b) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets.

The charitable instant bingo organization shall pay six per cent of the total gross receipts of any deal of instant bingo tickets for the purpose of reimbursing the owner or lessor for expenses described in this subsection.

As used in this subsection, "expenses" means those items provided for in subsections (r)(4), (5), (6), (7), (8), (12) and (13) of Section 517.01 and that percentage of the owner's or lessor's rent for the location where instant bingo is conducted. "Expenses" in the aggregate, shall not exceed six percent (6%) of the total gross receipts of any deal of instant bingo tickets.

As used in this subsection, "full gross profit" means the amount by which the total receipts of all instant bingo tickets, if the deal had been sold in full, exceeds the amount that would be paid out if all prizes were redeemed.

(e) A charitable instant bingo organization shall provide the Attorney General with all of the following information:

(1) That the charitable instant bingo organization has terminated a contract entered into pursuant to subsection (b) of this section with an owner or lessor of a location;

(2) That the charitable instant bingo organization has entered into a written contract pursuant to subsection (b) of this section with a new owner or lessor of a location;

(3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of this chapter or Ohio R.C. Chapter 2915.

(f) Subsection (c) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those five years, had gross receipts of at least one million five hundred thousand dollars. (ORC 2915.093)

**517.10 LOCATION OF INSTANT BINGO.**

(a) No owner or lessor of a location shall assist a charitable instant bingo organization in the conduct of instant bingo other than at a bingo session at that location unless the owner or lessor has entered into a written contract, as described in Section 517.09, with the charitable instant bingo organization to assist in the conduct of instant bingo other than at a bingo session.

(b) The location of the lessor or owner shall be designated as a location where the charitable instant bingo organization conducts instant bingo other than at a bingo session.

(c) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate any provision of Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of Ohio R.C. Chapter 2915.

(d) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate the terms of the contract.

(e) (1) Whoever violates subsection (c) or (d) of this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c) or (d) of this section, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law.

(2) If an owner or lessor of a location knowingly, intentionally, or recklessly violates subsection (c) or (d) of this section, any license that the owner or lessor holds for the retail sale of any goods on the owner's or lessor's premises that is issued by the State or a political subdivision is subject to suspension, revocation, or payment of a monetary penalty at the request of the Attorney General. (ORC 2915.094)

# CHAPTER 521
# Health, Safety and Sanitation


| | | | |
|---|---|---|---|
| 521.01 | Abandoned refrigerators and airtight containers. | 521.05 | Fences. |
| 521.02 | Venting of heaters and burners. | 521.06 | Spitting prohibited. |
| 521.03 | Dangerous excavation. | 521.07 | Emergency vehicle at motor vehicle and motorcycle races. |
| 521.04 | Erosion or dust from unimproved property. | 521.08 | Smoking and tobacco possession under 18 prohibited. |
| | | 521.09 | Spreading contagion. |
| | | 521.99 | Penalty. |


CROSS REFERENCES

See sectional histories for similar State law
Flagpole installation in sidewalk - see Ohio R.C. 723.012
Excavation liability - see Ohio R.C. 723.49 et seq.
Nuisances - see Ohio R.C. Ch. 3767
Tampering with safety devices - see GEN. OFF. 541.04

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## 521.01 ABANDONED REFRIGERATORS AND AIRTIGHT CONTAINERS.

(a) No person shall abandon, discard, or knowingly permit to remain on premises under his control, in a place accessible to children, any abandoned or discarded icebox, refrigerator or other airtight or semiairtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein. This section shall not apply to an icebox, refrigerator or other airtight or semiairtight container located in that part of a building occupied by a dealer, warehouseman or repairman. (ORC 3767.29)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

## 521.02 VENTING OF HEATERS AND BURNERS.

(a) A brazier, salamander, space heater, room heater, furnace, water heater or other burner or heater using wood, coal, coke, fuel oil, kerosene, gasoline, natural gas, liquid petroleum gas or similar fuel, and tending to give off carbon monoxide or other harmful gas:

(1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed and maintained as to vent the products of combustion outdoors; except in storage, factory or industrial buildings which are provided with sufficient ventilation to avoid the danger of carbon monoxide poisoning;

(2) When used as a portable or temporary burner or heater at a construction site, or in a warehouse, shed or structure in which persons are temporarily present, shall be vented as provided in subsection (a) hereof, or used with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

(b) This section does not apply to domestic ranges, laundry stoves, gas logs installed in a fireplace with an adequate flue, or hot plates, unless the same are used as space or room heaters.

(c) No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a burner or heater in violation of the standards for venting and ventilation provided in this section.

(d) Subsection (a) hereof does not apply to any kerosene-fired space or room heater that is equipped with an automatic extinguishing tip-over device, or to any natural gas-fired or liquid petroleum gas-fired space or room heater that is equipped with an oxygen depletion safety shutoff system, and that has its fuel piped from a source outside of the building in which it is located, that are approved by an authoritative source recognized by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82.

(e) The State Fire Marshal may make rules to ensure the safe use of unvented kerosene, natural gas or liquid petroleum gas heaters exempted from subsection (a) hereof when used in assembly buildings, business buildings, high hazard buildings, institutional buildings, mercantile buildings and type R-1 and R-2 residential buildings, as these groups of buildings are defined in rules adopted by the Board of Building Standards under Ohio R.C. 3781.10. No person shall negligently use, or, being the owner, person in charge or occupant of premises, negligently permit the use of a heater in violation of any rules adopted under this subsection.

(f) The State Fire Marshal may make rules prescribing standards for written instructions containing ventilation requirements and warning of any potential fire hazards that may occur in using a kerosene, natural gas, or liquid petroleum gas heater. No person shall sell or offer for sale any kerosene, natural gas or liquid petroleum gas heater unless the manufacturer provides with the heater written instructions that comply with any rules adopted under this subsection.

(g) No product labeled as a fuel additive for kerosene heaters and having a flash point below one hundred degrees fahrenheit or thirty-seven and eight-tenths degrees centigrade shall be sold, offered for sale or used in any kerosene space heater.

(h) No device that prohibits any safety feature on a kerosene, natural gas or liquid petroleum gas space heater from operating shall be sold, offered for sale or used in connection with any kerosene, natural gas or liquid petroleum gas space heater.

(i) No person shall sell or offer for sale any kerosene-fired, natural gas or liquid petroleum gas-fired heater that is not exempt from subsection (a) hereof unless it is marked conspicuously by the manufacturer on the container with the phrase "Not Approved For Home Use."

(j) No person shall use a cabinet-type, liquid petroleum gas-fired heater having a fuel source within the heater, inside any building, except as permitted by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82. (ORC 3701.82)

(k) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3701.99(C))

**521.03 DANGEROUS EXCAVATION.**

(a) No property owner, tenant or person having control of property within the City shall have on any property or allow to remain open or in a dangerous condition for a period of more than thirty days any well or cistern, whether in use or abandoned, or any basement, pit, hole or excavation where water might accumulate or where a danger to persons or property exists. (Ord. 35-59. Passed 5-25-59.)

(b) Whoever violates this section is guilty of a first degree misdemeanor. Each day the violation continues shall constitute a separate offense. (Ord. 51-97. Passed 8-11-97.)

**521.04 EROSION OR DUST FROM UNIMPROVED PROPERTY.**

(a) No property owner, tenant or person having control of real property within the City shall maintain or allow the top soil of such property to remain in an unimproved or unseeded condition for an unreasonable length of time so as to allow erosion of dirt and mud or the dispersement of dust to the detriment and damage of other property owners in the City. (Ord. 49-61. Passed 9-11-61.)

(b) Whoever violates this section is guilty of a minor misdemeanor.

**521.05 FENCES.**

(a) Barbed Wire. No person shall construct or cause to be constructed a partition fence from barbed wire unless written consent of the adjoining owner is first obtained. Such consent is not necessary to the use of one or two barbed wires, provided that neither is less than forty-eight inches from the ground, and is placed on the top of a fence other than a barbed wire fence.

This subsection (a) shall apply only to fences within areas zoned for residential use. (Ord. 72-55. Passed 11-28-55.)

(b) Whoever violates this section is guilty of a minor misdemeanor.

**521.06 SPITTING PROHIBITED.**

(a) No person shall expectorate upon any improved public sidewalk or upon the floor of any portion of the interior of any church, public hall, public library or theater, or upon the floor or any portion of the interior of any public conveyance in the City. (1939 R.O., 10:08)

(b) Whoever violates this section is guilty of a minor misdemeanor.

**521.07 EMERGENCY VEHICLE AT MOTOR VEHICLE AND MOTORCYCLE RACES.**

(a) The owner or operator of any facility which permits motor vehicle or motorcycle races or a demolition derby event shall arrange for and have at least one emergency vehicle and a minimum of two certified emergency medical technicians present at such races or demolition derby.

(b) Whoever violates any provision of this section shall be deemed guilty of a misdemeanor of the third degree for the first offense and for each subsequent offense it shall be a misdemeanor of the second degree. (Ord. 16-84. Passed 5-14-84.)

**521.08 SMOKING AND TOBACCO POSSESSION UNDER 18 PROHIBITED.**

(a) Definitions. For the purpose of this section, the following words shall have the meaning given herein.

(1) "Smoke" means to burn any substance containing tobacco, including a lighted cigarette, cigar or pipe, or to burn a clove cigarette.

(2) "Use tobacco" means to chew or maintain any substance containing tobacco, including smokeless tobacco, in the mouth to derive the effects of tobacco.

(b) No person under the age of eighteen years shall smoke or use tobacco or possess any substance containing tobacco.

(c) No person under the age of eighteen years shall attempt to purchase cigarettes or other tobacco products.

(d) It is an affirmative defense to a prosecution under subsection (b) hereof that the defendant possessed or used the tobacco product in the home of, or under the direct supervision of, his parent or guardian.

(e) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 32-96. Passed 10-28-96.)

**521.09 SPREADING CONTAGION.**

(a) No person, knowing or having reasonable cause to believe that the person has a dangerous, contagious disease, shall knowingly fail to take reasonable measures to prevent exposing self to other persons, except when seeking medical aid.

(b) No person, having charge or care of a person whom the person having charge or care knows or has reasonable cause to believe has a dangerous, contagious disease, shall recklessly fail to take reasonable measures to protect others from exposure to the contagion, and to inform health authorities of the existence of the contagion.

(c) No person, having charge of a public conveyance or place of public accommodation, amusement, resort or trade, and knowing or having reasonable cause to believe that persons using such conveyance or place have been or are being exposed to a dangerous, contagious disease, shall negligently fail to take reasonable measures to protect the public from exposure to the contagion, and to inform health authorities of the existence of the contagion.
(ORC 3701.81)

(d) Whoever violates this section is guilty of a misdemeanor of the second degree.
(ORC 3701.99(C))

**521.99 PENALTY.**

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

**(The next printed page is page 57.)**

(3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(4) No person who is required to report any burn injury under subsection (e)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the State Fire Marshal. The report shall comply with the uniform standard developed by the State Fire Marshal pursuant to Ohio R.C. 3737.22(A)(15).

(5) Anyone participating in the making of reports under subsection (e) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under subsection (e) of this section.

(f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.

(2) Notwithstanding Ohio R.C. 4731.22, the physician-patient privilege or advanced practice registered nurse-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.

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

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

(2) The information would tend to incriminate a member of the actor's immediate family.

(3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.

(4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.

(5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for persons with drug dependencies or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to Ohio R.C. 5119.36.

(6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.

(h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(i) Whoever violates subsection (a) or (b) of this section is guilty of failure to report a crime. Violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. Violation of subsection (a)(2) or (b) of this section is a misdemeanor of the second degree.

(j) Whoever violates subsection (c) or (d) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

(k) (1) Whoever negligently violates subsection (e) of this section is guilty of a minor misdemeanor.

(2) Whoever knowingly violates subsection (e) of this section is guilty of a misdemeanor of the second degree.

(l) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse. (ORC 2921.22)

**525.06 FAILURE TO AID A LAW ENFORCEMENT OFFICER.**

(a) No person shall negligently fail or refuse to aid a law enforcement officer, when called upon for assistance in preventing or halting the commission of an offense, or in apprehending or detaining an offender, when such aid can be given without a substantial risk of physical harm to the person giving it.

**525.13 INTERFERING WITH CIVIL RIGHTS.**

(a) No public servant, under color of the public servant's office, employment, or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right.

(b) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree. (ORC 2921.45)

**525.14 UNAUTHORIZED DISPLAY OF LAW ENFORCEMENT EMBLEMS ON MOTOR VEHICLES.**

(a) No person who is not entitled to do so shall knowingly display on a motor vehicle the emblem of a law enforcement agency or an organization of law enforcement officers.

(b) Whoever violates this section is guilty of the unlawful display of the emblem of a law enforcement agency or an organization of law enforcement officers, a minor misdemeanor. (ORC 2913.441)

**525.15 ASSAULTING POLICE DOG OR HORSE OR AN ASSISTANCE DOG.**

(a) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:

(1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.

(2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.

(b) No person shall recklessly do any of the following:

(1) Taunt, torment, or strike a police dog or horse;

(2) Throw an object or substance at a police dog or horse;

(3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:

A. Inhibits or restricts the law enforcement officer's control of the police dog or horse;

B. Deprives the law enforcement officer of control of the police dog or horse;

C. Releases the police dog or horse from its area of control;

D. Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;

E. Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.

(4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse.

(5) If the person is the owner, keeper, or harborer of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct, the police dog or horse is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.

(c) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:

(1) The dog, at the time the physical harm is caused or attempted, is assisting or serving a person who is blind, deaf or hearing impaired or a person with a mobility impairment.

(2) The dog, at the time the physical harm is caused or attempted, is not assisting or serving a person who is blind, deaf or hearing impaired or a person with a mobility impairment, but the offender has actual knowledge that the dog is an assistance dog.

(d) No person shall recklessly do any of the following:

(1) Taunt, torment, or strike an assistance dog;

(2) Throw an object or substance at an assistance dog;

(3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a person who is blind, deaf or hearing impaired, or a person with a mobility impairment who is being assisted or served by an assistance dog, in a manner that does any of the following:

A. Inhibits or restricts the assisted or served person's control of the dog;

B. Deprives the assisted or served person of control of the dog;

C. Releases the dog from its area of control;

D. Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;

E. Inhibits or restricts the ability of the dog to assist the assisted or served person.

(4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;

(5) If the person is the owner, keeper or harborer of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the time of the conduct is assisting or serving a person who is blind, deaf or hearing impaired, or a person with a mobility impairment or that the person knows is an assistance dog.

(e) (1) Whoever violates subsection (a) hereof is guilty of assaulting a police dog or horse. If the violation results in physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the police dog or horse, such violation is a felony and shall be prosecuted under appropriate State law.

(2) Whoever violates subsection (b) hereof is guilty of harassing a police dog or horse. Except as otherwise provided in this subsection, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in the death of the police dog or horse or if the violation results in serious physical harm to the police dog or horse but does not result in its death, harassing a police dog or horse is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree.

(3) Whoever violates subsection (c) hereof is guilty of assaulting an assistance dog. If the violation results in physical harm to the dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the dog, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the dog, such violation is a felony and shall be prosecuted under appropriate State law.

(4) Whoever violates subsection (d) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this subsection, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in the death of or serious physical harm to the assistance dog but does not result in its death, harassing an assistance dog is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the assistance dog but does not result in its death or in serious physical harm to it, harassing an assistance dog is a misdemeanor of the first degree.

(5) In addition to any other sanction or penalty imposed for the offense under this section, whoever violates subsection (a), (b), (c) or (d) of this section is responsible for the payment of all of the following:

A. Any veterinary bill or bill for medication incurred as a result of the violation by the Police Department regarding a violation of subsection (a) or (b) of this section or by the person who is blind, deaf or hearing impaired, or the person with a mobility impairment assisted or served by the assistance dog regarding a violation of subsection (c) or (d) of this section;

B. The cost of any damaged equipment that results from the violation;

C. If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the person who is blind, deaf or hearing impaired, or the person with a mobility impairment assisted or served by the assistance dog;

D. If the violation resulted in the death of the assistance dog that was the subject of the violation or resulted in serious physical harm to the police dog or horse or the assistance dog or horse that was the subject of the violation to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the person who is blind, deaf or hearing impaired, or the person with a mobility impairment assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.

(f) This section does not apply to a licensed veterinarian whose conduct is in accordance with Ohio R.C. Chapter 4741.

(g) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or assistance dog.

(h) As used in this section:

(1) "Assistance dog", "blind", and "person with a mobility impairment" have the same meanings as in Ohio R.C. 955.011.

(2) "Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.

(3) "Police dog or horse" means a dog or horse that has been trained, and may be used, to assist law enforcement officers in the performance of their official duties.

(4) "Serious physical harm" means any of the following:

A. Any physical harm that carries a substantial risk of death;

B. Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming;

C. Any physical harm that causes acute pain of a duration that results in substantial suffering.

(ORC 2921.321)

**525.16 FALSE ALLEGATION OF PEACE OFFICER MISCONDUCT.**

(a) As used in this section, "peace officer" has the same meaning as in Ohio R.C. 2935.01.

(b) No person shall knowingly file a complaint against a peace officer that alleges that the peace officer engaged in misconduct in the performance of the officer's duties if the person knows that the allegation is false.

(d) (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.

(2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin or campground by presenting identification that falsely indicates that the underage person is twenty-one years of age or older for the purpose of violating this section.

(e) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess, or consume any beer or intoxicating liquor, in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place. The prohibitions set forth in this subsection (e) hereof against an underage person knowingly possessing, consuming, or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(f) No parent, spouse who is not an underage person or legal guardian of a minor shall knowingly permit the minor to violate this section or Section 529.021(a) to (c).

(g) The operator of any hotel, inn, cabin or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin or campground.

(h) As used in this section:

(1) "Drug of abuse" has the same meaning as in Ohio R.C. 3719.011.

(2) "Hotel" has the same meaning as in Ohio R.C. 3731.01.

(3) "Licensed health professional authorized to prescribe drugs" and "prescription" have the same meanings as in Ohio R.C. 4729.01.

(4) "Minor" means a person under the age of eighteen years.

(5) "Underage person" means a person under the age of twenty-one years. (ORC 4301.69)

(i) (1) Whoever violates subsection (a) hereof is guilty of a misdemeanor and shall be fined not less than five hundred dollars ($500.00) and not more than one thousand dollars ($1,000), and, in addition to the fine, may be imprisoned for a definite term of not more than six months. (ORC 4301.99(I))

(2) Whoever violates subsections (b), (c), (d) or (f) hereof is guilty of a misdemeanor of the first degree. (ORC 4301.99(C))

(3) Whoever violates subsection (e) hereof is guilty of a misdemeanor of the third degree. (ORC 4301.99(D))

**529.021 PURCHASE BY MINOR; MISREPRESENTATION.**

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall purchase beer or intoxicating liquor. (ORC 4301.63)

(b) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall knowingly furnish any false information as to the name, age or other identification of any person under twenty-one years of age for the purpose of obtaining or with the intent to obtain, beer or intoxicating liquor for a person under twenty-one years of age, by purchase, or as a gift. (ORC 4301.633)

(c) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall knowingly show or give false information concerning the person's name, age or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place where beer or intoxicating liquor is sold under a permit issued by the Division of Liquor Control or sold by the Division of Liquor Control. (ORC 4301.634)

(d) (1) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the first degree.

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

(3) A. Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. If, in committing a first violation of that subsection, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than two hundred fifty dollars ($250.00) and not more than one thousand dollars ($1,000) and may be sentenced to a term of imprisonment of not more than six months.

B. On a second violation in which, for the second time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars ($500.00) nor more than one thousand dollars ($1,000), and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7).

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

**529.07 OPEN CONTAINER PROHIBITED.**

(a) As used in this section:
(1) "Chauffeured limousine" means a vehicle registered under Ohio R.C. 4503.24.
(2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.

(b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:
(1) In a State liquor store;
(2) Except as provided in subsection (c) or (i) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;
(3) In any other public place;
(4) Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;
(5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.

(c) (1) A person may have in the person's possession an opened container of any of the following:
A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2(f), A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, D-9, E, F, F-2, F-5, F-7 or F-8 permit;
B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2, A-2f, S-1, or S-2 permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;
D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.
E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.

(2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

(3) A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

B. As used in subsection (c)(3)A. of this section:

1. "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.

2. "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.

(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending either of the following:

A. An orchestral performance and the F-9 permit holder grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued;

B. An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five other events or performances that are free of charge on the permit premises.

As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.

(6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:

1. The person is attending a racing event at the facility; and

(j) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape or similar data storage device.

(k) "Performance" means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience.

(l) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:

(1) When the parties have entered into a written separation agreement authorized by Ohio R.C. 3103.06;

(2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage or legal separation;

(3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.

(m) "Minor" means a person under the age of eighteen years.

(n) "Mental health client or patient" has the same meaning as in Ohio R.C. 2305.51.

(o) "Mental health professional" has the same meaning as in Ohio R.C. 2305.115.

(p) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.

(q) "Place where a person has a reasonable expectation of privacy" means a place where a reasonable person would believe that the person could fully disrobe in private.

(r) "Private area" means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an under-garment.
(ORC 2907.01)

**533.02 PRESUMPTION OF KNOWLEDGE; ACTUAL NOTICE AND DEFENSE.**

(a) An owner or manager, or agent or employee of an owner or manager, of a bookstore, newsstand, theater, or other commercial establishment engaged in selling materials or exhibiting performances, who, in the course of business does any of the acts prohibited by Section 533.11, is presumed to have knowledge of the character of the material or performance involved, if the owner, manager, or agent or employee of the owner or manager has actual notice of the nature of such material or performance, whether or not the owner, manager, or agent or employee of the owner or manager has precise knowledge of its contents.

(b) Without limitation on the manner in which such notice may be given, actual notice of the character of material or a performance may be given in writing by the chief legal officer of the jurisdiction in which the person to whom the notice is directed does business. Such notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance involved, state whether it is obscene or harmful to juveniles and bear the date of such notice.

(c) Section 533.11 does not apply to a motion picture operator or projectionist acting within the scope of employment as an employee of the owner or manager of a theater or other place for the showing of motion pictures to the general public, and having no managerial responsibility or financial interest in the operator's or projectionist's place of employment, other than wages.

(d) (1) Sections 533.11, 533.12(a) and 533.13 do not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection.

(2) Subsection (d)(1) of this section does not apply to a person who conspires with an entity actively involved in the creation or knowing distribution of material in violation of Section 533.11, 533.12 or 533.13, or who knowingly advertises the availability of material of that nature.

(3) Subsection (d)(1) of this section does not apply to a person who provides access or connection to an electronic method of remotely transferring information that is engaged in the violation of Section 533.11, 533.12 or 533.13, and that contains content that person has selected and introduced into the electronic method of remotely transferring information or content over which that person exercises editorial control.

(e) An employer is not guilty of a violation of Section 533.11, 533.12, or 533.13 based on the actions of an employee or agent of the employer unless the employee's or agent's conduct is within the scope of employee's or agent's employment or agency, and the employer does either of the following:

(1) With knowledge of the employee's or agent's conduct, the employer authorizes or ratifies the conduct.

(2) The employer recklessly disregards the employee's or agent's conduct.

(f) It is an affirmative defense to a charge under Section 533.11 or 533.13 as the section applies to an image transmitted through the internet or another electronic method of remotely transmitting information that the person charged with violating the section has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by juveniles to material that is harmful to juveniles, including any method that is feasible under available technology.

(g) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.
(ORC 2907.35)

**533.03 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.**

(a) No person, who is eighteen years of age or older, shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.

(b) Whoever violates this section is guilty of unlawful sexual conduct with a minor, a misdemeanor of the first degree. If the offender is four years older or more than the other person, or if the offender has previously been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03 or 2907.04, or former Ohio R.C. 2907.12, unlawful sexual conduct with a minor is a felony and shall be prosecuted under appropriate State law. (ORC 2907.04)

**533.04 SEXUAL IMPOSITION.**

(a) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more persons to have sexual contact when any of the following applies:

(1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.

(2) The offender knows that the other person's or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.

(3) The offender knows that the other person or one of the other persons submits because of being unaware of the sexual contact.

(4) The other person or one of the other persons is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person.

(5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.

(b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.

(c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06 or former Section 2907.12, or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 2907.02, 2907.03, 2907.04 or 2907.05, 2907.06 or former Section 2907.12 or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in Ohio R.C. 2929.24, the court may impose on the offender a definite jail term of not more than one year.
(ORC 2907.06)

**533.05 IMPORTUNING.**

(EDITOR'S NOTE: Former Section 533.05 has been deleted from the Codified Ordinances. Section 533.05 was identical to Ohio R.C. 2907.07(B) which the Ohio Supreme Court held to be unconstitutional in State v. Thompson, 95 Ohio St. 3rd 264 (2002).)

**533.06 VOYEURISM.**

(a) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(b) No person shall knowingly commit trespass or otherwise secretly or surreptitiously videotape, film, photograph, broadcast, stream, or otherwise record another person, in a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of that person.

(c) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person above, under or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.

(d) Whoever violates this section is guilty of voyeurism.
(1) A violation of subsection (a) hereof is a misdemeanor of the third degree.
(2) A violation of subsection (b) hereof is a misdemeanor of the second degree.
(3) A violation of subsection (c) hereof is a misdemeanor of the first degree. (ORC 2907.08)

**533.07 PUBLIC INDECENCY.**

(a) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others, who are in the person's physical proximity and who are not members of the person's household:
(1) Expose the person's private parts;
(2) Engage in sexual conduct or masturbation;
(3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.

(b) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the spouse of the offender:
(1) Engage in masturbation;
(2) Engage in sexual conduct;
(3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;
(4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

(c) (1) Whoever violates this section is guilty of public indecency and shall be punished as provided in subsections (c)(2), (3), (4) and (5) of this section.
(2) Except as otherwise provided in subsection (c)(2) of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two violations of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.

(3) Except as otherwise provided in subsection (c)(3) of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.

(4) Except as otherwise provided in subsection (c)(4) of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (b)(1), (2) or (3) of this section is a felony and shall be prosecuted under appropriate state law.

(5) A violation of subsection (b)(4) of this section is a misdemeanor of the first degree unless the offender previously has been convicted of or pleaded guilty to any violation of this section in which case the violation is a felony and shall be prosecuted under appropriate state law.

(d) (1) If either of the following applies, the court may determine at the time of sentencing whether to classify the offender as a tier I sex offender/child-victim offender for a violation of subsection (b)(4) of this section:

A. The offender is less than ten years older than the other person.

B. The offender is ten or more years older than the other person and the offender has not previously been convicted of or pleaded guilty to any violation of this section.

(2) If the offender is convicted of or pleads guilty to a violation of subsection (b)(4) of this section, is ten or more years older than the other person, and previously has been convicted of or pleaded guilty to any violation of this section, the court shall issue an order at the time of sentencing that classifies the offender as a tier I sex offender/child-victim offender subject to registration under Ohio R.C. 2950.04, 2950.041, 2950.05 and 2950.06. (ORC 2907.09)

**533.08 PROCURING; ENGAGEMENT IN SEXUAL ACTIVITY FOR HIRE.**

(a) Procuring. No person, knowingly and for gain, shall do either of the following:

(1) A. Entice or solicit another to patronize a prostitute or brothel;

B. Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.

(2) No person, having authority or responsibility over the use of premises, shall knowingly permit such premises to be used for the purpose of engaging in sexual activity for hire.

(3) Whoever violates subsection (a)(1)A. or B. of this section is guilty of procuring. Except as otherwise provided in this subsection (c), procuring is a misdemeanor of the first degree. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(1)B. of this section is under eighteen years of age at the time of the violation, regardless of whether the offender who violates subsection (a)(1)B. of this section knows the prostitute's age, or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (a)(2) of this section is under eighteen years of age at the time of the violation, regardless of whether the offender who violates subsection (a)(2) of this section knows the prostitute's age, procuring is a felony and shall be prosecuted under appropriate state law.

(b) Engagement in Sexual Activity for Hire.

(1) As used in this subsection (b) of this section:

A. "Person with a developmental disability" has the same meaning as in Ohio R.C. 2905.32.

B. "Sexual activity for hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.

(2) No person shall recklessly induce, entice, or procure another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person.

(3) No person shall recklessly induce, entice, or procure another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person if the other person is a person with a developmental disability and the offender knows or has reasonable cause to believe that the other person is a person with a developmental disability.

(4) Whoever violates subsection (b)(2) of this section is guilty of engaging in prostitution, a misdemeanor of the first degree. Whoever violates subsection (b)(3) of this section is guilty of engaging in prostitution with a person with a developmental disability, a felony to be prosecuted under appropriate state law. In sentencing the offender under this division, the court shall require the offender to attend an education or treatment program aimed at preventing persons from inducing, enticing, or procuring another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person and, notwithstanding the fine specified in Ohio R.C. 2929.28(A)(2)(a) for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than one thousand five hundred dollars ($1,500).
(ORC 2907.231)

**533.09 SOLICITING.**

(a) No person shall knowingly solicit another to engage in sexual activity for hire in exchange for the person receiving anything of value from the other person.

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of subsection (a) of this section.

(c) As used in subsection (a) of this section, "Sexual Activity for Hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.

(d) (1) Whoever violates subsection (a) of this section is guilty of soliciting. Soliciting is a misdemeanor of the third degree.

(2) Whoever violates subsection (b) of this section is guilty of engaging in solicitation after a positive HIV test, a felony to be prosecuted under appropriate state law. (ORC 2907.24)

**533.091 LOITERING TO ENGAGE IN SOLICITATION.**

(a) No person, with purpose to solicit another to engage in sexual activity for hire and while in or near a public place, shall do any of the following:

(1) Beckon to, stop or attempt to stop another;
(2) Engage or attempt to engage another in conversation;
(3) Stop or attempt to stop the operator of a vehicle or approach a stationary vehicle;
(4) If the offender is the operator of or a passenger in a vehicle, stop, attempt to stop, beckon to, attempt to beckon to, or entice another to approach or enter the vehicle of which the offender is the operator or in which the offender is the passenger;
(5) Interfere with the free passage of another.

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of subsection (a) of this section.

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

(1) "Public Place". Means any of the following:
A. A street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot or transportation facility.
B. A doorway or entrance way to a building that fronts on a place described in subsection (c)(1)A. of this definition.
C. A place not described in subsection (c)(1)A. or B. of this definition that is open to the public.

(2) "Vehicle". Has the same meaning as in Ohio R.C. 4501.01.

(d) (1) Whoever violates subsection (a) of this section is guilty of loitering to engage in solicitation, a misdemeanor of the third degree.

(2) Whoever violates subsection (b) of this section is guilty of loitering to engage in solicitation after a positive HIV test, a felony to be prosecuted under appropriate state law.
(ORC 2907.24, 2907.241)

**533.10 PROSTITUTION.**

(a) No person shall engage in sexual activity for hire.

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in sexual activity for hire.

(c) (1) Whoever violates subsection (a) of this section is guilty of prostitution, a misdemeanor of the third degree.

(2) Whoever violates subsection (b) of this section is guilty of engaging in prostitution after a positive HIV test, a felony to be prosecuted under appropriate state law.
(ORC 2907.25)

**533.11 DISSEMINATING MATTER HARMFUL TO JUVENILES.**

(a) No person, with knowledge of its character or content, shall recklessly do any of the following:

(1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;

(2) Directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;

(3) While in the physical proximity of the juvenile or law enforcement officer posing as a juvenile, allow any juvenile or law enforcement officer posing as a juvenile to review or peruse any material or view any live performance that is harmful to juveniles.

(b) The following are affirmative defenses to a charge under this section, that involves material or a performance that is harmful to juveniles but not obscene:

(1) The defendant is the parent, guardian or spouse of the juvenile involved.

(2) The juvenile involved, at the time of the conduct in question, was accompanied by the juvenile's parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile.

(3) The juvenile exhibited to the defendant or the defendant's agent or employee a draft card, driver's license, birth certificate, marriage license, or other official or apparently official document purporting to show that the juvenile was eighteen years of age or over or married, and the person to whom that document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of eighteen and unmarried.

(c) (1) It is an affirmative defense to a charge under this section, involving material or a performance that is obscene or harmful to juveniles, that the material or performance was furnished or presented for a bona fide medical, scientific, educational, governmental, judicial or other proper purpose, by a physician, psychologist, sociologist, scientist, teacher, librarian, clergyman, prosecutor, judge or other proper person.

(2) Except as provided in subsection (b)(3) hereof, mistake of age is not a defense to a charge under this section.

(d) (1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of

remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.

(2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present or directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present the material or performance in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:

A. The person has inadequate information to know or have reason to believe that a particular recipient of the information or offer is a juvenile.

B. The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.

(e) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.

(f) Whoever violates this section is guilty of disseminating matter harmful to juveniles. If the material or performance involved is harmful to juveniles, except as otherwise provided in this subsection, a violation of this section is a misdemeanor of the first degree. If the material or performance involved is obscene, a violation of this section is a felony and shall be prosecuted under appropriate State law. (ORC 2907.31)

**533.12 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.**

(a) No person, for the purpose of enabling a juvenile to obtain any material or gain admission to any performance which is harmful to juveniles shall do either of the following:

(1) Falsely represent that he is the parent, guardian or spouse of such juvenile;

(2) Furnish such juvenile with any identification or document purporting to show that such juvenile is eighteen years of age or over or married.

(b) No juvenile, for the purpose of obtaining any material or gaining admission to any performance which is harmful to juveniles, shall do either of the following:

(1) Falsely represent that he is eighteen years of age or over or married;

(2) Exhibit any identification or document purporting to show that he is eighteen years of age or over or married.

(c) Whoever violates this section is guilty of deception to obtain matter harmful to juveniles, a misdemeanor of the second degree. A juvenile who violates subsection (b) hereof shall be adjudged an unruly child, with such disposition of the case as may be appropriate under Ohio R.C. Chapter 2151. (ORC 2907.33)

**533.13 DISPLAYING MATTER HARMFUL TO JUVENILES.**

(a) No person who has custody, control or supervision of a commercial establishment, with knowledge of the character or content of the material involved, shall display at the establishment any material that is harmful to juveniles and that is open to view by juveniles as part of the invited general public.

(b) It is not a violation of subsection (a) hereof if the material in question is displayed by placing it behind "blinder racks" or similar devices that cover at least the lower two-thirds of the material, if the material in question is wrapped or placed behind the counter, or if the material in question otherwise is covered or located so that the portion that is harmful to juveniles is not open to the view of juveniles.

(c) Whoever violates this section is guilty of displaying matter harmful to juveniles, a misdemeanor of the first degree. Each day during which the offender is in violation of this section constitutes a separate offense. (ORC 2907.311)

**533.14 UNLAWFUL ADVERTISING OF MASSAGE.**

(a) No person, by means of a statement, solicitation, or offer in a print or electronic publication, sign, placard, storefront display, or other medium, shall advertise massage, relaxation massage, any other massage technique or method, or any related service, with the suggestion or promise of sexual activity.

(b) Whoever violates this section is guilty of unlawful advertising of massage, a misdemeanor of the first degree.

(c) Nothing in this section prevents the legislative authority of a municipal corporation or township from enacting any regulation of the advertising of massage further than and in addition to the provisions of subsections (a) and (b) of this section.
(ORC 2927.17)

**533.15 DISSEMINATION OF PRIVATE SEXUAL IMAGES.**

(a) As used in this section:

(1) "Disseminate" means to post, distribute, or publish on a computer device, computer network, web site, or other electronic device or medium of communication.

(2) "Image" means a photograph, film, videotape, digital recording or other depiction or portrayal of a person.

(3) "Interactive computer service" has the meaning defined in the "Telecommunications Act of 1996", 47 U.S.C. 230, as amended.

(4) "Internet provider" means a provider of internet service, including all of the following:

A. Broadband service, however defined or classified by the federal communications commission;

B. Information service or telecommunication service, both as defined in the "Telecommunications Act of 1996" 47 U.S.C. 153, as amended.

C. Internet protocol-enabled services, as defined in Ohio R.C. 4927.01.

(5) "Mobile service" and "telecommunications carrier" have the meanings defined in 47 U.S.C. 153, as amended.

(6) "Cable service provider" has the same meaning as in Ohio R.C. 1332.01.

(7) "Direct-to-home satellite service" has the meaning defined in 47 U.S.C. 303, as amended.

(8) "Video service provider" has the same meaning as in Ohio R.C. 1332.21.

(9) "Sexual act" means any of the following:

A. Sexual activity;

B. Masturbation;

C. An act involving a bodily substance that is performed for the purpose of sexual arousal or gratification;

D. Sado-masochistic abuse.

(b) No person shall knowingly disseminate an image of another person if all of the following apply:

(1) The person in the image is eighteen years of age or older;

(2) The person in the image can be identified from the image itself or from information displayed in connection with the image and the offender supplied the identifying information.

(3) The person in the image is in a state of nudity or is engaged in a sexual act;

(4) The image is disseminated without consent from the person in the image;

(5) The image is disseminated with intent to harm the person in the image.

(c) This section does not prohibit the dissemination of an image if any of the following apply:

(1) The image is disseminated for the purpose of a criminal investigation that is otherwise lawful.

(2) The image is disseminated for the purpose of, or in connection with, the reporting of unlawful conduct.

(3) The image is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.

(4) The image is disseminated by a law enforcement officer, or a corrections officer or guard in a detention facility, acting within the scope of the person's official duties.

(5) The image is disseminated for another lawful public purpose;

(6) The person in the image is knowingly and willingly in a state of nudity or engaged in a sexual act and is knowingly and willingly in a location in which the person does not have a reasonable expectation of privacy.

(7) The image is disseminated for the purpose of medical treatment or examination.

(d) The following entities are not liable for a violation of this section solely as a result of an image or other information provided by another person:

(1) A provider of interactive computer service;

(2) A mobile service;

(3) A telecommunications carrier;

(4) An internet provider;

(5) A cable service provider;

(6) A direct-to-home satellite service;

(7) A video service provider.

(e) Any conduct that is a violation of this section and any other section of the General Offenses Code, or the Revised Code may be prosecuted under this section, the other section, or both sections.

(f) (1) A. Except as otherwise provided in subsection (f)(1)B., C., or D. of this section, whoever violates this section is guilty of nonconsensual dissemination of private sexual images, a misdemeanor of the third degree.

B. If the offender previously has been convicted of or pleaded guilty to a violation of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the second degree.

C. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the first degree.

D. If the offender is under eighteen years of age and the person in the image is not more than five years older than the offender, the offender shall not be prosecuted under this section.

(2) In addition to any other penalty or disposition authorized or required by law, the court may order any person who is convicted of a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit all of the following property to the state under Ohio R.C. Chapter 2981.

A. Any profits or proceeds and any property the person has acquired or maintained in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation;

B. Any interest in, securities of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that the person has established, operated, controlled or conducted in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation.

(g) A victim of a violation of this section may commence a civil cause of action against the offender, as described in Ohio R.C. 2307.66.
(ORC 2917.211)

**533.99 PENALTY.**

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

(2) At the time of the offense, the offender was driving under suspension or cancellation under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10.

(d) Subsection (a)(1)B. does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27. The failure to erect signs of the type described in Ohio R.C. 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of subsections (a)(1)A. or (a)(2) of this section in that construction zone or the prosecution of any person who violates any of those subsections in that construction zone.

(e) As used in this section:

(1) "Mandatory prison term" and "mandatory jail term" have the same meanings as in Ohio R.C. 2929.01.

(2) "Traffic-related homicide, manslaughter or assault offense" means a violation of Ohio R.C. 2903.04 in circumstances in which division (D) of that section applies, a violation of Ohio R.C. 2903.06 or 2903.08, or a violation of Ohio R.C. 2903.06, 2903.07 or 2903.08 as they existed prior to March 23, 2000.

(3) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.

(4) "Speeding offense" means a violation of Ohio R.C. 4511.21 or a municipal ordinance pertaining to speed.

(f) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States. (ORC 2903.06)

(g) The court imposing a sentence upon an offender for any violation of this section also shall impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (B) of Ohio R.C. 4510.02 that is equivalent in length to the suspension required for a violation of Ohio R.C. 2903.06 or division (A) or (B) of Ohio R.C. 4511.19 under similar circumstances. (ORC 4510.07)

**537.021 VEHICULAR ASSAULT IN A CONSTRUCTION ZONE.**

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause serious physical harm to another person or another's unborn as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense. This subsection applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) hereof.

(b) Whoever violates this section is guilty of vehicular assault. Except as provided in this subsection, vehicular assault is a misdemeanor of the first degree. Vehicular assault is a felony if, at the time of the offense, the offender was driving under a suspension imposed under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, and shall be prosecuted under appropriate state law.

In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02.

(c) The court shall impose a mandatory jail term of at least seven days on an offender who is convicted of or pleads guilty to a violation of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99.

(d) This section does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27.

(e) As used in this section:

(1) "Mandatory jail term" has the same meaning as in Ohio R.C. 2929.01.

(2) "Traffic-related homicide, manslaughter or assault offense" has the same meaning as in Ohio R.C. 2903.06.

(3) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.

(4) "Speeding offense" has the same meaning as in Ohio R.C. 2903.06.

(f) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States. (ORC 2903.08)

**537.03 ASSAULT.**

(a) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.

(b) No person shall recklessly cause serious physical harm to another or to another's unborn.

(c) (1) Whoever violates this section is guilty of assault, a misdemeanor of the first degree, and the court shall sentence the offender as provided in subsection (c) hereof. If the assault was committed under the circumstances provided in subsection (c)(2), (3), (4), (5), (6), (7), (8) or (9) hereof, assault is a felony and shall be prosecuted under appropriate State law.

(2) Except as otherwise provided in this subsection, if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care, the assault is a felony and shall be prosecuted under appropriate State law.

(10) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in Ohio R.C. 2941.1423 that was included in the indictment, count in the indictment or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of Ohio R.C. 2929.24.

(11) A prosecution for a violation of subsections (a) or (b) of this section does not preclude a prosecution for a violation of any other section of the Ohio Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under subsections (a) or (b) of this section or any other section of the Ohio Revised Code may be prosecuted under subsections (a) or (b) of this section, the other sections of the Ohio Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of subsections (a) or (b) of this section and also is convicted of or pleads guilty to a violation of Ohio R.C. 2903.22, or any substantially equivalent municipal ordinance, based on the same conduct involving the same victim that was the basis of the violation of subsections (a) or (b) of this section, the offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(d) As used in this section:

(1) "Peace officer" has the same meaning as in Ohio R.C. 2935.01.

(2) "Firefighter" has the same meaning as in Ohio R.C. 3937.41.

(3) "Emergency medical service" has the same meaning as in Ohio R.C. 4765.01.

(4) "Local correctional facility" means a county, multicounty, municipal, municipal-county or multicounty-municipal jail or workhouse. A minimum security jail established under Ohio R.C. 341.23 or 753.21, or another county, multicounty, municipal, municipal-county, or multicounty-municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.

(5) "Employee of a local correctional facility" means a person who is an employee of the political subdivision or of one or more of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in the operation of the facility.

(6) "School teacher or administrator" means either of the following:

A. A person who is employed in the public schools of the State under a contract described in Ohio R.C. 3311.77 or 3319.08 in a position in which the person is required to have a certificate issued pursuant to Ohio R.C. 3319.22 to 3319.311.

B. A person who is employed by a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and who is certified in accordance with Ohio R.C. 3301.071.

(7) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01.

(8) "Escorted visit" means an escorted visit granted under Ohio R.C. 2967.27.

(9) "Post-release control" and "transitional control" have the same meanings as in Ohio R.C. 2967.01.

(10) "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.

(11) "Health care professional" and "health care worker" have the same meanings as in Ohio R.C. 2305.234.

(12) "Assault or homicide offense committed against hospital personnel" means a violation of this section or Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which all of the following apply:

A. The victim of the offense was a health care professional of a hospital, a health care worker of a hospital or a security officer of a hospital.

B. The offender knew or had reasonable cause to know that the victim was a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital;

C. The victim was engaged in the performance of the victim's duties.

D. The hospital offered de-escalation or crisis intervention training for such professionals, workers or officers.

(13) "De-escalation or crisis intervention training" means de-escalation or crisis intervention training for health care professionals of a hospital, health care workers of a hospital, and security officers of a hospital to facilitate interaction with patients, members of a patient's family, and visitors, including those with mental impairments.

(14) "Assault or homicide offense committed against justice system personnel" means a violation of this section or of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which the victim of the offense was a judge, magistrate, prosecutor, or court official or employee whom the offender knew or had reasonable cause to know was a judge, magistrate, prosecutor, or court official or employee, and the victim was engaged in the performance of the victim's duties.

(15) "Court official or employee" means any official or employee of a court created under the constitution or statutes of this State or of a United States court located in this State.

(16) "Judge" means a judge of a court created under the constitution or statutes of this State or of a United States court located in this State.

(17) "Magistrate" means an individual who is appointed by a court of record of this State and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this State who has similar powers and functions.

(18) "Prosecutor" has the same meaning as in Ohio R.C. 2935.01.

(19) A. "Hospital" means, subject to subsection (d)(19)B. of this section, an institution classified as a hospital under Ohio R.C. 3701.01 in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.

B. "Hospital" does not include any of the following:

1. A facility licensed under Ohio R.C. Chapter 3721, a health care facility operated by the Department of Mental Health or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether organized for individual or group practice;

2. An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under Section 501 of the "Internal Revenue Code of 1986", 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing twenty-four-hour nursing care pursuant to the exemption in division (E) of Ohio R.C. 4723.32 from the licensing requirements of Ohio R.C. Chapter 4723.

(20) "Health maintenance organization" has the same meaning as in Ohio R.C. 3727.01.

(21) "Emergency service responder" means any law enforcement officer, first responder, emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, firefighter, or volunteer firefighter.

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

A. Any of the following who is residing or has resided with a person who is employed as an emergency service responder:

1. A spouse, a person living as a spouse, or a former spouse of a person who is employed as an emergency service responder;

2. A parent, a foster parent, or a child of a person who is employed as an emergency service responder, or another person related by consanguinity or affinity to a person who is employed as an emergency service responder;

3. A parent or a child of a spouse, person living as a spouse, or former spouse of a person who is employed as an emergency service responder, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of a person who is employed as an emergency service responder.

B. The natural parent of any child of whom a person who is employed as an emergency service responder is the other natural parent or is the putative other natural parent.

(23) "First responder", "emergency medical technician-basic", "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(24) "Volunteer firefighter" has the same meaning as in Ohio R.C. 146.01.

(25) "Person living as a spouse" means a person who is living or has lived with a person who is employed as an emergency service responder in a common law marital relationship, who otherwise is cohabiting with a person who is employed as an emergency service responder, or who otherwise has cohabited with a person who is employed as an emergency service responder within five years prior to the date of the alleged commission of the act in question.

(26) "Co-worker" means a person who is employed by the organization or entity that is served by a person who is employed as an emergency service responder. (ORC 2903.13)

**537.04 NEGLIGENT ASSAULT.**

(a) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in Section 549.01 cause physical harm to another or to another's unborn.

(b) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree. (ORC 2903.14)

**537.05 AGGRAVATED MENACING.**

(a) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(b) Whoever violates this section is guilty of aggravated menacing. Except as otherwise provided in this subsection (b), aggravated menacing is a misdemeanor of the first degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, aggravated menacing is a felony and shall be prosecuted under appropriate State law.

(c) As used in this section, "organization" includes an entity that is a governmental employer. (ORC 2903.21)

**537.051 MENACING BY STALKING.**

(a) (1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or mental distress to the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, computer system or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:

A. Violate subsection (a)(1) of this section;

B. Urge or incite another to commit a violation of subsection (a)(1) of this section.

(3) No person, with sexual motivation, shall violate subsection (a)(1) or (2) of this section.

(b) Whoever violates this section is guilty of menacing by stalking.

(1) Except as otherwise provided in subsections (b)(2) and (3) of this section, menacing by stalking is a misdemeanor of the first degree.

(2) Menacing by stalking is a felony and shall be prosecuted under appropriate State law if any of the following applies:

A. The offender previously has been convicted of or pleaded guilty to a violation of this section or a violation of Section 541.051.

B. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.

C. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.

D. The victim of the offense is a minor.

E. The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.

F. While committing the offense under subsection (a)(1) of this section or a violation of subsection (a)(3) of this section is based on conduct in violation of subsection (a)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Subsection (b)(2)F. of this section does not apply in determining the penalty for a violation of subsection (a)(2) of this section or a violation of subsection (a)(3) of this section based on conduct in violation of subsection (a)(1) of this section.

G. At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.

H. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under subsection (a)(2) of this section, or an offense committed under subsection (a)(3) of this section based on a violation of subsection (a)(2) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.

I. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.

(3) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities, or duties, menacing by stalking is a felony and shall be prosecuted under appropriate State law.

(c) Ohio R.C. 2919.271 applies in relation to a defendant charged with a violation of this section.

(d) As used in this section:

(1) "Pattern of conduct" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages, use of intentionally written or verbal graphic gestures, or receipt of information or data through the use of any form of written communication or an electronic method of remotely transferring information, including, but not limited to, a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct".

(2) "Mental distress" means any of the following:

A. Any mental illness or condition that involves some temporary substantial incapacity;

B. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.

(3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.

(4) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.

(5) "Public official" has the same meaning as in Ohio R.C. 2921.01.

(6) "Computer", "computer network", "computer program", "computer system" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

(7) "Post a message" means transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communication, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.

(8) "Third person" means, in relation to conduct as described in subsection (a)(2) of this section, an individual who is neither the offender nor the victim of the conduct.

(9) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.

(10) "Organization" includes an entity that is a governmental employer.

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

A. Any of the following who is residing or has resided with the person against whom the act prohibited in subsection (a)(1) of this section is committed:

1. A spouse, a person living as a spouse, or a former spouse of the person;

2. A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person;

3. A parent or a child of a spouse, person living as a spouse, or former spouse of the person, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person.

B. The natural parent of any child of whom the person against whom the act prohibited in subsection (a)(1) of this section is committed is the other natural parent or is the putative other natural parent.

(12) "Person living as a spouse" means a person who is living or has lived with the person against whom the act prohibited in subsection (a)(1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of the act in question.

(e) The Municipality does not need to prove in a prosecution under this section that a person requested or received psychiatric treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in subsection (d)(2)B. of this section.

(f) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section.

(2) Subsection (f)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.

(3) Subsection (f)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature. (ORC 2903.211)

**537.06 MENACING.**

(a) (1) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(2) No person shall knowingly place or attempt to place another in reasonable fear of physical harm or death by displaying a deadly weapon, regardless of whether the deadly weapon displayed is operable or inoperable, if either of the following applies:

A. The other person is an emergency service responder, the person knows or reasonably should know that the other person is an emergency service responder, and it is the person's specific purpose to engage in the specified conduct against an emergency service responder.

B. The other person is a family or household member or co-worker of an emergency service responder, the person knows or reasonably should know that the other person is a family or household member or co-worker of an emergency service responder, and it is the person's specific purpose to engage in the specified conduct against a family or household member or co-worker of an emergency service responder.

(b) Whoever violates this section is guilty of menacing. Except as otherwise provided in this division, menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties or if the victim of the offense is an emergency service responder in the performance of the responder's official duties, menacing is one of the following:

(1) Except as otherwise provided in subsection (a)(2)B. of this section, a misdemeanor of the first degree;

(2) If the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency or an emergency service responder, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties or to the responder's performance of the responder's official duties, a felony to be prosecuted under appropriate state law.

(c) A prosecution for a violation of subsection (a) of this section does not preclude a prosecution of a violation of any other section of the Ohio Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under subsection (a) of this section or any other section of the Ohio Revised Code may be prosecuted under subsection (a) of this section, the other section of the Ohio Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of subsection (a) of this section and also is convicted of or pleads guilty to a violation of Ohio R.C. 2903.13, or any substantially similar municipal ordinance, based on the same conduct involving the same victim that was the basis of the violation of subsection (a) of this section, the offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(d) As used in this section:

(1) "Co-worker" has the same meaning as in Ohio R.C. 2903.13.

(2) "Emergency service responder" has the same meaning as in Ohio R.C. 2903.13.

(3) "Family or household member" have the same meanings as in Ohio R.C. 2903.13.

(4) "Organization" includes an entity that is a governmental employer. (ORC 2903.22)

**537.07 ENDANGERING CHILDREN.**

(a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a child with a mental or physical disability under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this subsection when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or disability of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(b) No person shall abuse a child under eighteen years of age or a child with a mental or physical disability under twenty-one years of age.

(c) (1) No person shall operate a vehicle in violation of Section 333.01(a) of the Traffic Code when one or more children under eighteen years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 333.01(a) of the Traffic Code that constitutes the basis of the charge of the violation of subsection (c) hereof.

For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of subsection (c) hereof shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(2) As used in subsection (c) hereof:

A. "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.

B. "Vehicle" has the same meaning as in Ohio R.C. 4511.01.

(d) Whoever violates this section is guilty of endangering children.

(1) Whoever violates subsection (a) or (b) hereof is guilty of a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section, Ohio R.C. 2919.22 or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child, endangering children is a felony and shall be prosecuted under appropriate State law.

(2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. Endangering children is a felony and shall be prosecuted under appropriate State law if either of the following applies:

A. The violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under Ohio R.C. 2919.22 or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child.

B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section.

(3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under Ohio R.C. 2919.22(E)(5)(d).

(e) (1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.

(2) A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:

**537.14 DOMESTIC VIOLENCE.**

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

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

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

(d) (1) Whoever violates this section is guilty of domestic violence.

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

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

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

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

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

(f) As used in this section:

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

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

1. A spouse, a person living as a spouse or a former spouse of the offender;
2. A parent, a foster parent or a child of the offender, or another person related by consanguinity or affinity to the offender;
3. A parent, or a child of a spouse, person living as a spouse, or former spouse of the offender; or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the offender.

B. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.

(2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question. (ORC 2919.25)

(g) The same relief available under the Ohio Revised Code for filing a complaint for violation of Ohio R.C. 2919.25 shall be available for filing a complaint for violation of this section.

**537.15 TEMPORARY PROTECTION ORDER.**

(a) No person shall recklessly violate the terms of any of the following:
(1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;
(2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;
(3) A protection order issued by a court of another state.

(b) (1) Whoever violates this section is guilty of violating a protection order.
(2) Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.
(3) Violating a protection order is a felony and shall be prosecuted under State law if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:
A. A violation of a protection order issued or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;
B. Two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 or any combination of those offenses that involved the same person who is the subject of the protection order or consent agreement;
C. One or more violations of this section.
(4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.

(5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device.

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

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

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

## 537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS; TRANSACTION SCANS.

(a) Illegal Distribution of Cigarettes, Other Tobacco Products, or Alternative Nicotine Products.

(1) As used in this section:

A. "Age verification." A service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is twenty-one years of age or older.

B. "Alternative nicotine product."
   1. Subject to subsection (a)(1)B.2. of this section, an electronic smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.
   2. The phrase does not include any of the following:
      a. Any cigarette or other tobacco product;
      b. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
      c. Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);
      d. Any product that is a "combination product" as described in 21 U.S.C. 353(g).

C. "Cigarette." Includes clove cigarettes and hand-rolled cigarettes.

D. "Distribute." Means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.

E. "Electronic smoking device." Means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. The phrase includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

F. "Proof of age." Means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is eighteen years of age or older.

G. "Tobacco product." Means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The phrase also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

# CHAPTER 545
# Theft and Fraud


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CROSS REFERENCES
See sectional histories for similar State law
Property defined - see GEN. OFF. 501.01(j)
Cheating - see GEN. OFF. 517.05
Falsification - see GEN. OFF. 525.02
Impersonating a public servant - see GEN. OFF. 525.03

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**545.01 DEFINITIONS.**

As used in this chapter, unless the context requires that a term be given a different meaning:

(a) "Deception" means knowingly deceiving another or causing another to be deceived, by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act or omission that creates, confirms or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

(b) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.

(c) "Deprive" means to do any of the following:

(1) Withhold property of another permanently, or for such period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;

(2) Dispose of property so as to make it unlikely that the owner will recover it;

(3) Accept, use or appropriate money, property or services, with purpose not to give proper consideration in return for the money, property or services, and without reasonable justification or excuse for not giving proper consideration.

(d) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license or interest is unlawful.

(e) "Services" include labor, personal services, professional services, rental services, public utility services, including wireless service as defined in Ohio R.C. 5507.01(F)(1), common carrier services, and food, drink, transportation, entertainment and cable television services.

(f) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film or other thing having in or upon it any written, typewritten or printed matter, and any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.

(g) "Forge" means to fabricate or create, in whole or in part and by any means any spurious writing, or to make, execute, alter, complete, reproduce or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.

(h) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver or display.

(i) "Coin machine" means any mechanical or electronic device designed to do both of the following:

(1) Receive a coin, bill, or token made for that purpose;

(2) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.

(j) "Slug" means an object that, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.

(k) "Theft offense" means any of the following:

(1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42 to 2913.45, 2913.47, 2913.48, 2913.51, 2915.05, 2915.06, or 2921.41.

(5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima-facie evidence of the value of the instrument.

(6) When the property involved is a ticket of admission, ticket for transportation, coupon, token or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services that may be received by the instrument, is prima-facie evidence of the value of the instrument.

(7) When the services involved are gas, electricity, water, telephone, transportation, shipping or other services for which the rate is established by law, the duly established rate is prima-facie evidence of the value of the services.

(8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima-facie evidence of the value of the services. (ORC 2913.61)

**545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.**

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, the provisions of Section 545.05 or 545.18 do not apply if the property involved is any of the following:

(a) A credit card;

(b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;

(c) A motor vehicle identification license plate as prescribed by Ohio R.C. 4503.22, a temporary motor vehicle license registration as prescribed by Ohio R.C. 4503.182, or any comparable temporary motor vehicle license registration as prescribed by the applicable law of another state or the United States;

(d) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R.C. 4505.07;

(e) A blank form for any license listed in Ohio R.C. 4507.01(A).
(ORC 2913.71)

**545.04 DETENTION OF SHOPLIFTERS; RIGHTS OF MUSEUMS AND LIBRARIES.**

(a) A merchant, or his employee or agent, who has probable cause to believe that items offered for sale by a mercantile establishment have been unlawfully taken by a person, may, for the purposes set forth in subsection (c) hereof, detain the person in a reasonable manner for a reasonable length of time within the mercantile establishment or its immediate vicinity.

(b) Any officer, employee or agent of a library, museum or archival institution may, for the purposes set forth in subsection (c) hereof or for the purpose of conducting a reasonable investigation of a belief that the person has acted in a manner described in subsections (b)(1) and (2) hereof, detain a person in a reasonable manner for a reasonable length of time within, or in the immediate vicinity of the library, museum or archival institution, if the officer, employee or agent has probable cause to believe that the person has either:

(1) Without privilege to do so, knowingly moved, defaced, damaged, destroyed or otherwise improperly tampered with property owned by or in the custody of the library, museum or archival institution; or

(2) With purpose to deprive the library, museum or archival institution of property owned by it or in its custody, knowingly obtained or exerted control over the property without the consent of the owner or person authorized to give consent, beyond the scope of the express or implied consent of the owner or person authorized to give consent, by deception, or by threat.

(c) An officer, agent or employee of a library, museum or archival institution pursuant to subsection (b) hereof or a merchant or his employee or agent pursuant to subsection (a) hereof may detain another person for any of the following purposes:

(1) To recover the property that is the subject of the unlawful taking, criminal mischief or theft;

(2) To cause an arrest to be made by a peace officer;

(3) To obtain a warrant of arrest.

(4) To offer the person, if the person is suspected of the unlawful taking, criminal mischief, or theft and notwithstanding any other provision of this General Offenses or the Ohio Revised Code, an opportunity to complete a pretrial diversion program and to inform the person of the other legal remedies available to the library, museum, archival institution or merchant.

(d) The officer, agent or employee of the library, museum or archival institution, or the merchant or his employee or agent acting under subsection (a) or (b) hereof shall not search the person, search or seize any property belonging to the person detained without the person's consent, or use undue restraint upon the person detained.

(e) Any peace officer may arrest without a warrant any person that he has probable cause to believe has committed any act described in subsection (b)(1) or (2) hereof or that he has probable cause to believe has committed an unlawful taking in a mercantile establishment. An arrest under this subsection shall be made within a reasonable time after the commission of the act or unlawful taking.

(f) As used in this section:

(1) "Archival institution" means any public or private building, structure or shelter in which are stored historical documents, devices, records, manuscripts or items of public interest, which historical materials are stored to preserve the materials or the information in the materials, to disseminate the information contained in the materials, or to make the materials available for public inspection or for inspection by certain persons who have a particular interest in, use for or knowledge concerning the materials.

(2) "Museum" means any public or private nonprofit institution that is permanently organized for primarily educational or aesthetic purposes, owns or borrows objects or items of public interest, and cares for and exhibits to the public the objects or items.

(3) "Pretrial diversion program" means a rehabilitative, educational program designed to reduce recidivism and promote personal responsibility that is at least four hours in length and that has been approved by any court in this State. (ORC 2935.041)

**545.05 MISDEMEANOR THEFT.**

(a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

(1) Without the consent of the owner or person authorized to give consent;
(2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
(3) By deception;
(4) By threat;
(5) By intimidation.

(b) Whoever violates this section is guilty of misdemeanor theft, a misdemeanor of the first degree. If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:

(1) The value of the property or services stolen is one thousand dollars ($1,000) or more; or
(2) If the property stolen is any of the property listed in Ohio R.C. 2913.71;
(3) The victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, or
(4) The property stolen is a firearm or dangerous ordnance, or
(5) The property stolen is a motor vehicle, or
(6) The property stolen is any dangerous drug, or
(7) The property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, or
(8) The property stolen is anhydrous ammonia, or
(9) The property stolen is a special purpose article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.

(c) In addition to the penalties described in subsection (b) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

(1) Unless subsection (c)(2) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
(2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to subsection (c)(1) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in Ohio R.C. 4510.02(A)(7), provided that the suspension shall be for at least six months.
(3) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to subsections (c)(1) or (2) of this section, instead may require the offender to perform community service for a number of hours determined by the court.

(d) In addition to the penalties described in subsection (b) hereof, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of Ohio R.C. 2913.72.

(e) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under subsection (c) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Ohio R.C. Chapter 4510. (ORC 2913.02)

**545.06 UNAUTHORIZED USE OF A VEHICLE; VEHICLE TRESPASS.**

(a) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(b) This section does not apply to property removed from the State or if possession is kept for more than forty-eight hours.

(c) The following are affirmative defenses to a charge under this section:

(1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that the actor was authorized to use or operate the property.

(2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(d) No person shall knowingly enter into or upon a motor vehicle, motorcycle or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(e) Whoever violates subsection (a) hereof is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree. If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of subsection (a) hereof is a felony and shall be prosecuted under appropriate State law. (ORC 2913.03)

(f) Whoever violates subsection (d) hereof is guilty of vehicle trespass, a misdemeanor of the fourth degree.

**545.07 INSURANCE FRAUD.**

(a) As used in this section:

(1) "Data" has the same meaning as in Section 545.01 and additionally includes any other representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner.

(2) "Deceptive" means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information or by any other conduct, act or omission creates, confirms or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind or other objective or subjective fact.

(3) "Insurer" means any person that is authorized to engage in the business of insurance in this State under Title XXXIX of the Ohio Revised Code; The Ohio Fair Plan Underwriting Association created under Ohio R.C. 3929.43; any health insuring corporation; and any legal entity that is self-insured and provides benefits to its employees or members.

(4) "Policy" means a policy, certificate, contract or plan that is issued by an insurer.

(c) (1) This section does not apply to any of the following:

A. An officer, agent or employee or this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;

B. Any person who is employed in this State, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.

C. A person's transportation or storage of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;

D. A person's storage or possession of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in the actor's own home for any lawful purpose.

(2) Subsection (a)(2) of this section does not apply to any person who has been issued a concealed handgun license that is valid at the time of the alleged carrying or possession of a handgun or who, at the time of the alleged carrying or possession of a handgun, is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1), unless the person knowingly is in a place described in Ohio R.C. 2923.126(B).

(d) It is an affirmative defense to a charge under subsection (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:

(1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.

(2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.

(3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(e) (1) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b)(1) of this section as it existed prior to June 13, 2022, the person may file an application under Ohio R.C. 2953.35 requesting the expungement of the record of conviction.

(f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsections (f)(2), (5) and (6) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law.

(2) A person shall not be arrested for a violation of subsection (a)(2) of this section solely because the person does not promptly produce a valid concealed handgun license. If a person is arrested for a violation of subsection (a)(2) of this section and is convicted of or pleads guilty to the violation, the offender shall be punished as follows:

A. The offender shall be guilty of a minor misdemeanor if both of the following apply:

1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars ($500.00) if all of the following apply:

1. The offender previously had been issued a concealed handgun license and that license expired within the two years immediately preceding the arrest.
2. Within forty-five days after the arrest, the offender presents any type of concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
3. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

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

(1) Before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;

(2) Before or at the time an employee of the motor carrier enforcement unit asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the commercial motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an employee of the unit during the stop and the person already has notified another employee of the unit of that fact during the same stop;

(3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.

(4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

(c) (1) This section does not apply to any of the following:

A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;

B. Any person who is employed in this State, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.

(2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

A. The person transporting or possessing the handgun has been issued a concealed handgun license that is valid at the time in question or the person is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1).

B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

(3) Subsection (a) of this section does not apply to a person if all of the following apply:

A. The person possesses a valid all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the Chief of the Division of Wildlife.

B. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle during the open hunting season for a wild quadruped or game bird.

C. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife.

(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 the conduct that was the basis of the violation no longer would be a violation of subsection (b) of this section on or after September 30, 2011, or if a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (a) of this section as the subsection existed prior to June 13, 2022, the person may file an application under Ohio R.C. 2953.35 requesting the expungement of the record of conviction.

# CODIFIED ORDINANCES OF LANCASTER

## PART SEVEN - BUSINESS REGULATION CODE

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**Chap. 705. Designated Outdoor Refreshment Areas.**

**Chap. 707. Sexually Oriented Business Standards.**

**Chap. 709. Cultivation, Processing or Dispensing of Medical Marijuana.**

**Chap. 711. Auctions.**

**Chap. 715. Arcades.**

**Chap. 721. Liquidation Sales.**

**Chap. 731. Mechanical Amusement Devices.**

**Chap. 741. Mechanical Musical Instruments.**

**Chap. 751. Peddlers, Solicitors and Canvassers.**

**Chap. 753. Peddling on Private Property. (Repealed)**

**Chap. 761. Solicitors and Canvassers. (Repealed)**

**Chap. 771. Taxicabs. (Repealed)**

**Chap. 781. Scrap Metal Dealers.**

**Chap. 785. Itinerant Merchants.**

**Chap. 791. Vehicle Racing.**

**Chap. 795. Yard Sales.**

**Chap. 797. Video Service Providers.**

**Chap. 798. Shared Micromobility Rental Services.**

# CHAPTER 798
# Shared Micromobility Rental Services

**798.01 Definitions.**
**798.02 Intent and purpose.**
**798.03 Shared micromobility rental services prohibited.**
**798.99 Penalty.**

CROSS REFERENCES
Low-speed micromobility devices - see TRAF. 301.183
Organizational criminal liability - see GEN. OFF. 501.11

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**798.01 DEFINITIONS.**

(a) "Micromobility Device" means a device weighing less than one-hundred (100) pounds that is propelled by electric power, human power, or both, and includes, but is not limited to, partially or fully motorized bicycles, e-bikes, electric scooters, electric skateboards, and electric pedal assisted bicycles. For the purposes of this chapter, micromobility devices include low-speed micromobility devices as defined in Section 301.183 of the Codiifed Ordinances.

(b) "Shared Micromobility Rental Service" means any collection of one (1) or more micromobility device(s) or low-speed micromobility device(s) owned by a person or organization, as defined in Section 501.11(d) of the Codified Ordinances, that is for rent or otherwise shared by multiple users, and paid for by fee or subscription service.
(Ord. 7-23. Passed 4-24-23.)

**798.02 INTENT AND PURPOSE.**

The purpose of this chapter is to regulate shared micromobility devices and rental services in order to promote the health, safety, and general welfare of the citizens of the City.
(Ord. 7-23. Passed 4-24-23.)

**798.03 SHARED MICROMOBILITY RENTAL SERVICES PROHIBITED.**

No person or organization shall operate a shared micromobility rental service within the City. (Ord. 7-23. Passed 4-24-23.)

**798.99 PENALTY.**

Whoever violates the provisions of this chapter is guilty of a misdemeanor of the first degree. Each day that the violation persists may be considered a separate violation.
(Ord. 7-23. Passed 4-24-23.)

(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 one (1) or more ninety-six (96) gallon provided and assigned trash cart of service per week. These businesses shall be provided and assigned up to three (3) ninety-six (96) gallon trash carts that will be serviced one time per week.

(m) "Radioactive waste" means any substance that spontaneously emits ionizing radiation.

(n) "Recyclables" means aluminum cans, glass bottles and jars, plastic containers, tin cans, newspaper and any other material designated by the Sanitation Department as recyclables.

(o) "Refrigerants and items containing chlorofluorocarbons (CFC) or their substitutes" means items that contain chlorofluorocarbons which contribute to the depletion of the ozone layer. This includes refrigerators and other devices utilizing either chlorofluorocarbons as a coolant or the substitutes for chlorofluorocarbons which may not cause ozone depletion but which are subject to special handling requirements.

(p) "Refuse" means paper, boxes, baskets, rags, old shoes, broken glass, tin cans, ashes and similar discarded materials. It does not include construction, remodeling, and demolition waste.

(q) "Residential unit" means the place of abode of persons living separately or together as an independent family in a "dwelling unit" as defined in Section 1161.01(37) of the Codified Ordinances.

(r) "Trash cart" means a forty-eight (48) gallon or a ninety-six (96) 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.

(s) "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.

(t) "Volume", as used in Section 937.12, means average volume.

(u) "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.

(v) "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. 21-23. Passed 10-23-23.)

**937.02 PURPOSE.**

This waste code is enacted to preserve and promote the public health, safety and welfare by establishing minimum standards for the storage, collection, transportation and disposal of acceptable and unacceptable waste in order to maintain a sanitary environment for the residents of the City of Lancaster. Whenever this chapter conflicts with any other portion of the Codified Ordinances, this chapter shall prevail with respect to any matters relating to acceptable or unacceptable waste generated by residential units or places of business.
(Ord. 21-23. Passed 10-23-23.)

**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) forty-eight (48) 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 - thirteen dollars ($13.00) per month.

(2) Class 2. Residential units will be provided and assigned by the Sanitation Department, at no charge, one (1) ninety-six (96) 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 seventeen dollars and fifty cents ($17.50) 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 twenty dollars and fifty cents ($20.50) per month.

(3) Class 4. Normal businesses will be provided and assigned by the anitation Department, at no charge, up to three (3) ninety-six (96) gallon trash carts per week.
A. Rate - twenty-eight dollars ($28.00) per month.

(4) Class 5a. Commercial, industrial, multiple-family residences and businesses using dumpsters per uncompacted cubic yard, with minimum of two (2) cubic yards.
A. Rate - nineteen dollars and twenty-five cents ($19.25) per month.

(5) Class 5b. Commercial, industrial, multiple-family and businesses using dumpster per compacted cubic yard.
A. Rate - sixty-nine dollars ($69.00) per month.

(b) Dumpsters. Dumpsters shall be approved by the Sanitation Department.
(Ord. 21-23. Passed 10-23-23.)

**937.04 PRIVATE WASTE DISPOSAL.**

No person shall throw, dump or deposit acceptable or unacceptable waste upon the ground or bury the same upon any premises, public or private, within the City, and no person shall permit any acceptable or unacceptable waste to stand or lay on the premises occupied by him, as tenant or owner, for a period of longer than one (1) week or burn the same in any place except a heating plant or incinerator so designed as to thoroughly consume the same without causing nuisance or smoke, fly ash or offensive odors. Whenever a landlord assumes responsibility for utility services for a tenant, such landlord shall be equally responsible with the tenant for sanitation services as provided herein.
(Ord. 21-23. Passed 10-23-23.)

**937.05 ACCEPTABLE WASTE CONTAINER REGULATIONS.**

Acceptable waste containers in the City of Lancaster shall be only the following:

(a) Ninety-six (96) or forty-eight (48) 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. 21-23. Passed 10-23-23.)

**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. 21-23. Passed 10-23-23.)

**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. 21-23. Passed 10-23-23.)

**937.08 COLLECTION REGULATIONS.**

(a) It is the intention of this chapter that each family or person occupying a separate residential unit, or each business or firm, shall make a separate provision for the collection and removal of acceptable waste. There shall be no doubling up. Any multiple family residence and/or three (3) separate businesses shall, if deemed necessary, be required to have a dumpster.

(b) No acceptable waste shall be placed or allowed to be placed for removal except in the acceptable waste containers provided and assigned by the Sanitation Department for that purpose. Acceptable waste containers shall not be placed for pick-up until the night before or the day of pick-up service and no later than 7:30 a.m. on day of pick-up. All trash must be placed inside the trash cart, with the lid completely closed. Additional trash cannot be stacked on top of the trash cart. Failure to abide by these regulations will result in additional fees as set forth in subsection below.

(c) Collection shall be made at the street curb or alley property lines as determined by the Superintendent of the Sanitation Department. Trash carts must be placed within three (3) feet of the curb or alley with lid opening facing the street or alley and the wheels toward the residence. Trash carts must be placed at least three (3) feet from any tree, pole, mailbox, etc., and at least ten (10) feet from parked cars. Multiple trash carts must be spaced three (3) feet apart.

(d) When, in the opinion of the Superintendent of the Sanitation Department, an alternate route of collection will better serve the City and the person whose acceptable waste is being collected, the Superintendent may use such an alternate route.

(e) All trash carts shall be returned by the City employees to designated pick-up points set forth in subsection (c) above. Owners shall then return trash carts to the point of origin/storage location and shall not be left at the street curb or alley property line. Trash carts must be removed from the curb or alley by 7:00 p.m. the day of pick-up.

(f) Additional fees shall apply as follows:

(1) If one (1) cubic yard or less outside of trash cart.

A. Trash will be picked-up and a service fee of ten dollars ($10.00) will be added to the monthly utility bill for each separate offense.

(2) Bulk items and/or excessive trash in excess of one (1) cubic yard outside closed trash cart, or if too much trash or items that are too large to fit in the trash cart, the bulk items and/or excessive trash will be picked up and bulk pick-up rates will apply pursuant to Section 937.15.

(Ord. 21-23. Passed 10-23-23.)

**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. 21-23. Passed 10-23-23.)

**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. 21-23. Passed 10-23-23.)

**937.11 DUMPSTERS.**

(a) It shall be the duty of all commercial businesses and multiple-family residences, where ninety-six (96) 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. 21-23. Passed 10-23-23.)

**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 - $30.00.
(2) Class 3. Per ton, if 1,000 lbs. or over. Rate - $55.00.
(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. Passenger care tire. Rate - $10.00.
B. Truck tire (Light or Heavy). Rate - $20.00.
C. Tractor tire. Rate - $100.00.

(b) The Transfer Station will not accept building materials, yard waste, dirt, liquids, or large automotive parts.

(c) The use of the Transfer Station shall be restricted to the residents and commercial haulers of the Coshocton Fairfield Licking-Perry County Solid Waste District.

(d) Transfer Station Accounts. Customers using charge accounts at the Transfer Station shall be charged a penalty of one and five tenths percent (1.5%) per month (18% APR) on outstanding balances thirty (30) calendar days from the closing date of their statement. Charge accounts are to be approved at the discretion of the Sanitation Superintendent using volume as one of the criteria. The superintendent has the authority to refuse to open charge accounts.
(Ord. 21-23. Passed 10-23-23.)

**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. 21-23. Passed 10-23-23.)

## 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. Refrigerants or items containing chlorofluorocarbons (CFCs) or their substitutes (defined in Section 937.01.)
14. Ashes of any kind
15. Offal or animal wastes, byproducts or hide trimmings
16. Nonresidential waste
17. 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
18. Condemned products (defined in Section 937.01)
19. And other items as may be determined by the Sanitation Superintendent.

(2) Yard waste.

A. Yard waste will be collected at the curb line, on a seasonal basis as determined by the Superintendent, 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. 21-23. Passed 10-23-23.)

**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 nineteen dollars and twenty-five cents ($19.25) per cubic yard.
(Ord. 21-23. Passed 10-23-23.)

**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. 21-23. Passed 10-23-23.)

**937.17 APPEAL.**

Any customer shall have the right to appeal surcharges or penalties accessed, 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. 21-23. Passed 10-23-23.)

**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. 21-23. Passed 10-23-23.)

**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. 21-23. Passed 10-23-23.)

# CODIFIED ORDINANCES OF LANCASTER

## PART ELEVEN - PLANNING AND ZONING CODE

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**TITLE ONE - Subdivision Regulations**

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

**TITLE THREE - Zoning and Property Restrictions**

Chap. 1121. Title, Purposes, Interpretation and Jurisdiction.
Chap. 1123. Zoning Districts Established - Similar Uses - Rules of Measurement.
Chap. 1125. Use Tables.
Chap. 1127. Agriculture District.
Chap. 1129. Residential Districts.
Chap. 1133. Commercial Districts.
Chap. 1135. Industrial Districts.
Chap. 1137. Planned Unit Development (PUD) District.
Chap. 1139. Sexuallly Oriented Businesses.
Chap. 1141. Landscaping.
Chap. 1143. Parking, Loading Spaces, Access and Vehicular and Pedestrian Connectivity.
Chap. 1145. Sign Regulations.
Chap. 1147. General Development Standards.
Chap. 1149. Wellhead Protection and Flood Damage Prevention.
Chap. 1151. CRA-3 Overlay Zone and Historic Lancaster District.
Chap. 1153. Nonconformities.
Chap. 1155. Enforcement.
Chap. 1157. Board of Zoning Appeals.
Chap. 1159. Amendments.
Chap. 1161. Definitions.
Appendix B Index of Land Uses.
Appendix C Wireless Telecommunications. (Chapter 1339)

**TITLE THREE - Zoning and Property Restrictions**

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Chap. 1141. Landscaping.
Chap. 1143. Parking, Loading Spaces, Access and Vehicular and Pedestrian Connectivity.
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Chap. 1147. General Development Standards.
Chap. 1149. Wellhead Protection and Flood Damage Prevention.
Chap. 1151. CRA-3 Overlay Zone and Historic Lancaster District.
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Chap. 1157. Board of Zoning Appeals.
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## CHAPTER 1121
## Title, Purposes, Interpretation and Jurisdiction

**1121.01 Title.**

**1121.02 Purposes, interpretation and jurisdiction.**

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### 1121.01 TITLE

Lancaster Revised Zoning Code as contained in this Title Three shall be known and may be cited as "The Lancaster Zoning Code".
(Ord. 15-23. Passed 8-14-23.)

## 1121.02 PURPOSES, INTERPRETATION AND JURISDICTION,

(a) Purposes.

(1) General. This Code is enacted to promote the health, safety, peace, morals, comfort, convenience, prosperity, order, and general welfare; lessening danger and congestion of public transportation and travel; securing safety from fire and other dangers; preventing overcrowding of land; avoiding undue concentration of population; providing adequate light and air, police protection, transportation, water, sewerage, schools, parks, forests, recreational facilities, and other public requirements, and preventing undue encroachment thereon; conserving the value of buildings and encouraging the most appropriate use of land; encouraging the industrial, commercial and residential growth of the community; and promoting the development of the community in accordance with a development plan.

(2) Signs. Signs are used to inform and persuade the general public. All signs not exempted shall be regulated in accordance with the standards of Chapter 1317. The general objectives of these standards are to promote the health, safety, welfare, convenience, and enjoyment of the public, and, in part, to achieve the following.

A. Safety. To promote the safety of persons and property by providing that signs:

1. Do not create a hazard due to location, collapse, fire, collision, decay, or abandonment; or
2. Do not obstruct firefighting or police surveillance, or
3. Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs.

B. Commission Efficiency. To promote the efficient transfer of information in sign messages.

C. Landscape Quality and Preservation. To protect the public welfare and to enhance the appearance of the City of Lancaster.

(b) Interpretation.

(1) Validity of other laws. Where this Code imposes a greater restriction on the use of structures, land, height or bulk of structures, or requires larger open spaces or yards than are imposed by other ordinances, laws, or regulations, the provisions of this Code shall govern. However, nothing in this Code shall be construed to prevent the enforcement of other ordinances, laws, or regulations which prescribe more restrictive limitations. The provisions of this code providing for the residential use of property, and limitations on occupancy, density, and intensity of such uses, shall be applied equally and without discrimination based on race, color, religion, sex, handicap, familial status or national origin consistent with the provisions of the Federal Fair Housing Act.

(2) Severability. In case any portion of this Code shall be invalid or unconstitutional, as declared by a court of competent jurisdiction, the remainder of the Code shall not thereby be invalid but shall remain in full force and effect.

(3) Tense and definition. For the purpose of the Code certain terms and words are to be used and interpreted as defined in Chapter 1161, words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word 'shall' is mandatory and not directory. All references in this title to "Council", "Council members", "Council persons", shall be construed to mean City Council of the City of Lancaster, Ohio.

(c) Jurisdiction.

(1) Territorial jurisdiction. This Code shall be in full force and effect in the corporate limits of the City of Lancaster, Ohio. Property owned, leased, or operated by the City of Lancaster, or any other public or governmental body or agency, shall be subject to the terms of this Code.

(2) Annexed territory. When any territory shall be brought into the Zoning jurisdiction of the City of Lancaster, by annexation or otherwise, such territory shall continue to carry the Zoning designation of the township from which it was annexed until such time as the City Council shall rezone such property by amendment in the manner set forth in Chapter 1159. (Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1123
## Zoning Districts Established - Similar Uses - Rules of Measurement


1123.01 Zoning and Overlay Zoning Districts established.
1123.02 Official Zoning Map established.
1123.03 District boundary description and interpretation.
1123.04 Limitation on land use.
1123.05 Similar uses.
1123.06 Division of lots.
1123.07 Street frontage required.
1123.08 One dwelling per lot of record.
1123.09 Platting requirement.
1123.10 Major street plan.
1123.11 Types of lots.
1123.12 Types of encroachments.
1123.13 Rules of measurement.


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### 1123.01 ZONING AND OVERLAY ZONING DISTRICTS ESTABLISHED

The Zoning Districts and Overlay Zoning Districts set forth below are hereby established:

AG Agriculture District
RE Residential Single-Family Estate District
R-LD - Residential Low-Density District
R- MD - Medium Density Residential District
MHC - Mobile Home Community
RT - Transitional Residential District
RM - Residential Multi-Family District
CN Commercial Neighborhood District
CG Commercial General District
CBD Central Business District
SI - Service Industrial District
AM - Advanced Manufacturing District
PUD Planned Unit Development (Overlay Zoning District)
HP Historic Preservation District (Overlay Zoning District)
WH Wellhead Protection District (Overlay Zoning District)
FP Flood Plain District (Overlay Zoning District)
CRA-3 Community Reinvestment Arca 3 (Overlay Zoning District)

(Ord. 15-23. Passed 8-14-23.)

**1123.02 OFFICIAL ZONING MAP ESTABLISHED**

The locations and boundaries of the various Districts as defined herein shall be established by ordinance and shall be shown and delineated on the Official Zoning Map of the City of Lancaster. The Official Zoning Map shall be maintained by the Planning Department of the City of Lancaster, and may be divided into parts, and such parts may be separately employed for identification purposes when adopting or amending the Official Zoning Map or for any reference to the Official Zoning Map.
(Ord. 15-23. Passed 8-14-23.)

**1123.03 DISTRICT BOUNDARY DESCRIPTION AND INTERPRETATION**

District boundary lines shall be described by legal description or by a map. When a legal description is used, the boundary line shall be deemed to extend to the centerline of abutting streets and shall be so designated on the Official Zoning Map. When a map is used, District boundary lines shall be established by dimensions, property lines, recorded lot lines, or the centerline of abutting street, alley, or railroad rights-of-way, as the same were of record at the time of adoption. In all cases where there is doubt as to the exact location of District boundary lines, the same shall be determined by the Board of Zoning Appeals.
(Ord. 15-23. Passed 8-14-23.)

**1123.04 LIMITATION ON LAND USE**

No person, firm or corporation shall use or permit to be used any land or buildings, nor shall any person, firm or corporation make, erect, construct, move, alter, enlarge or rebuild or permit the making, erection, construction, moving, altering, enlarging or rebuilding of any building, structure or improvement, which is designed, arranged or intended to be used or maintained for any purpose or in any manner except in accordance with the use, height, area, yard, setback, and other requirements established in the District in which such land, building, structure or improvement is located, except as provided by Chapter 1153, Nonconformities. Nothing in this Code shall be deemed to require a change in the plans, construction, or designated use of any building, lot or use, where a Zoning Clearance Permit has been lawfully issued prior to the effective date of this Code, and pursuant to such permit, construction or the use is diligently carried to completion. Upon completion, such building or use shall be deemed legally non-conforming and may continue as regulated by Chapter 1153, Nonconformities.
(Ord. 15-23. Passed 8-14-23.)

**1123.05 SIMILAR USES**

(a) On occasion, new uses of land may arise that may have not been contemplated at the time of the code's adoption. This section sets forth a process to identify the location for such uses. Since this action is an interpretation matter, the Board of Zoning Appeals shall be the body designated for determining similar uses. Determination as to whether a use is similar to uses permitted by right shall be considered as an expansion of use regulations of the District and not as a variance applying to a particular situation. Any use found similar shall thereafter be considered as a permitted use in that District.

(b) Applications for Zoning Clearance Permits for uses not specifically listed in the permitted building or use classifications of the Zoning District, which the applicant feels qualify as a similar use under the provisions of this Section, shall be submitted to the City Planner or designee. Three (3) copies and one (1) digital pdf copy of a completed application shall be submitted. The following information shall be included in the application:

(1) Name, address, phone number and email of the applicant; and
(2) The address and parcel number of the address in question; and
(3) If the applicant is not the owner of the property, a signed letter from the property owner shall be submitted authorizing the applicant to serve as their agent for the application; and
(4) Legal description of the property; and
(5) The existing Zoning District in which the property is located; and
(6) A vicinity map drawn at a suitable scale, showing property lines, streets, existing Zoning of surrounding parcels adjacent to and within two hundred (200) feet; and
(7) The names and addresses of all property owners within one hundred (100) feet of the subject property as appearing on the County Auditor's current tax list.
(8) A site plan that shows:
A. The lot(s) where the use is proposed; and
B. Any existing and/or proposed buildings; and
C. The square footage of the proposed use.
(9) A narrative explaining:
A. A description of the proposed use; and
B. The reasons the applicant believes the proposed use complies with Section 1123.05(a).

(c) Within sixty (60) days after such submittal, the Board of Zoning Appeals shall determine whether the requested use is similar to those uses permitted in the specific District. In order to find that a use is similar, the Board of Zoning Appeals shall find that all of the following conditions exist:
(1) Such use is not listed as a permitted use or Special Exception in another Zoning District.
(2) Such use conforms to basic characteristics of the classification to which it is to be added and is more appropriate to it than to any other classification.
(3) Such use creates no increased danger to health and safety, creates no increased level of noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences, and does not create traffic congestion to an extent greater than normally resulting from uses listed in the classification to which it is to added.

(d) The notice requirements in Section 1157.05 for variances and appeals shall be utilized for a public hearing on a similar use.

(e) If the Board takes action to approve a use as a "similar use" in particular District, then said use will become a permitted or special exceptions within said District, as determined by the Board, until such time the City Council changes the Zoning through the amendment process identified in Chapter 1159. (Ord. 15-23. Passed 8-14-23.)

**1123.06 DIVISION OF LOTS.**

No lot shall be divided into two (2) or more lots, unless all lots resulting from such division conform to all the applicable regulations of the Zoning District in which it is located. (Ord. 15-23. Passed 8-14-23.)

**1123.07 STREET FRONTAGE REQUIRED**

All new lots shall comply with the minimum frontage requirements for the Zoning District in which it is located. Said frontage must be on an acceptable dedicated and improved right-of-way. For purposes of this section, an alley, as defined in Chapter 1161, shall not be considered as an acceptable dedicated right-of-way. This section shall not apply to an existing lot of record or a lot within an approved Planned Unit Development or in the MHC District.
(Ord. 15-23. Passed 8-14-23.)

**1123.08 ONE DWELLING PER LOT OF RECORD.**

In the AG, RE, R-LD and R-MD there shall be nor more than one (1) permitted dwelling unit allowed on any single residential lot. For purposes of this section, a dwelling unit that contains an attached Accessory Dwelling Unit shall be considered one (1) dwelling unit.
(Ord. 15-23. Passed 8-14-23.)

**1123.09 PLATTING REQUIREMENT**

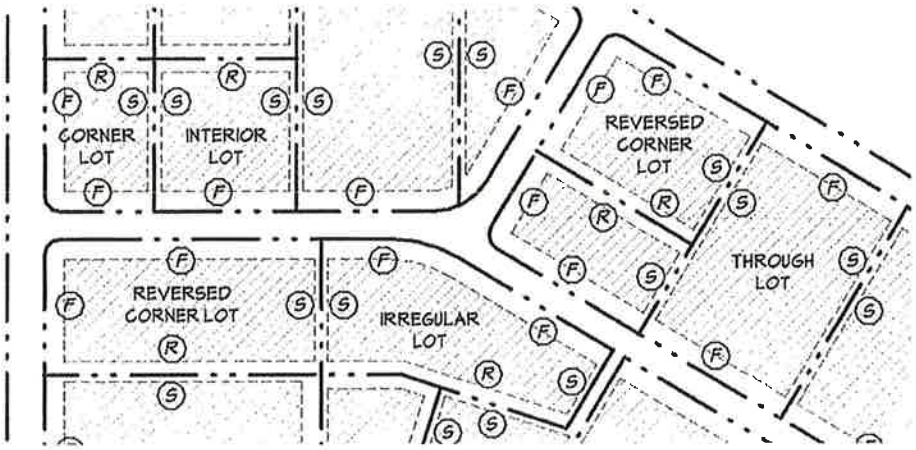
(a) For the purposes of providing a proper arrangement of streets and assuring the adequacy of open spaces for traffic, utilities, and access of emergency vehicles, commensurate with the intensification of land use customarily incident to a change in Zoning, a platting requirement is established as follows:

(b) For any land which has been rezoned to a Zoning classification other than AG upon application of a private party, no building permit or Zoning Clearance Permit shall be issued until that portion of the tract on which the permit is sought has been included in a required subdivision plat or replat, as the case may be, submitted to and approved by the Planning Commission, and filed of record in the Office of the Fairfield County Recorder. Provided that the Planning Commission, pursuant to their exclusive jurisdiction over subdivision plats, may remove this platting requirement upon determining that the above purposes have been achieved by previous platting or could not be achieved by a plat or replat.
(Ord. 15-23. Passed 8-14-23.)

**1123.10 MAJOR STREET PLAN**

"The Official Thoroughfare Map of the City of Lancaster", hereinafter referred to as "the Major Street Plan", as adopted by the City Council of Lancaster, Ohio, as Resolution 90-04 on June 14, 2004, as may be subsequently amended. Front setbacks shall be measured from the proposed right-of-way as shown on the Major Street Plan.
(Ord. 15-23. Passed 8-14-23.)

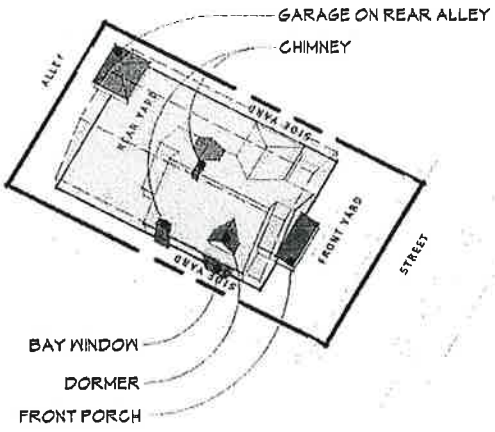
**1123.11 TYPES OF LOTS.**




(Ord. 15-23. Passed 8-14-23.)

**1123.12 TYPES OF ENCROACHMENTS.**

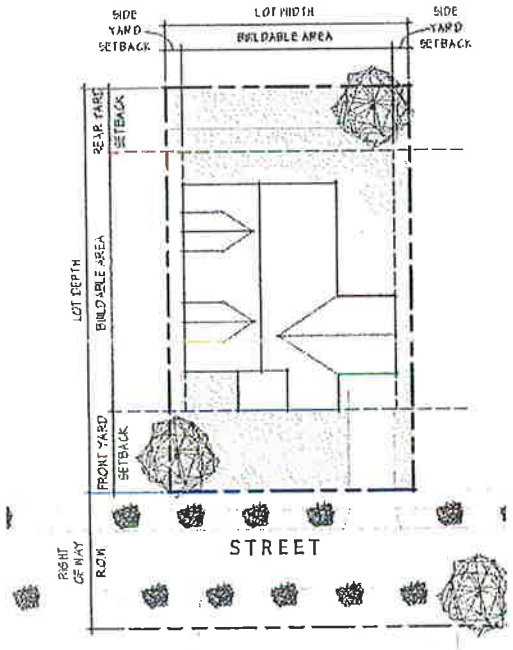
Each District allows various types of encroachments. Refer to the Lot Area, Setback and Height Tables in each District to identify the types of permitted encroachments for said District.



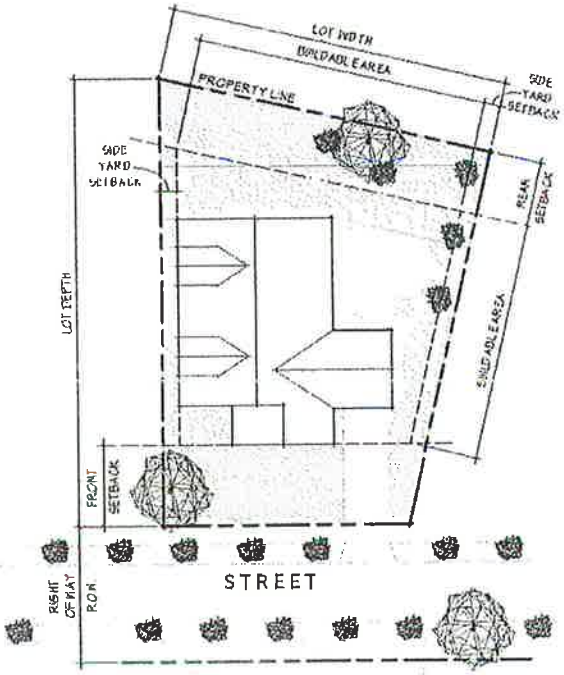

(Ord. 15-23. Passed 8-14-23.)

## 1123.13 RULES OF MEASUREMENT.

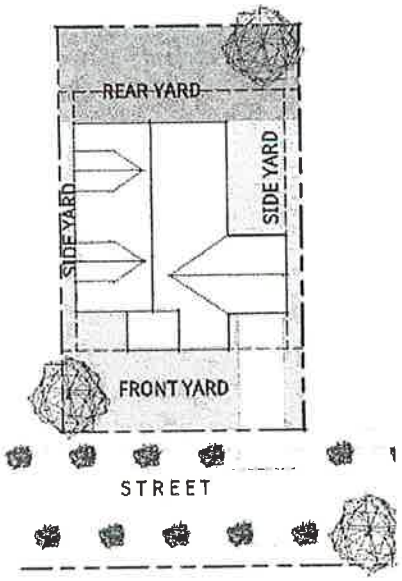
(a) Front Lot Line is the Right-of-Way Line.

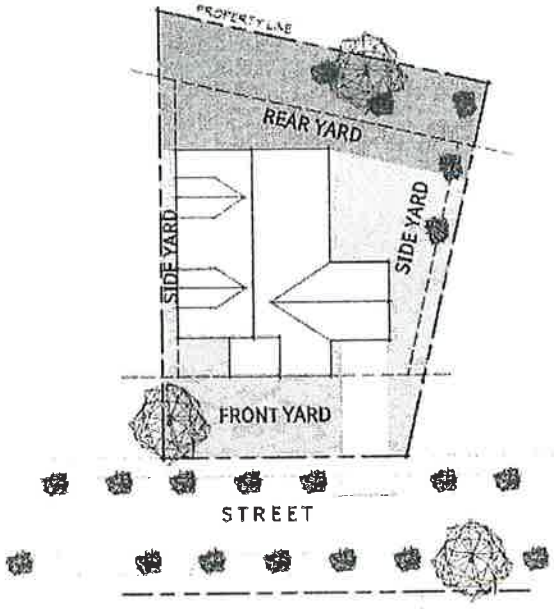



STANDARD LOT

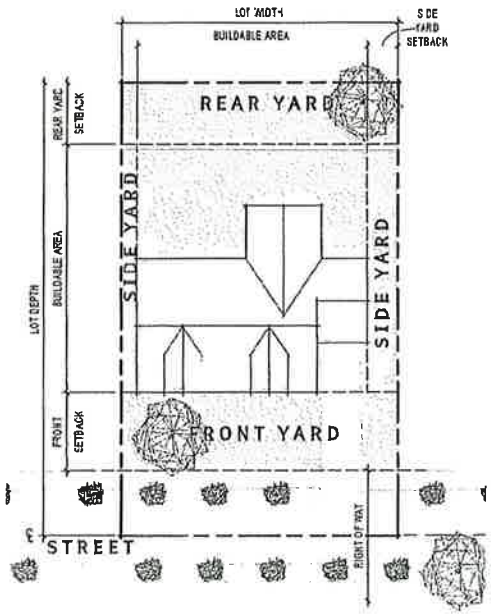



IRREGULAR LOT

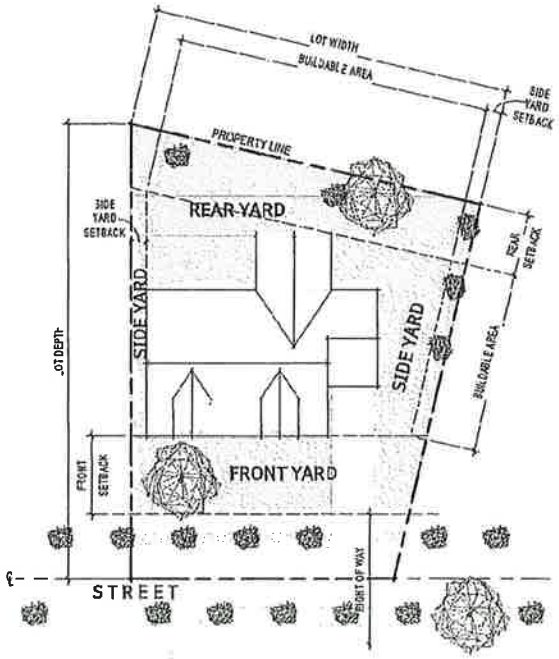


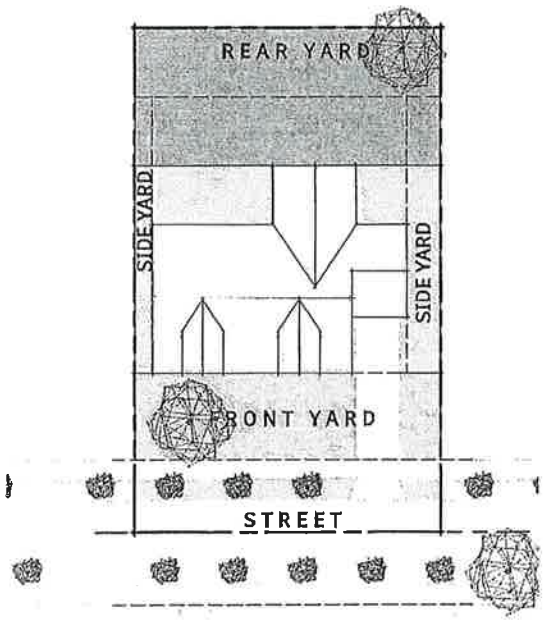
(b) Front Lot Line is the Center Line of the Roadway.

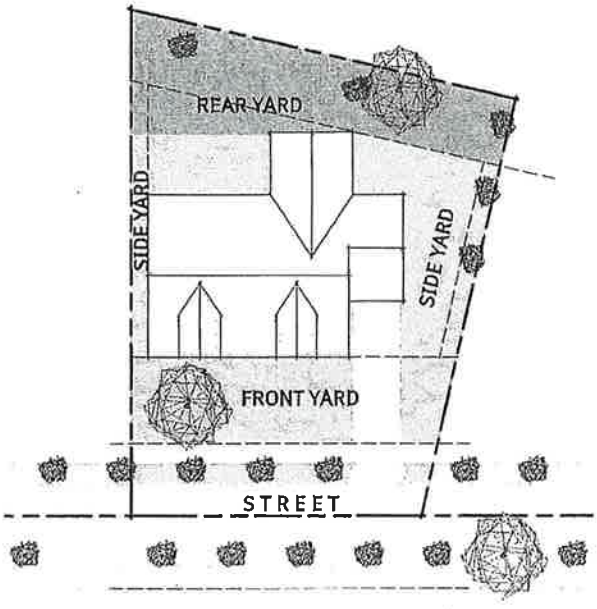



STANDARD LOT




IRREGULAR LOT




(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1125
## Use Tables


**1125.01 Identified uses.**
**1125.02 Residential Districts - permitted, special exception and accessory uses.**
**1125.03 Commercial Districts - permitted, special exception and accessory uses.**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### 1125.01 IDENTIFIED USES.

(a) Each District includes a list of permitted, special exceptions and accessory uses. Listed uses are to be defined by their customary name or identification, except as specifically defined or limited by this Zoning Ordinance. If a use is not listed as permitted, special exception, or accessory in a District, it shall be considered prohibited in said District. It should also be noted that there are specific city-wide prohibitions per 1125.01(f) and (g) below.

(b) Permitted Uses. A use listed as permitted is allowed by a matter of right when designated as such in a District, provided said use complies with all applicable setback and development standards and is issued a Zoning Clearance Permit from the City Planner or designee. Such uses are designated with a "P" in each Zoning District.

(c) Special Exception. A use listed as special exception may be allowed when designated as such in a District, provided it complies with the criteria in Section 1157.06. and a Special Exception Permit is issued by the Board of Zoning Appeals in accordance with Section 1157.06 of this Ordinance. Such uses are designated with a "SE" in each Zoning District.

(d) Accessory Uses. A use listed as accessory may be allowed when designated as such in a District, provided it is subordinate to the permitted use, complies with the requirements of Section 1147.02 and is issued an Accessory Permit from the City Planner or designee. Such uses are designated with a "A" in each District (A = Permitted as an Accessory Use).

(e) Development Standards. Each District has a set of Development Standards to which each use and structure must comply. These standards include, but are not limited to, height, lot width, lot size and front, side and rear setbacks. In addition to the Development Standards in each District, all uses must comply with any applicable General Development Standards listed in Section 1147 of this Ordinance.

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

(g) No person shall open, establish or operate any business or commercial enterprise engaged as a cultivator, processor, or retail dispenser of medical marijuana, as defined in Section 1161 of this Ordinance, within the corporate limits of the City. No Zoning clearing, permit, or other administrative approval shall be approved or issued by any administrative official of the City, nor shall any variance be approved or granted, to any person, business, or other applicant desiring or intending to operate a business or commercial enterprise engaged as a cultivator, processor, or retail dispenser of medical marijuana within the corporate limits of the City. (Ord. 15-23. Passed 8-14-23.)

## 1125.02 RESIDENTIAL DISTRICTS - PERMITTED, SPECIAL EXCEPTION AND ACCESSORY USES.

| | RESIDENTIAL | | | | | MIXED USE & MULTI-FAMILY | |
|---|---|---|---|---|---|---|---|
| **Uses** | **AG Agricultural** | **RE Residential Estate** | **R-LD Residential Low-Density** | **R-MD Residential Medium-Density** | **MHC Mobile Home Community** | **RT Residential Transitional** | **RM Mult-Family** |
| Dwelling, One Unit | P | P | P | P | P | P | P |
| Dwelling, Duplex | | | | | P | P | P |
| Dwelling, Tri-Plex | | | | | P | P | P |
| Dwelling, Multi-Unit (four or more units per building) | | | | | | | P |
| Dwelling, Studio, One, Two or Three Bedroom units | | | | | | P (upper floors only) | P |
| Accessory Dwelling Unit (Subject to Section 1147.01) | A | A | A | A | | A | A |
| Accessory Structures (Subject to Section 1147.02) | A | A | A | A | P | A | A |
| Agriculture | P | | | | | | |
| Airports/Private Landing Strips | SE | | | | | | |
| Assisted Living Facility | | SE | | | | | P |
| Bed and Breakfast Facilities | SE | SE | SE | SE | | SE | SE |

| | RESIDENTIAL | | | | | MIXED USE & MULTI-FAMILY | |
|---|---|---|---|---|---|---|---|
| Uses | AG Agricultural | RE Residential Estate | R-LD Residential Low-Density | R-MD Residential Medium-Density | MHC Mobile Home Community | RT Residential Transitional | RM Mult-Family |
| Camp Grounds | | | | | SE | | |
| Commercial Recreational Facility, Outdoor (Small) | SE | SE | SE | SE | | SE | SE |
| Community Gardens | P | P | P | P | P | P | P |
| Community Services | SE | SE | SE | SE | | P | P |
| Day Care Centers | SE | SE | SE | SE | SE | SE | P |
| Elderly/Retirement Housing | | | | | | | P |
| Emergency and Protective Shelter | | | | | | | SE |
| Home Day Care Family, Large | SE | SE | SE | SE | SE | SE | SE |
| Home Day Care Family, Small | A | A | A | A | A | A | A |
| Home Occupation (Subject to Section 1147.07) | A | A | A | A | A | A | A |
| Life Care Retirement Center | | | | | | | P |
| Maker Space, Small | SE | | | | | P | P |
| Manufactured Home - Permanently Sited | P | P | P | P | P | P | P |
| Mining and mineral processing | SE | | | | | | |

| | RESIDENTIAL | | | | | MIXED USE & MULTI-FAMILY | |
|---|---|---|---|---|---|---|---|
| **Uses** | **AG Agricultural** | **RE Residential Estate** | **R-LD Residential Low-Density** | **R-MD Residential Medium-Density** | **MHC Mobile Home Community** | **RT Residential Transitional** | **RM Mult-Family** |
| Mobile Home | | | | | P | | |
| Nursing Home | | | | | | | SE |
| Park, Neighborhood | SE | SE | SE | SE | SE | SE | SE |
| Park, Community or Regional | SE | SE | SE | SE | SE | SE | SE |
| Permanent Supportive Housing | | | | | | | SE |
| Personal Services | | | | | SE | SE | SE |
| Places of Assembly, Large | SE | SE | SE | SE | SE | SE | SE |
| Places of Assembly, Small | P | P | P | P | P | P | P |
| Private Clubs or Lodges | P | | | | | | |
| Private Swimming Pools | A | A | A | A | A | A | A |
| Public Protection Facility | SE | SE | SE | SE | | SE | SE |
| Residential Facility, Large | SE | SE | SE | SE | SE | SE | SE |
| Residential Facility, Small | P | P | P | P | P | P | P |
| Residential - Office - Administrative Business or Medical | | | | | | SE | SE |
| Residential - Retail | | | | | | SE | SE |

| Uses | RESIDENTIAL | | | | | MIXED USE & MULTI-FAMILY | |
|---|---|---|---|---|---|---|---|
| | **AG Agricultural** | **RE Residential Estate** | **R-LD Residential Low-Density** | **R-MD Residential Medium-Density** | **MHC Mobile Home Community** | **RT Residential Transitional** | **RM Multi-Family** |
| Restaurants without Auto Oriented Uses | | | | | | SE | SE |
| School, Primary, Intermediate or Middle | SE | SE | SE | SE | | SE | SE |
| School, High or Technical | SE | SE | SE | SE | | SE | SE |
| School, Post-Secondary | SE | SE | SE | SE | | SE | SE |
| Solar Energy Systems | See Section 1147.13 | | | | | See Section 1147.13 | |
| Tiny Home | | | | | P | | |
| Transitional Living Center | | | | | | | SE |

(Ord. 15-23. Passed 8-14-23.)

## 1125.03 COMMERCIAL DISTRICTS - PERMITTED, SPECIAL EXCEPTION AND ACCESSORY USES.

| | Mixed Use District | Commercial & Industrial Districts | | | |
|---|---|---|---|---|---|
| **Uses** | **Central Business District CBD** | **CN Commercial Neighborhood** | **CG Commercial General** | **SI Service Industrial** | **AM Advanced Manufacturing** |
| Accessory Dwelling Unit (Subject to Section 1147.01) | A | A | | | |
| Accessory Structures (Subject to Section 1147.02) | A | A | A | A | A |
| Adult Entertainment Uses (Chapter 1139) | | | | SE | |
| Advanced Manufacturing | | | | | P |
| Airports/Private Landing Strips | | | | | |
| Animal Service Facilities | P | P | P | P | P |
| Assisted Living Facility | | P | P | | |
| Automobile Oriented Uses (includes gas stations and quick lube facilities) | | SE | SE | P | P |
| Automobile Repair | | | SE | P | P |
| Bank, with Automobile Oriented Uses | | SE | SE | | |
| Bank, without Automobile Oriented Uses | P | P | P | | |
| Bed and Breakfast Facilities | P | | | | |
| Bio-Technology Facilities | | | | | SE |

| | Mixed Use District | Commercial & Industrial Districts | | | |
|---|---|---|---|---|---|
| Uses | Central Business District CBD | CN Commercial Neighborhood | CG Commercial General | SI Service Industrial | AM Advanced Manufacturing |
| Body Art Establishments | P | P | P | P | P |
| Business, Retail Small (No Automobile Oriented Uses) | P | P | P | P | P |
| Business, Retail Medium | P | P | P | P | P |
| Business, Retail Large | | | P | | |
| Cemetery | See Section 1125.01(f) | See Section 1125.01(f) | | | |
| Commercial Recreation Facilities, Small | P | P | P | P | P |
| Commercial Recreation Facilities, Large | | | P | P | P |
| Commercial Recreation Facilities, Outdoor | SE | SE | SE | SE | SE |
| Community Services | P | P | P | | |
| Community Gardens | P | P | P | P | P |
| Contractor Office | | | SE | P | P |
| Convict Pre-Release Centers/Correctional Community | | | | SE | SE |
| Data Processing Center | | | | P | P |
| Day Care Centers | P | P | P | SE | SE |

| | Mixed Use District | Commercial & Industrial Districts | | | |
|---|---|---|---|---|---|
| **Uses** | **Central Business District CBD** | **CN Commercial Neighborhood** | **CG Commercial General** | **SI Service Industrial** | **AM Advanced Manufacturing** |
| Dwelling, One Unit | P | P | | | |
| Dwelling, Duplex | P | P | | | |
| Dwelling, Tri-Plex | P | See CRA-3 Overlay | See CRA-3 Overlay | | |
| Dwelling, Multi-Unit (four or more units per building) | P | P | | | |
| Dwelling, Studio, One, Two or Three Bedroom Units | P (upper floors only) | | | | |
| Dwelling, Container (One, Two or Three Units) | | | | SE | |
| Early Childhood Learning Center | P | P | P | SE | SE |
| Elderly/Retirement Housing | P | P | SE | | |
| Emergency and Protective Services Shelter | | SE | SE | SE | |
| Equipment Repair, Small | | | | P | P |
| Equipment Repair, Large | | | | SE | P |
| Flex Office - Laboratory/Research/Development | | | | P | P |
| Flex-Office - Retail | | | | P | P |
| Flex-Office - Warehouse | | | | P | P |
| Food Truck (Subject to Section 1147.06) | P | P | P | P | P |

| | Mixed Use District | Commercial & Industrial Districts | | | |
|---|---|---|---|---|---|
| Uses | Central Business District CBD | CN Commercial Neighborhood | CG Commercial General | SI Service Industrial | AM Advanced Manufacturing |
| Funeral Service Facilities | P | P | P | | |
| Governmental Services | | | SE | SE | SE |
| Health Care Facilities | | P | P | | |
| Home Day Care Family, Large | SE | P | | | |
| Home Day Care Family, Small | P | P | | | |
| Home Occupations (Subject to Section 1147.07) | A | A | | | |
| Hotels/Motels | SE | | P | SE | SE |
| Hotels, Boutique | P | P | | | |
| Kennel | | | SE | P | |
| Landscape and Hardscape Businesses | | | | P | |
| Life Care Retirement Center | P | P | P | | |
| Logistics | | | | P | P |
| Lumberyard | | | | SE | SE |
| Machine Shop | | | | P | P |
| Maker Space, Small | P | P | P | P | P |
| Maker Space, Large | SE | | SE | P | P |

| | Mixed Use District | Commercial & Industrial Districts | | | |
|---|---|---|---|---|---|
| **Uses** | **Central Business District CBD** | **CN Commercial Neighborhood** | **CG Commercial General** | **SI Service Industrial** | **AM Advanced Manufacturing** |
| Manufacturing | | | | P | P |
| Manufactured Home, Permanently Sited | P | P | P | | |
| Medical Marijuana Cultivators, Processors and Retail Dispensaries | See Section 1125.01(g) | See Section 1125.01(g) | | | |
| Mixed Use Building | P | P | P | | |
| Nursing Home | | P | SE | | |
| Offices, Small administration, business medical or professional | P | P | P | A | A |
| Offices, Large Administration, business medical or professional | P | P | P | A | A |
| Off-street Parking and Garages as a Principal Use (subject to Chapter 1143) | P | P | | | |
| Outdoor Service Facilities | SE | SE | SE | SE | SE |
| Park, Neighborhood | P | P | P | | |
| Park, Community or Regional | | P | P | | |
| Permanent Supportive Housing | | SE | SE | | |
| Personal Services | P | P | A | A | A |
| Places of Assembly, Small | P | P | | | |

| | Mixed Use District | Commercial & Industrial Districts | | | |
|---|---|---|---|---|---|
| Uses | Central Business District CBD | CN Commercial Neighborhood | CG Commercial General | SI Service Industrial | AM Advanced Manufacturing |
| Places of Assembly, Large | SE | P | | | |
| Plants for mixing and/or processing of concrete and/or asphalt | | | | SE | P |
| Public Protection Facility | P | P | P | P | P |
| Research and Development | | | | P | P |
| Residential Facility, Large | SE | SE | SE | | |
| Residential Facility, Small | P | P | P | | |
| Residential Treatment Center | | SE | SE | | |
| Restaurants with Auto Oriented Uses | | SE | P | | |
| Restaurants without Auto Oriented Uses | P | P | P | | |
| School, Primary, Intermediate or Middle | SE | P | P | | |
| School, High or Technical | SE | P | P | | |
| School, Post Secondary | SE | P | P | | |
| Self-Storage Facilities | | | | SE | |
| Solar Energy Systems | See Section 1147.13 | See Section 1147.13 | | | |
| Temporary Structure, Construction Trailer Office (Subject to Section 1147.14) | SE | SE | SE | SE | SE |

| | Mixed Use District | Commercial & Industrial Districts | | | |
|---|---|---|---|---|---|
| **Uses** | **Central Business District CBD** | **CN Commercial Neighborhood** | **CG Commercial General** | **SI Service Industrial** | **AM Advanced Manufacturing** |
| Temporary Tents (Subject to Section 1147.15) | A | A | A | A | A |
| Transitional Living Center | | SE | SE | | |
| Truck and Travel Service Centers | | | | SE | SE |
| Vehicle Charging Stations | A | A | A | A | A |
| Vehicular Sales, New and Used Cars | | | SE | P | |
| Vehicular Sales, Motorcycles | | | SE | P | |
| Vehicular Sales, Recreational Vehicles | | | SE | P | |
| Vehicular Sales, Equipment | | | SE | P | P |
| Wind Energy Conversion Systems | SE | SE | SE | SE | SE |

(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1127
# Agriculture District

**1127.01 Agriculture District (AG).**

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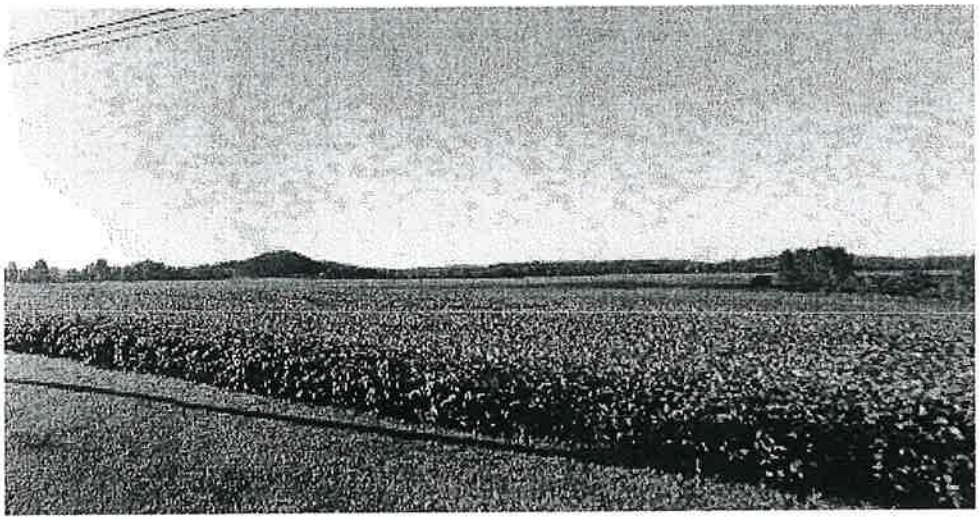
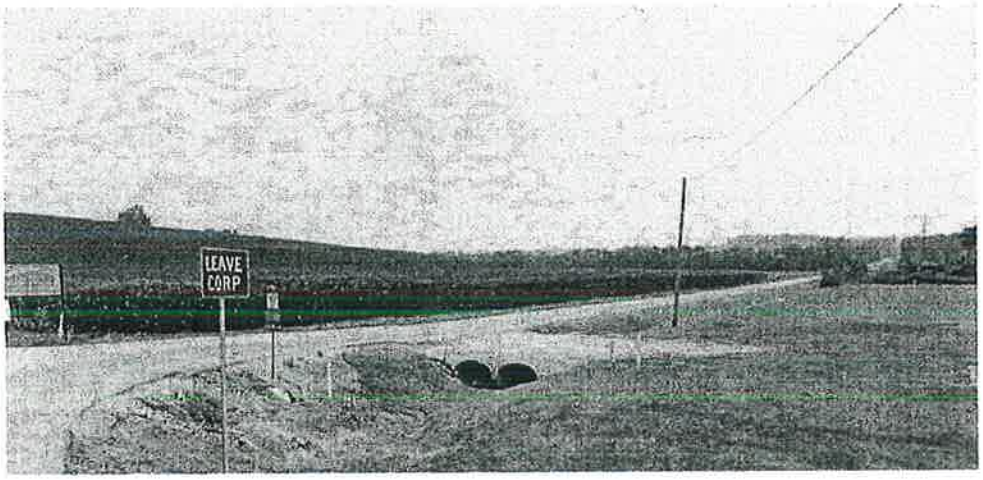
## 1127.01 AGRICULTURE DISTRICT (AG).

(a) Purpose.

- Encourage and protect the agricultural use of land, typically found along the edge of the city limits, until an orderly transition to urban development may be accomplished.
- Discourage the development of inappropriate uses in rural areas.
- Promote the efficiency of public expenditures for infrastructure and services.

(b) Target Areas.



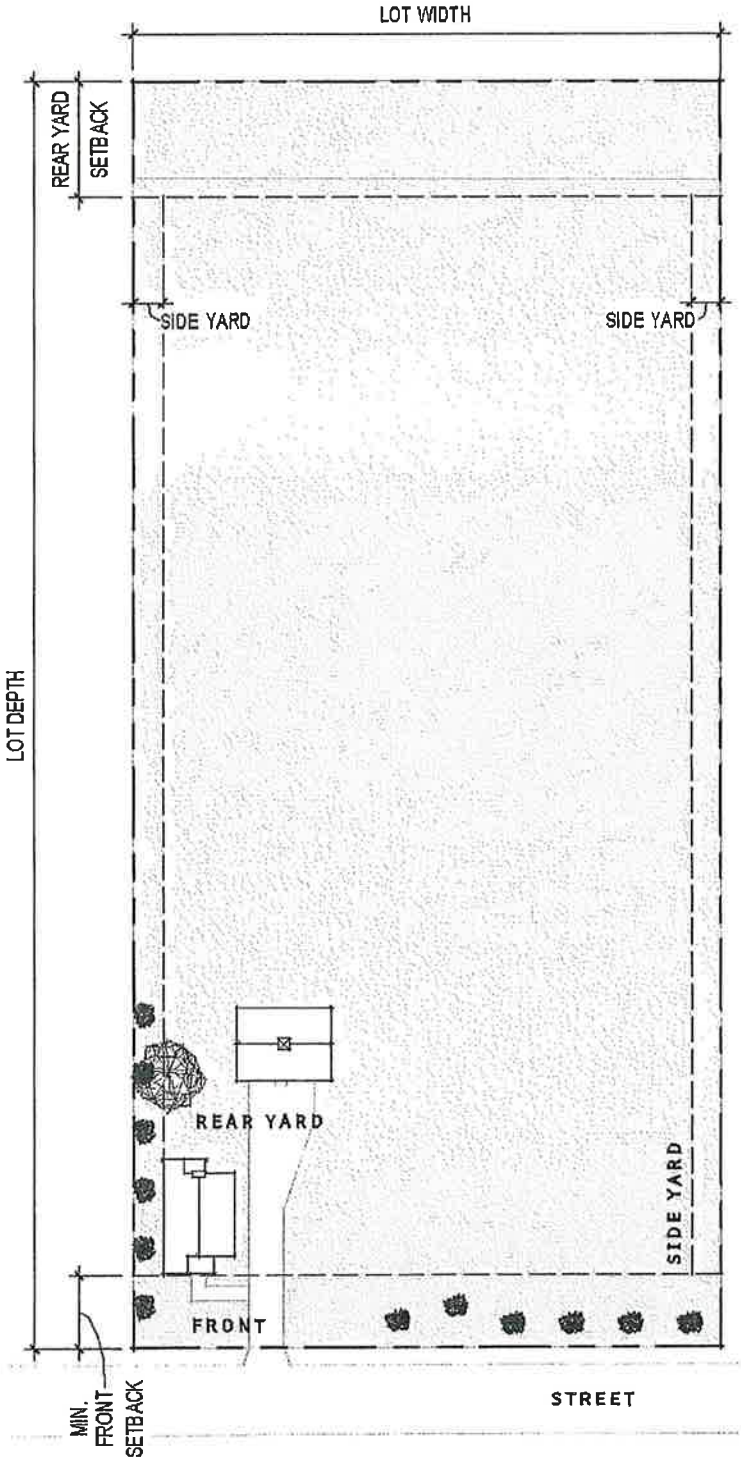



(c) Permitted, Special Exception and Accessory Uses. See Section 1125.02 - Permitted, Special Exception, and Accessory Uses for each District.

(d) Lot Area, Setback, Height, and Lot Coverage Requirements.

| Development Standards | Agriculture |
|---|---|
| **Minimum Lot Size (Acres)** | 2 |
| **Maximum Density (utilize net acres)** | 1 dwelling unit per 2 acres |
| **Minimum Frontage (feet)** | 200<br>35 (Arterial) |
| **Minimum Front Setback (Feet)** | 25 (All other Road) |
| **Maximum Front Setback (Feet)** | N/A |
| **Minimum Side Setback (Feet)** | 10 |
| **Minimum Rear Setback (Feet)** | 40 |
| **Maximum Height (Feet)** | 35 |
| **Maximum Lot Coverage (Percent)** | 35 |
| **Projection into required setback**<br>Cornices, canopies, eaves (roof overhang), fireplaces-chimneys, bay window, porch, stoop, or other similar architectural features may project into a required setback up to two feet. | |
| **Exemptions from required side and rear setbacks**<br>Swimming pools, tennis courts, clotheslines, barbeque pits, playground equipment, portable or permanent dog run, house or kennel and similar structures customary and ancillary to the primary residential use of the property may be placed in a required minimum side or rear setback, but in no case shall such uses be closer than ten (10) feet from a side or rear lot line. | |

(e) Example Lot Layout and Rendering.



(f) General Development Regulations.

| | Applicable | Section Reference | Notes |
|---|---|---|---|
| **Accessory Structures** | Y | Section 1147.02 | Detached Accessory Structures may encroach a side or rear setback but shall be no closer than (ten) 10 feet from the side or rear lot line. Accessory structures shall also comply with all other requirements in Section 1147.02. |
| **Fences** | Y | Section 1147.05 | Fences and walls may be placed in a required minimum setback provided they comply with Section 1147.05 |
| **Landscaping/ Buffering** | Y | Chapter 1141 | Plant material and berms may be placed in any required minimum setback provided they do not constitute a nuisance as provided in the Lancaster Codified Ordinances. |
| **Parking** | Y | Chapter 1143 | Parking must be provided in accordance with Chapter 1143. Parking is prohibited on lawns or other unpaved areas. |
| **Signs** | Y | Chapter 1145 | Signs, provided they comply with Chapter 1145, may be located within a front setback. |

(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1129
# Residential Districts


1129.01 Residential Estate (RE).
1129.02 Residential - Low Density (R-LD).
1129.03 Residential - Medium Density (R-MD).
1129.04 Residential - Mobile Home Community (MHC).
1129.05 Residential - Transitional (RT).
1129.06 Residential - Multi-Unit (RM).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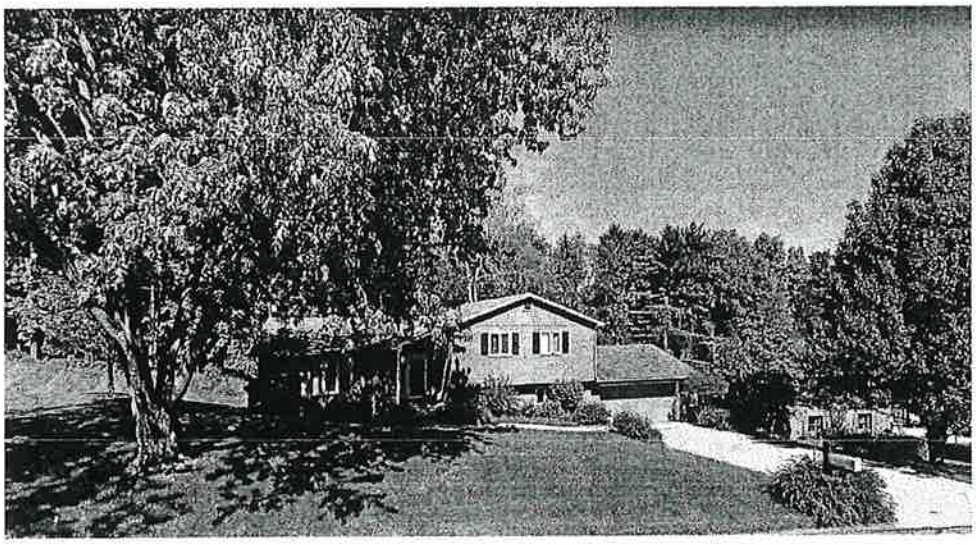
## 1129.01 RESIDENTIAL ESTATE (RE).

(a) Purpose.

- To promote development of one-unit residential dwellings on larger residential lots.
- To allow for typical suburban style residential developments.
- To allow for minimal non-residential uses, such as schools and parks, that are compatible with and maintain the overall residential character of the area and to provide pedestrian connections between such uses.

(b) Target Areas.

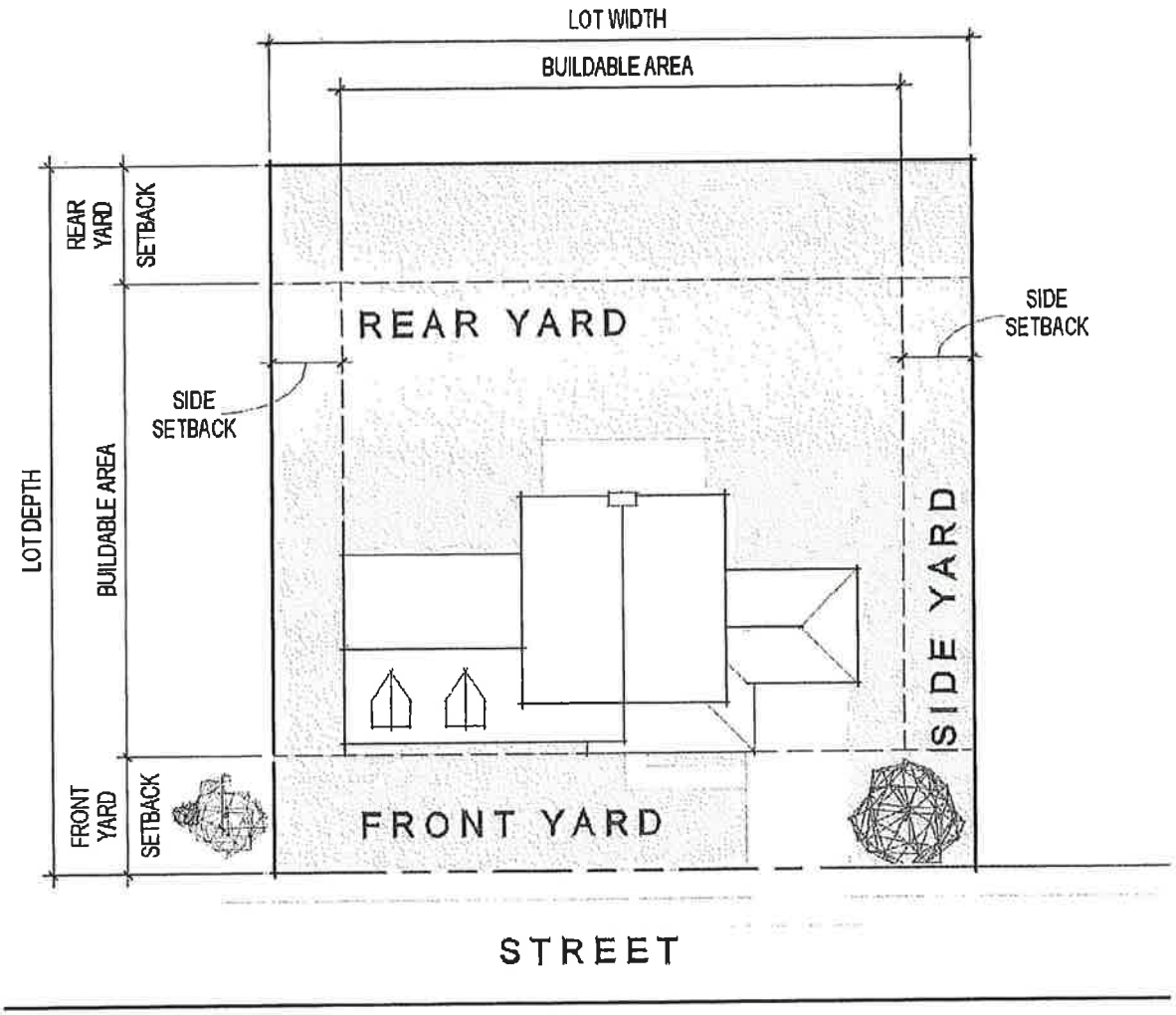


(c) Permitted, Special Exception and Accessory Uses. See Section 1125.02 - Permitted, Special Exception, and Accessory Uses for each District.

(d) Lot Area, Setback, Height, and Lot Coverage Requirements

| Development Standards | Residential Estate |
|---|---|
| **Minimum Lot Size (Sq. Ft.)** | 22,500 |
| **Maximum Density (utilize net acres)** | 1.94 dwelling units/acre |
| **Minimum Frontage (Feet)** | 150 |
| **Minimum Front Setback (Feet)** | 35 |
| **Maximum Front Setback (Feet)** | N/A |
| **Minimum Side Setback (Feet)** | 15 |
| **Minimum Rear Setback (Feet)** | 25 |
| **Maximum Height (Feet)** | 35 |
| **Maximum Lot Coverage (Percent)** | 35 |
| **Projection into required setback**<br>Cornices, canopies, eaves (roof overhang), fireplaces-chimneys, bay window, porch, stoop, or other similar architectural features may project into a required setback up to two (2) feet. | |
| **Exemptions from required side and rear setbacks**<br>Swimming pools, tennis courts, clotheslines, barbeque pits, playground equipment, portable or permanent dog run, house or kennel and similar structures customary and ancillary to the primary residential use of the property may be placed in a required minimum side or rear setback, but in no case shall such uses be closer than ten (10) feet from a side or rear lot line | |

(e) Example Lot Layout and Rendering.



(f) General Development Regulations.

| | Applicable | Section Reference | Notes |
|---|---|---|---|
| **Accessory Structures** | Y | Section 1147.02 | Detached Accessory Structures may encroach a side or rear setback but shall be no closer than ten (10) feet from the side or rear lot line. Accessory structures shall also comply with all other requirements in Section 1147.02. |
| **Fences** | Y | Section 1147.05 | Fences and walls may be placed in a required minimum setback provided they comply with Section 1147.05 |
| **Landscaping/ Buffering** | Y | Chapter 1141 | Plant material and berms may be placed in any required minimum setback provided they do not constitute a nuisance as provided in the Lancaster Codified Ordinances. |
| **Parking** | Y | Chapter 1143 | Parking must be provided in accordance with Chapter 1143. Parking is prohibited on lawns or other unpaved areas. |
| **Signs** | Y | Chapter 1145 | Signs, provided they comply with Chapter 1145, may be located within a front setback. |

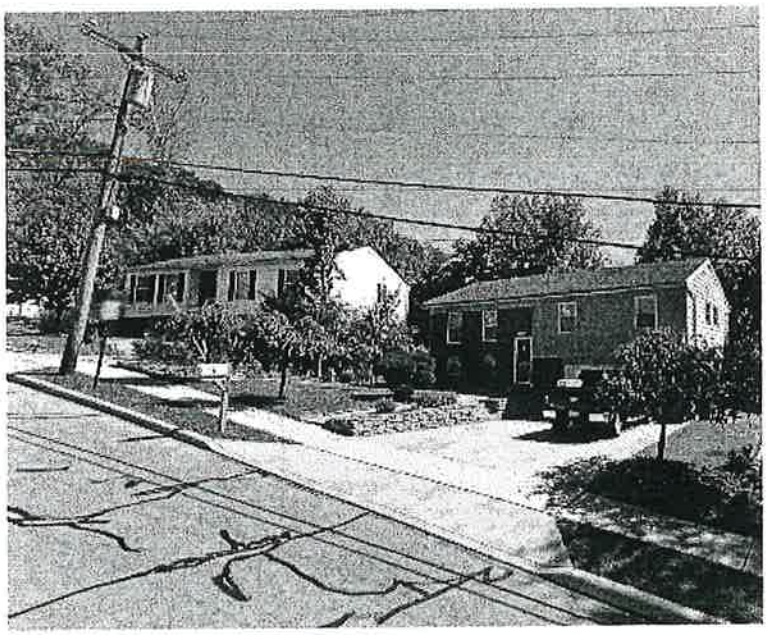
(Ord. 15-23. Passed 8-14-23.)

## 1129.02 RESIDENTIAL - LOW DENSITY (R-LD).

(a) Purpose.

- To allow for typical suburban style residential developments in a Low-density setting.
- To allow for minimal non-residential uses, such as schools and parks, that are compatible with and maintain the overall residential character of the area and to provide for pedestrian connections between such uses.

(b) Target Areas.

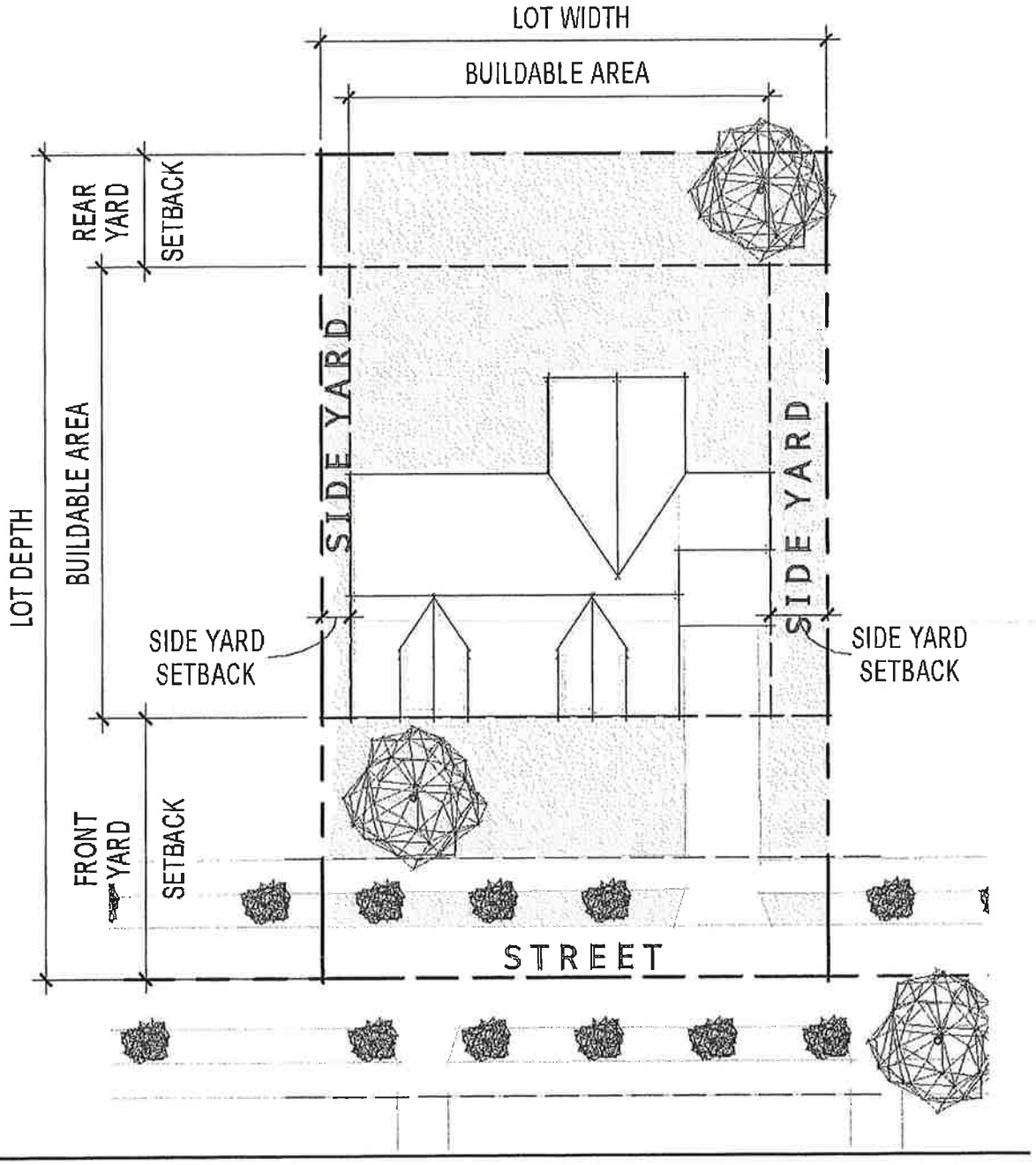


(c) Permitted, Special Exception, and Accessory Uses. See Section 1125.02 - Permitted, Special Exception, and Accessory Uses for each District.

(d) Lot Area, Setback, Height, and Lot Coverage Requirements.

| Development Standards | Residential - Low Density |
|---|---|
| **Minimum Lot Size (Sq. Ft.)** | 9,500 |
| **Maximum Density (utilize net acres)** | 4.56 dwelling units/acre |
| **Minimum Frontage (Feet)** | 70 |
| **Minimum Front Setback (Feet)** | 35 (for all roads) |
| **Maximum Front Setback (Feet)** | N/A |
| **Minimum Side Setback (Feet) (One side may be reduced to 5 feet)** | 10 |
| **Minimum Rear Setback (Feet)** | 25 |
| **Maximum Height (Feet)** | 35 |
| **Maximum Lot Coverage (Percent)** | 35 |
| **Projection into required setback** Cornices, canopies, eaves (roof overhang), fireplaces-chimneys, bay window, porch, stoop, or other similar architectural features may project into a required setback up to two (2) feet. | |
| **Exemptions from required side and rear setbacks** Swimming pools, tennis courts, clotheslines, barbeque pits, playground equipment, portable or permanent dog run, house or kennel and similar structures customary and ancillary to the primary residential use of the property may be placed in a required minimum side or rear setback, but in no case shall such uses be closer than ten (10) feet from a side or rear lot line | |

(e) Example Lot Layiut and Rendering.



(f) General Development Regulations.

| | Applicable | Section Reference | Notes |
|---|---|---|---|
| **Accessory Structures** | Y | Section 1147.02 | Detached Accessory Structures may encroach a side or rear setback but shall be no closer than ten (10) feet from the side or rear lot line. Accessory structures shall also comply with all other requirements in Section 1147.02. |
| **Fences** | Y | Section 1147.05 | Fences and walls may be placed in a required minimum setback provided they comply with Section 1147.05. |
| **Landscaping/ Buffering** | Y | Chapter 1141 | Plant material and berms may be placed in any required minimum setback provided they do not constitute a nuisance as provided in the Lancaster Codified Ordinances. |
| **Parking** | Y | Chapter 1143 | Parking must be provided in accordance with Chapter 1143. Parking is prohibited on lawns or other unpaved areas. |
| **Signs** | Y | Chapter 1145 | Signs, provided they comply with Chapter 1145, may be located within a front setback. |

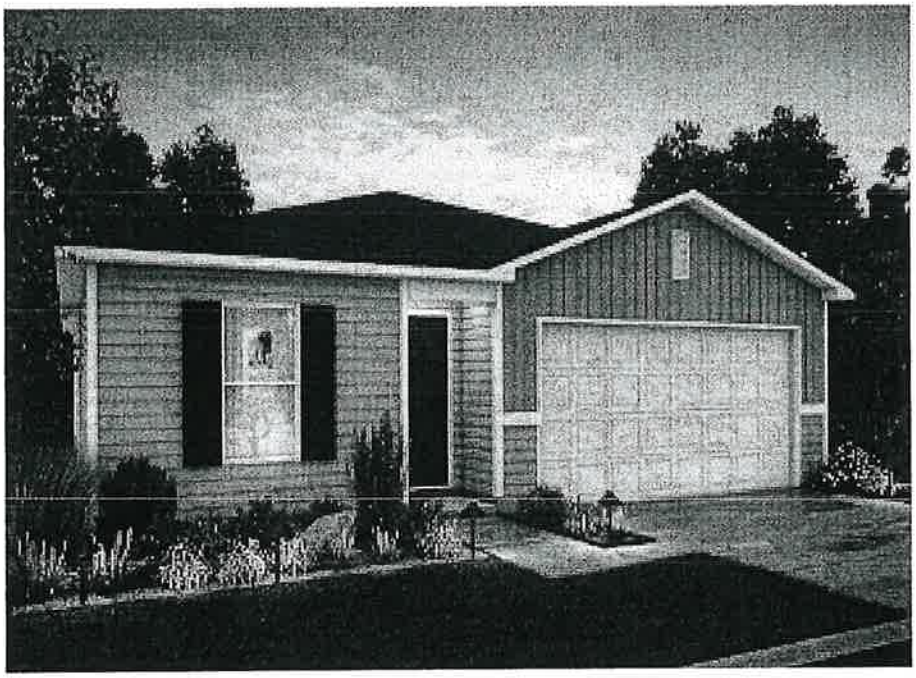
(Ord. 15-23. Passed 8-14-23.)

**1129.03 RESIDENTIAL - MEDIUM DENSITY (R-MD).**

(a) Purpose.

- To promote redevelopment of one-unit residential dwellings on moderately sized lots where off-street parking may or may not be provided.
- To promote new residential development on moderately sized lots with off-street parking.
- To accommodate the growing trend of patio homes and other similar products.
- To allow for minimal non-residential uses, such as schools and parks, that are compatible with and maintain the overall residential character of the area and to provide pedestrian connections between such uses.

(b) Target Areas.

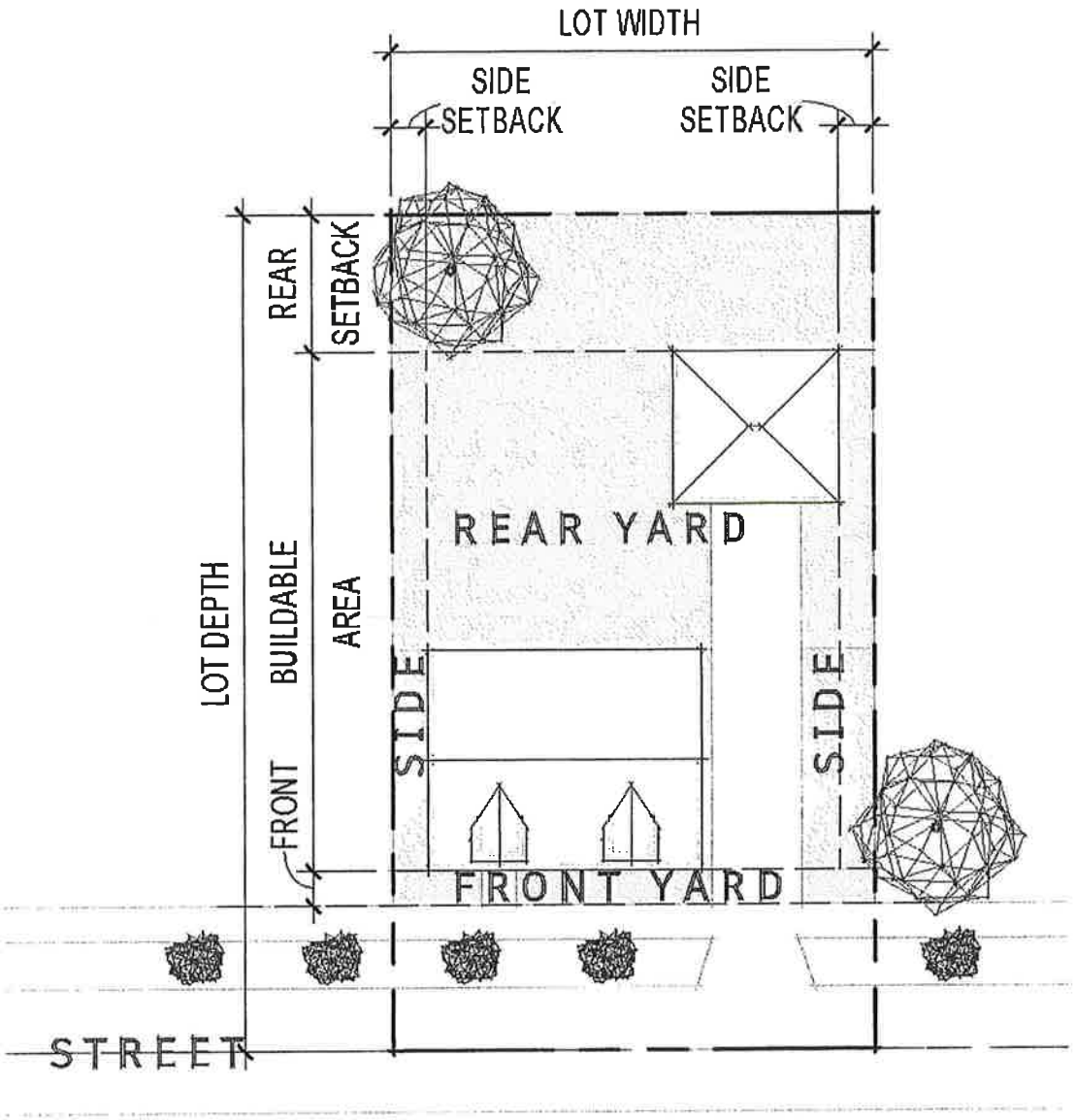


(c) Permitted, Special Exception, and Accessory Uses. See Section 1125.02 - Permitted, Special Exception, and Accessory Uses for each District.

(d) Lot Area, Setback, Height, and Lot Coverage Requirements.

| Development Standards | Residential - Medium Density |
|---|---|
| **Minimum Lot Size (Sq. Ft.)** | 5,000 |
| **Maximum Density (utilize net acres)** | 8.71 dwelling units/acre |
| **Minimum Frontage (feet)** | 50 |
| **Minimum Front Setback (Feet)** | 35 (arterial roadways)<br>25 (All other roadways) |
| **Maximum Front Setback (feet)** | N/A |
| **Minimum Side Setback (Feet)** | 5 |
| **Minimum Rear Setback (Feet)** | 20 |
| **Maximum Height (Feet)** | 35 |
| **Maximum Lot Coverage (Percent)** | 35 |
| **Projection into required setback**<br>Cornices, canopies, eaves (roof overhang), fireplaces-chimneys, bay window, porch, stoop, or other similar architectural features may project into a required setback up to two (2) feet. | |
| **Exemptions from required side and rear setbacks**<br>Swimming pools, tennis courts, clotheslines, barbeque pits, playground equipment, portable or permanent dog run, house or kennel and similar structures customary and ancillary to the primary residential use of the property may be placed in a required minimum side or rear setback, but in no case shall such uses be closer than ten (10) feet from a side or rear lot line | |

(e) Example Lot Layout and Rendering.



(f) General Development Regulations.

| | Applicable | Section Reference | Notes |
|---|---|---|---|
| **Accessory Structures** | Y | Section 1147.02 | Detached Accessory Structures may encroach a side or rear setback but shall be no closer than five (5) feet from the side or rear lot line. Accessory structures shall also comply with all other requirements in Section 1147.02. |
| **Fences** | Y | Section 1147.05 | Fences and walls may be placed in a required minimum setback provided they comply with Section 1147.05. |
| **Landscaping/ Buffering** | Y | Chapter 1141 | Plant material and berms may be placed in any required minimum setback provided they do not constitute a nuisance as provided in the Lancaster Codified Ordinances. |
| **Parking** | Y | Chapter 1143 | Parking must be provided in accordance with Chapter 1143. Parking is prohibited on lawns or other unpaved areas. |
| **Signs** | Y | Chapter 1145 | Signs, provided they comply with Chapter 1145, may be located within front setback. |

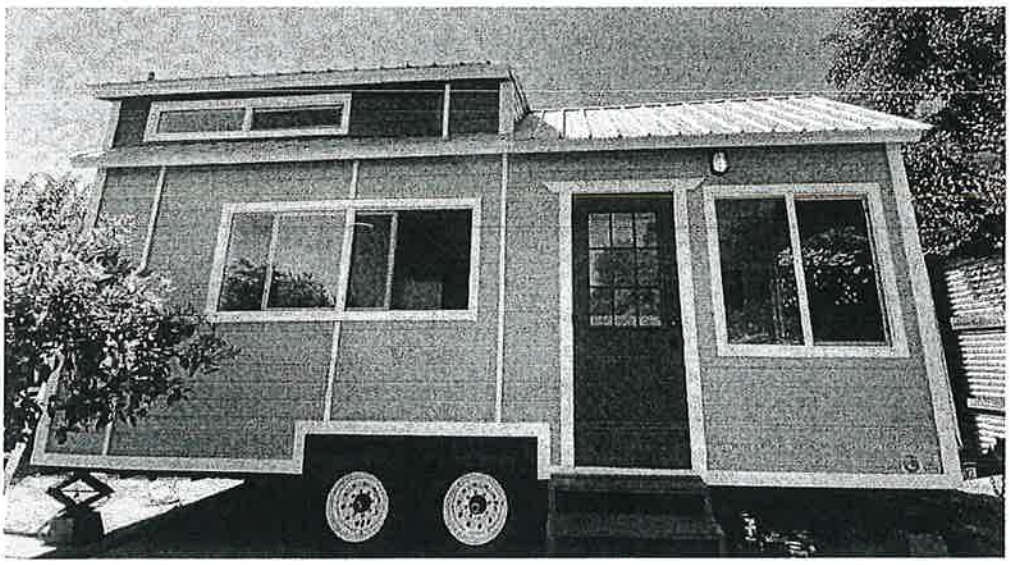
(Ord. 15-23. Passed 8-14-23.)

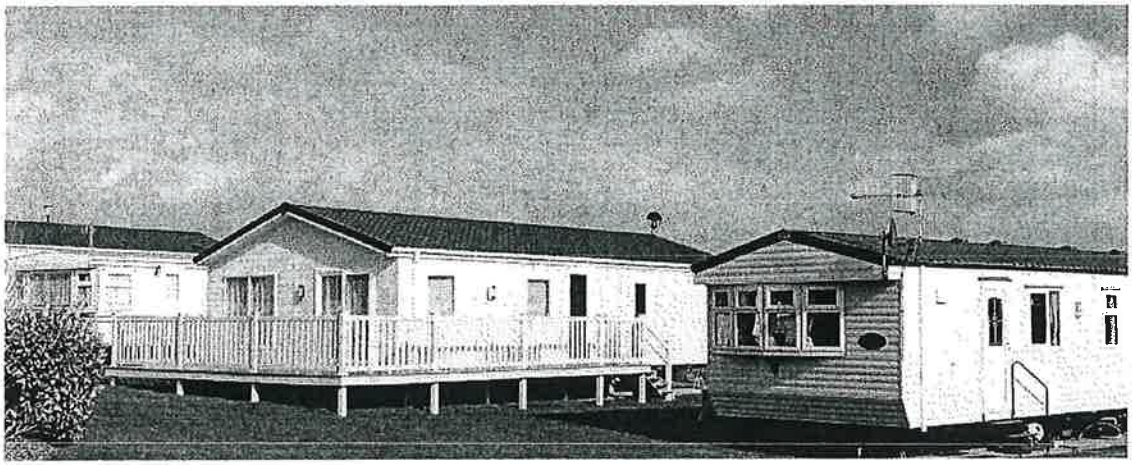
## 1129.04 RESIDENTIAL - MOBILE HOME COMMUNITY (MHC).

(a) Purpose.

- To provide areas for mobile homes and tiny homes to enable a desirable residential environment, protected from adverse neighboring influences, with adequate access for vehicular traffic and circulation.
- To limit excessive vehicular traffic on streets in adjoining neighborhoods by providing pedestrian connections.
- To provide overall desirability equivalent to that for other forms of residential development.

(b) Target Areas.



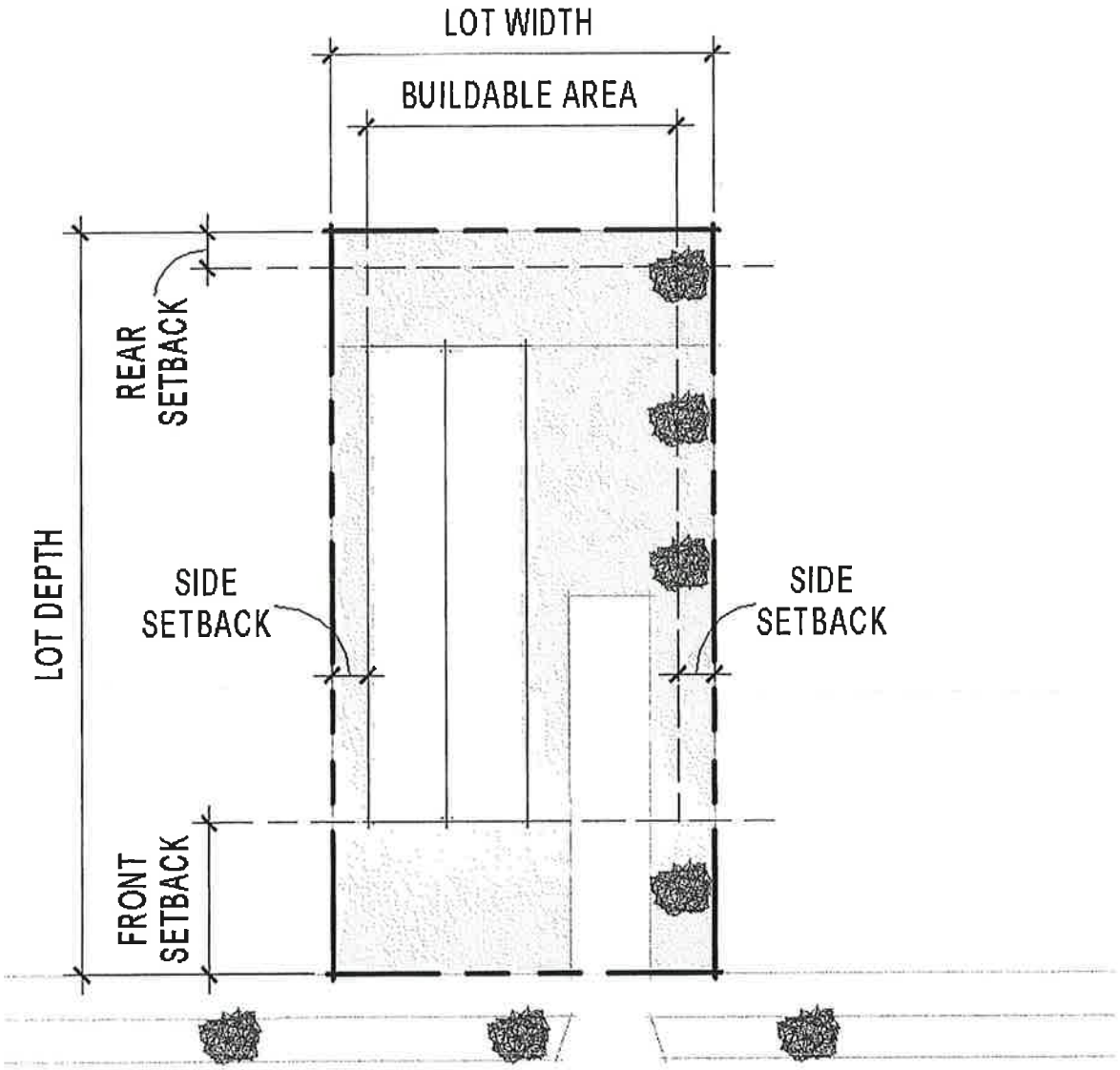


(c) Permitted, Special Exception, and Accessory Uses. See Section 1125.02 - Permitted, Special Exception, and Accessory Uses for each District.

(d) Lot Area, Setback, Height, and Lot Coverage Requirements.

| Development Standards | Mobile Home Community (MHC) |
|---|---|
| **Minimum Tract Size** | 5 acres |
| **Minimum Tract Width (Feet)** | 200 |
| **Minimum Lot Frontage (Feet)** | 40 |
| **Minimum Lot Size (Sq. Ft.)** | 3,600 |
| **Minimum Front Setback (Feet)** | 25 from Arterial or Collector<br>10 from internal private roads |
| **Minimum Side Setback (Feet)** | 5 |
| **Minimum Rear Setback (Feet)** | 10 |
| **Maximum Height (Feet)** | 25 |
| **Maximum Lot Coverage (Percent)** | 45 |
| **Projection into required setback**<br>Projection into required setback<br>Cornices, canopies, eaves (roof overhang), fireplaces-chimneys, bay window, porch, stoop, or other similar architectural features may project into a required setback up to two feet. | |
| **Exemptions from required side and rear setbacks**<br>Exemptions from required side and rear setbacks Swimming pools, tennis courts, clotheslines, barbeque pits, playground equipment, portable or permanent dog run, house or kennel and similar structures customary and ancillary to the primary residential use of the property may be placed in a required minimum side or rear setback, but in no case shall such uses be closer than five (5) feet from a side or rear lot line.<br>A minimum of six (6) percent of the total gross tract area shall be provided as common open space and facilities including trails, playgrounds, community buildings or tot lots. | |

(e) Example Lot Layout and Rendering.



(f) General Development Regulations.

| | Applicable | Section Reference | Notes |
|---|---|---|---|
| **Accessory Structures** | Y | Section 1147.02 | Detached Accessory Structures may encroach a side or rear setback but shall be no closer than five (5) feet from the side or rear lot line. Accessory structures shall also comply with all other requirements in Section 1147.02. |
| **Fences** | Y | Section 1147.05 | Fences and walls may be placed in a required minimum setback provided they comply with Section 1147.05. |
| **Landscaping/ Buffering** | Y | Chapter 1141 | Plant material and berms may be placed in any required minimum setback provided they do not constitute a nuisance as provided in the Lancaster Codified Ordinances. |
| **Parking** | Y | Chapter 1143 | Parking must be provided in accordance with Chapter 1143. Parking is prohibited on lawns or other unpaved areas. |
| **Signs** | Y | Chapter 1145 | Signs, provided they comply with Chapter 1145, may be located within any front setback. |

(Ord. 15-23. Passed 8-14-23.)

## 1129.05 RESIDENTIAL - TRANSITIONAL (RT).

(a) Purpose.

- To provide for a variety of housing options including one-unit dwellings, duplexes, triplexes, and traditional row houses integrated with small residential scale retail and office uses with pedestrian connections between such uses.
- To foster reinvestment into vacant and/or deteriorating commercial structures integrated into existing residential areas.
- To promote a walkable community by creating pedestrian connections between the various uses.
- To encourage residential infill development on existing, narrow lots.
- To increase the housing supply and enhance streetscapes by redeveloping vacant properties and promote housing options on small lots.

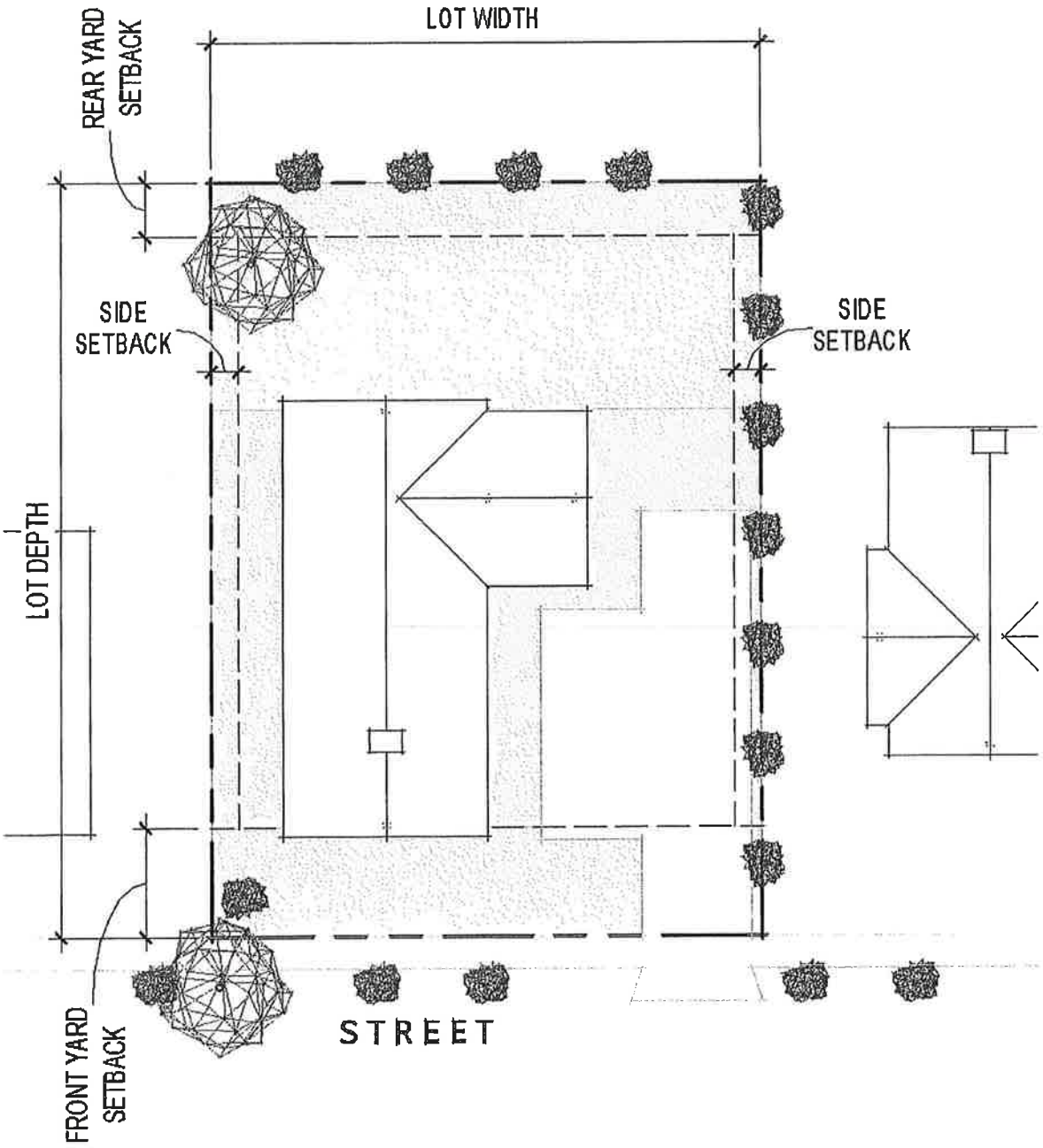
(b) Target Areas.

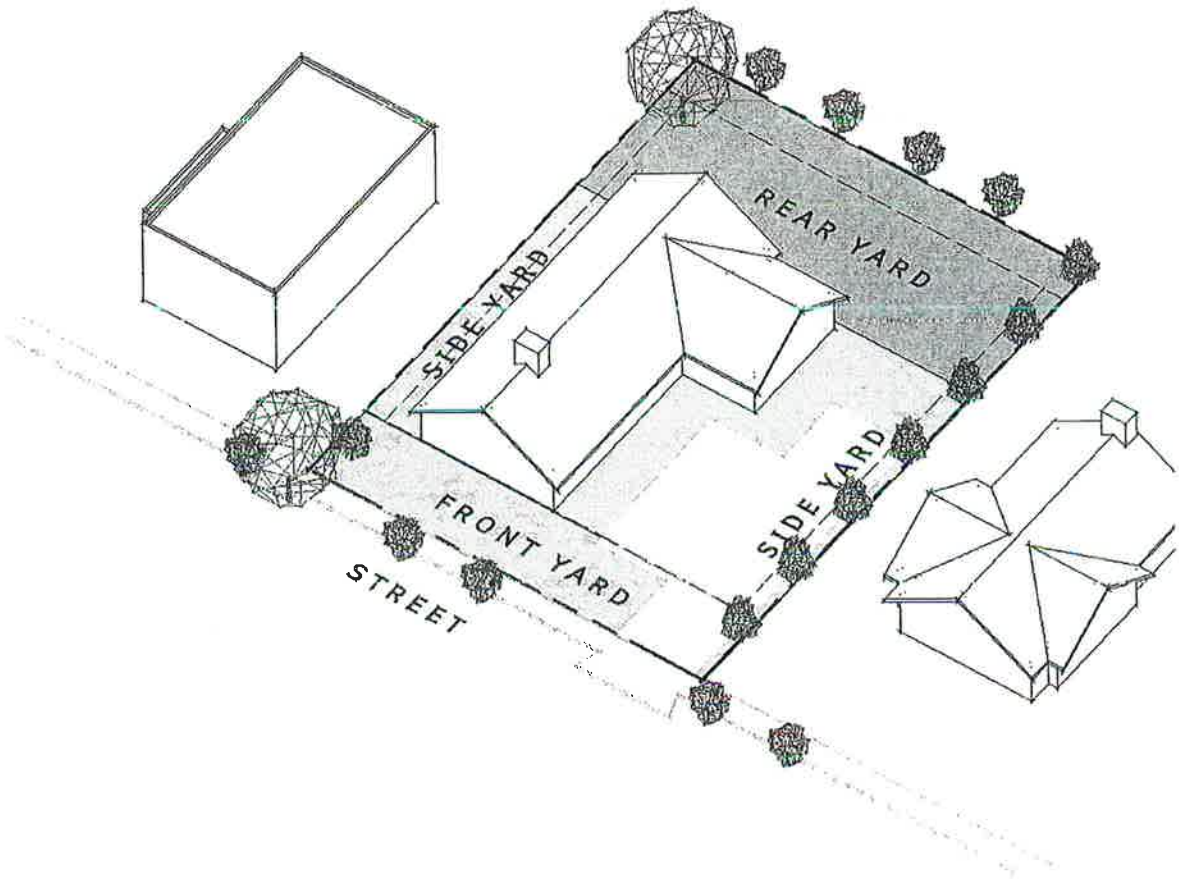
(c) Permitted, Special Exception, and Accessory Uses. See Section 1125.02 - Permitted, Special Exception, and Accessory Uses for each District.

(d) Lot Area, Setback, Height, and Lot Coverage Requirements.

| Development Standards | Residential - Transitional |
|---|---|
| **Minimum Lot Size (Sq. Ft.)** | 3,600 |
| **Maximum Density (utilize net acres)** | 12 units/acre |
| **Minimum Frontage (feet)** | 40 |
| **Minimum Front Setback (Feet) Arterial Roadway** | 20 |
| **Minimum Front Setback (Feet) All other roadways** | No minimum - Utilize average front setback as defined in Chapter 1161 |
| **Maximum Front Setback (Feet)** | 35 |
| **Minimum Side Setback (Feet)** | 5 |
| **Minimum Rear Setback (Feet)** | 15 |
| **Maximum Height (Feet)** | 35 |
| **Maximum Lot Coverage (Percent)** | 45 |
| **Projection into required setback**<br>Cornices, canopies, eaves (roof overhang), fireplaces-chimneys, bay window, porch, stoop, or other similar architectural features may project into a required setback up to two feet. | |
| **Exemptions from required side and rear setbacks**<br>Swimming pools, tennis courts, clotheslines, barbeque pits, playground equipment, portable or permanent dog run, house or kennel and similar structures customary and ancillary to the primary residential use of the property may be placed in a required minimum side or rear setback, but in no case shall such uses be closer than five (5) feet from a side or rear lot line. | |

(e) Example Lot Layout and Rendering.




REAR YARD
SIDE YARD
SIDE YARD
FRONT YARD
STREET

(f) General Development Regulations.

| | Applicable | Section Reference | Notes |
|---|---|---|---|
| **Accessory Structures** | Y | Section 1147.02 | Detached Accessory Structures may encroach a side or rear setback but shall be no closer than five (5) feet from the side or rear lot line. Accessory structures shall also comply with all other requirements in Section 1147.02. |
| **Fences** | Y | Section 1147.05 | Fences and walls may be placed in a required minimum setback provided they comply with Section 1147.05. |
| **Landscaping/ Buffering** | Y | Chapter 1141 | Plant material and berms may be placed in any required minimum setback provided they do not constitute a nuisance as provided in the Lancaster Codified Ordinances. |
| **Parking** | Y | Chapter 1143 | Parking must be provided in accordance with Section Chapter 1143. Parking for multi-unit buildings should be placed to the side or rear of the principal structure. Parking is prohibited on lawns or other unpaved areas. |
| **Signs** | Y | Chapter 1145 | Signs, provided they comply with Section Chapter 1145, may be located within a front setback. |

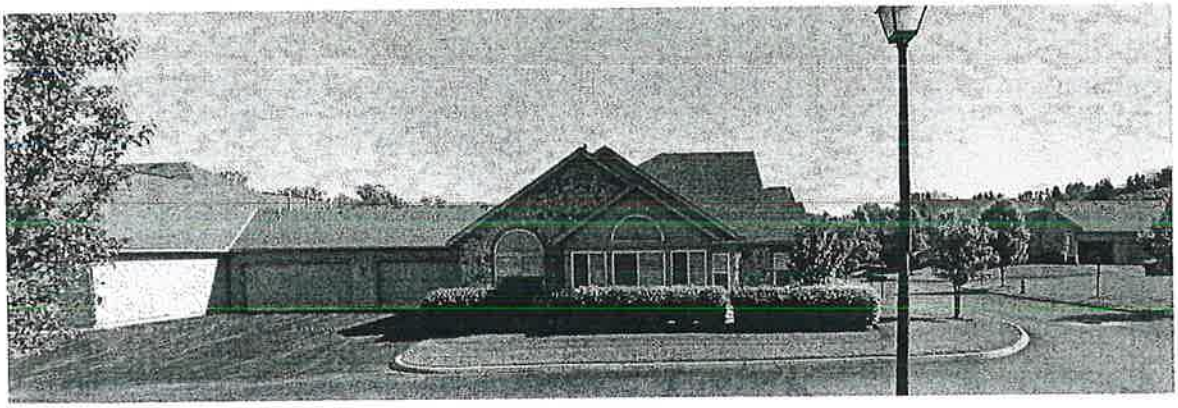
(Ord. 15-23. Passed 8-14-23.)

## 1129.06 RESIDENTIAL - MULTI-UNIT (RM).

(a) Purpose.

- To provide for larger, denser multi-unit developments which include apartment complexes, condominiums, triplexes, and townhomes.
- To allow for a broad spectrum of housing choices including senior housing options to accommodate the aging population.
- To provide workforce housing to serve the employees of industries within and adjacent to the City of Lancaster.
- To create walkability within these developments and create pedestrian connections to adjacent areas.

(b) Target Areas.

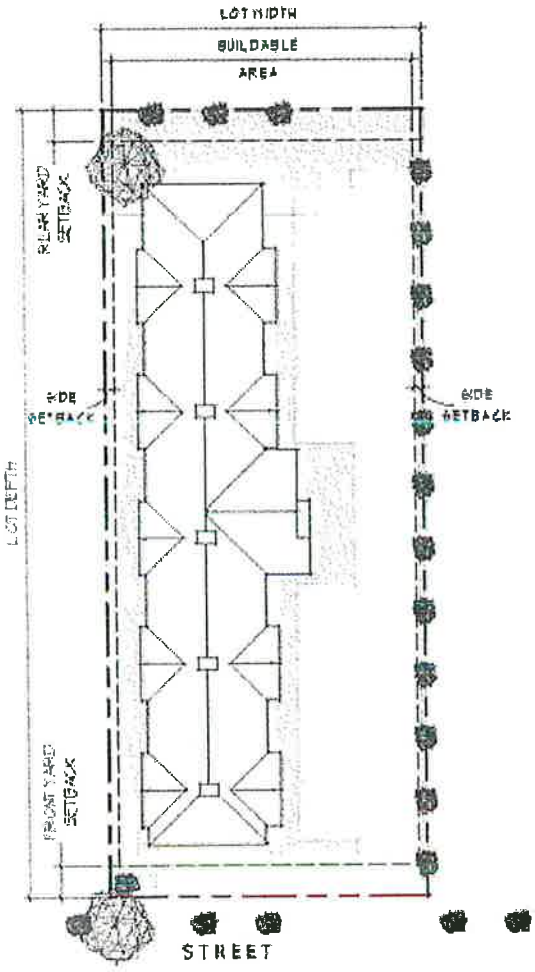


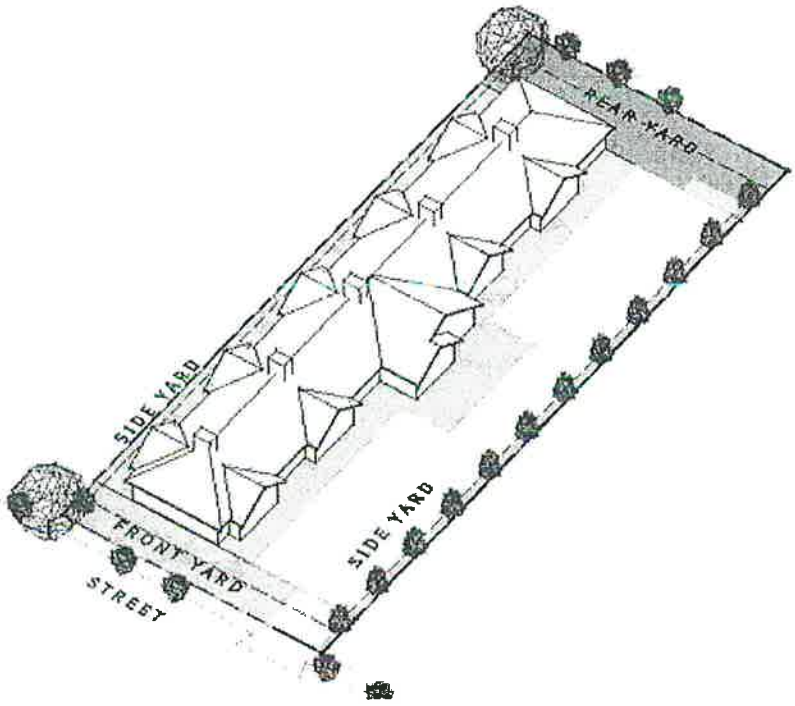
(c) Permitted, Special Exception, and Accessory Uses. See Section 1125.02 - Permitted, Special Exception, and Accessory Uses for each District.

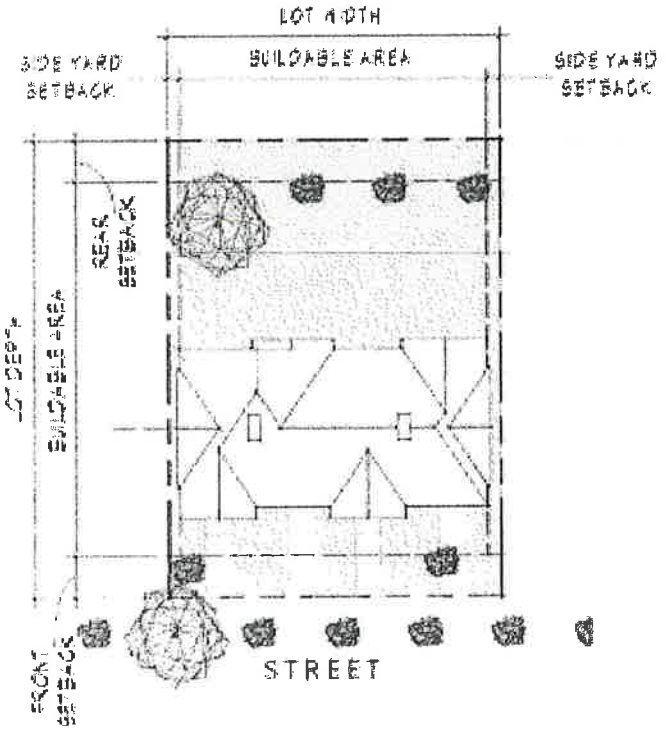
(d) Lot Area, Setback, Height, and Lot Coverage Requirements.

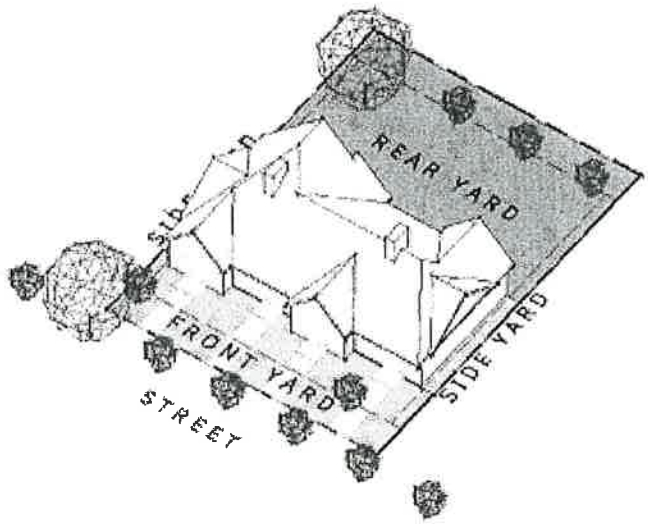
| Development Standards | Residential -Multi-Unit |
|---|---|
| **Minimum Lot Size (Sq. Ft.)** | One Unit Dwelling Lot = 3,600<br>All other dwelling units = 2,500 per unit<br>Non-Residential Buildings = 4,000 |
| **Maximum Density (utilize net acres)** | 17.42 units/acre |
| **Minimum Frontage (Feet)** | Multi-Unit Dwellings and Non-Residential Buildings = 80<br>One Unit Dwelling, Duplexes and Triplexes = 50 |
| **Minimum Front Setback (Feet)** | 35 (Public Arterial, Collector, and Local Roads)<br>10 (Internal Private Roads) |
| **Maximum Front Setback (Feet)** | N/A |
| **Minimum Side Setback (Feet)** | One Unit Dwelling = 5<br>Duplexes = 5<br>Triplexes = 5<br>Multi-Unit Dwellings = 1' setback per 1' of building height;<br>Non-Residential Buildings = 1' setback per 1' of building height |
| **Minimum Rear Setback (Feet)** | One Unit Dwelling = 15<br>Duplexes =15<br>Triplexes = 15<br>Multi-Unit Dwellings = 1' setback per 1' of building height<br>Non-Residential Buildings = 1' setback per 1' building height |
| **Maximum Height (Feet)** | 50 |
| **Maximum Lot Coverage (Percent)** | 80 |
| **Projection into required setback**<br>Cornices, canopies, eaves (roof overhang), fireplaces-chimneys, bay window, porch, stoop, or other similar architectural features may project into a required setback up to two feet. | |
| **Exemptions from required side and rear setbacks**<br>Swimming pools, tennis courts, clotheslines, barbeque pits, playground equipment, portable or permanent dog run, house or kennel and similar structures customary and ancillary to the primary residential use of the property may be placed in a required minimum side or rear setback, but in no case shall such uses be closer than five (5) feet from a side or rear lot line. | |

(e) Example Lot Layout and Rendering.




LOT WIDTH
BUILDABLE AREA
SIDE YARD SETBACK
SIDE YARD SETBACK
REAR SETBACK
BUILDABLE AREA
FRONT SETBACK
STREET


REAR YARD
FRONT YARD
STREET
SIDE YARD

(f) General Development Regulations.

| | Applicable | Section Reference | Notes |
|---|---|---|---|
| **Accessory Structures** | Y | Section 1147.02 | Detached Accessory Structures may encroach a side or rear setback but shall be no closer than five (5) feet from the side or rear lot line. Accessory structures shall also comply with all other requirements in Section 1147.02. |
| **Fences** | Y | Section 1147.05 | Fences and walls may be placed in a required minimum setback provided they comply with Section 1147.05. |
| **Landscaping/ Buffering** | Y | Chapter 1141 | Plant material and berms may be placed in any required minimum setback provided they do not constitute a nuisance as provided in the Lancaster Codified Ordinances. |
| **Parking** | Y | Chapter 1143 | Parking must be provided in accordance with Chapter 1143. Parking for multi-unit buildings should be placed to the side or rear of the principal structure. Parking is prohibited on lawns or other unpaved areas. |
| **Signs** | Y | Chapter 1145 | Signs, provided they comply with Chapter 1145, may be located within any front setback. |

(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1133
# Commercial Districts

**1133.01 Central Business District (CBD).**
**1133.02 Commercial - Neighborhood (CN).**
**1133.03 Commercial - General (CG).**

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## 1133.01 CENTRAL BUSINESS DISTRICT (CBD).

(a) Purpose.

- To promote and foster the economic and physical revitalization of the historic downtown of the City of Lancaster.
- To recognize the unique physical characteristics of the area and preserve the historic mixed use, character, and pedestrian focus of the City.
- To continue to promote a mixture of uses, to support entrepreneurship and start-up businesses.
- To encourage walkability by creating pedestrian connections between these mixed uses.
- To encourage investment in and adaptive reuse of existing structures.

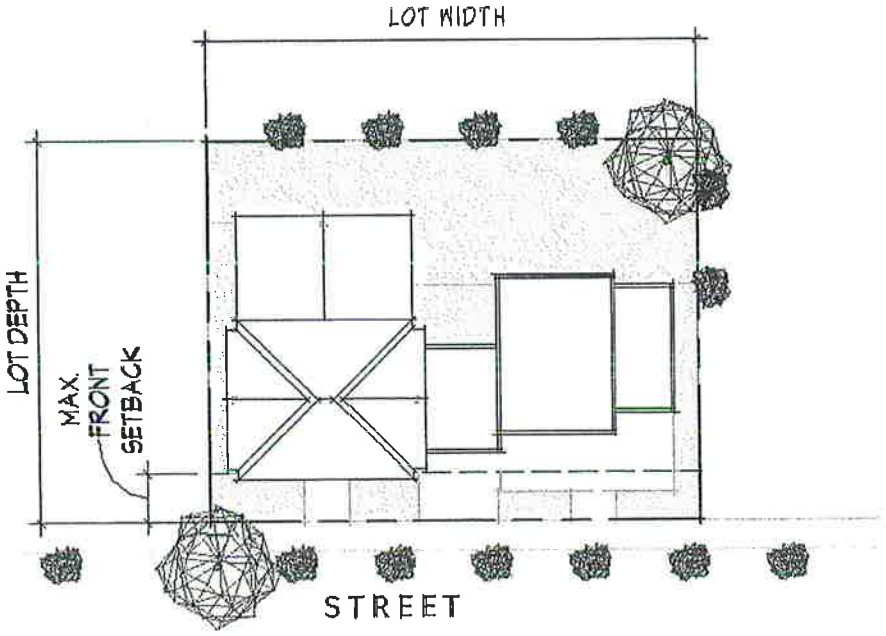
(b) Target Areas.

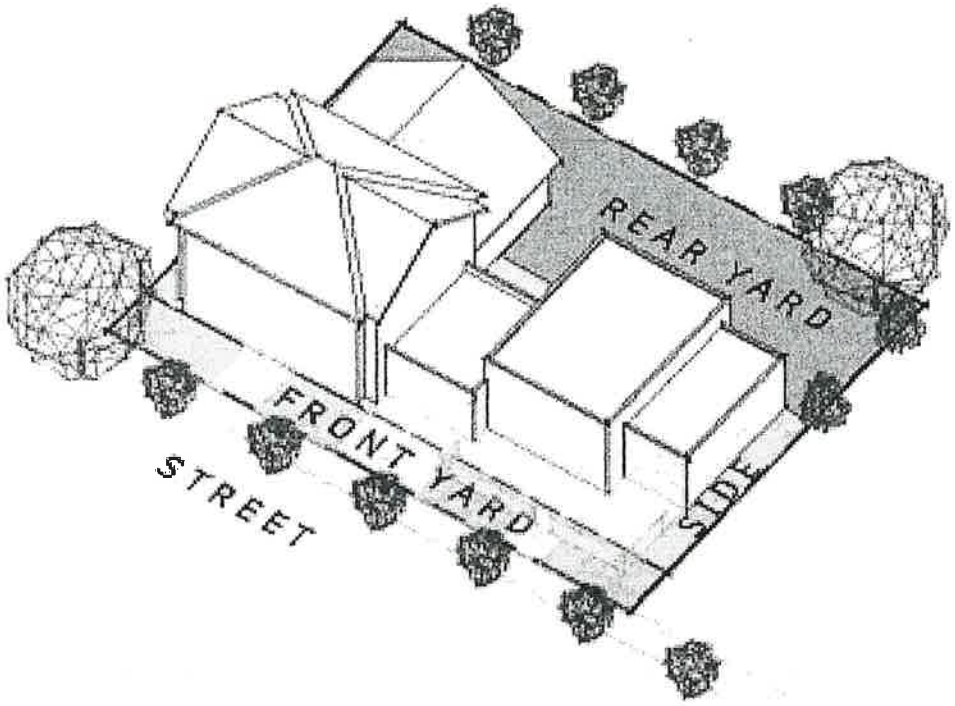
(c) Permitted, Special Exception, and Accessory Uses. See Section 1125.03 - Permitted, Special Exception, and Accessory Uses for each District.

(d) Lot Area, Setback, Height, and Lot Coverage Requirements.

| Development Standards | Central Business District |
|---|---|
| **Minimum Lot Size (Sq. Ft.)** | None |
| **Minimum Frontage** | None |
| **Minimum Front Setback** | None, except when the proposed structure is located between two existing structures on adjacent lots, then utilize average front setback as defined in Chapter 1161. |
| **Maximum Front Setback** | Ten (10), except however, up to fifty (50) percent of a building's façade may be setback more than the required maximum front setback, if the required public gathering space is located in front of this portion of the building. In such cases, a decorative wall or fence shall be installed in front of the public gathering space to help enhance the overall streetscape. |
| **Minimum Side Setback** | None |
| **Minimum Rear Setback** | None |
| **Residential Density** | 30 units/acre |
| **Parking in front of Principal Building** | Prohibited |
| **Maximum Height** | Seventy-five (75), except however, mechanical equipment and/or ventilation systems may extend up to ten feet above the height of the building. Said mechanical equipment/ventilation systems must be screened from view by parapet walls, mansard roofs or other screening material approved by the City Planner or designee, provided said material has one hundred (100) percent opacity year-round. |
| **Minimum amount of private gathering spaces for residential units (Patio/Balcony)** | 50 sq. ft. per unit |
| **Public Open/Gathering Space (may include plazas, public patios, outdoor dining areas, courtyards, or common rooftop garden areas)** | 5% of gross square footage of all buildings |
| | |

(e) Example Lot Layout and Rendering.




REAR YARD
FRONT YARD
STREET
SIDE

(f) General Development Regulations.

| | Applicable | Section Reference | Notes |
|---|---|---|---|
| **Accessory Structures** | Y | Section 1147.02 | Detached Accessory Structures may encroach a side or rear setback but shall be no closer than five (5) feet from the side or rear lot line. Accessory structures shall also comply with all other requirements in Section 1147.02. |
| **Fences** | Y | Section 1147.05 | Fences and walls may be placed in a required minimum setback provided they comply with Section 1147.05. |
| **Landscaping/ Buffering** | Y | Chapter 1141 | Plant material and berms may be placed between the minimum and maximum setbacks provided they do not constitute a nuisance as provided in the Lancaster Codified Ordinances. |
| **Parking** | Y | Chapter 1143 | Parking must be provided in accordance with Chapter 1143. Parking is prohibited in front of the principal structure. Parking may encroach a side or rear setback provided the parking is no closer than five feet from said lot line. |
| **Signs** | Y | Chapter 1145 | Signs, provided they comply with Section Chapter 1145. Blade signs may encroach the public right-of-way when approved by the City Engineer. |

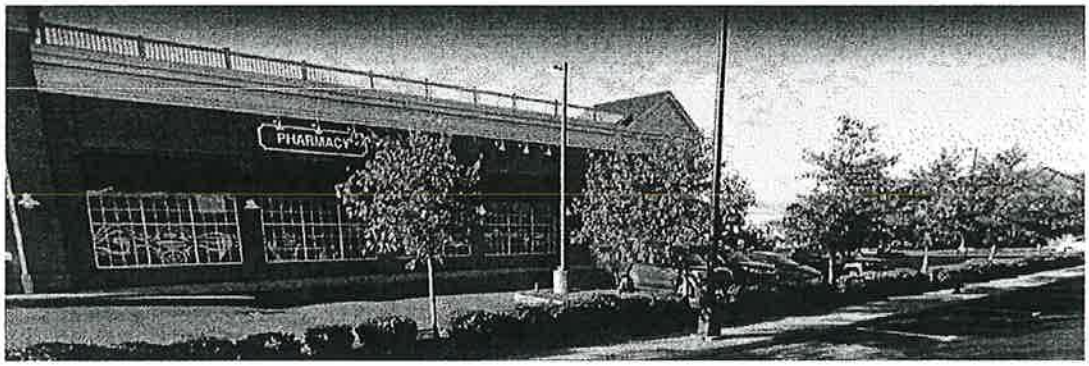
(Ord. 15-23. Passed 8-14-23.)

**1133.02 COMMERCIAL - NEIGHBORHOOD (CN).**

(a) Purpose.

- To promote small scale commercial and office uses that serve the daily needs of the adjacent nearby residential uses.
- Designed to accommodate both vehicular and pedestrian access with proper connections to adjoining residential neighborhoods.

(b) Target Areas.

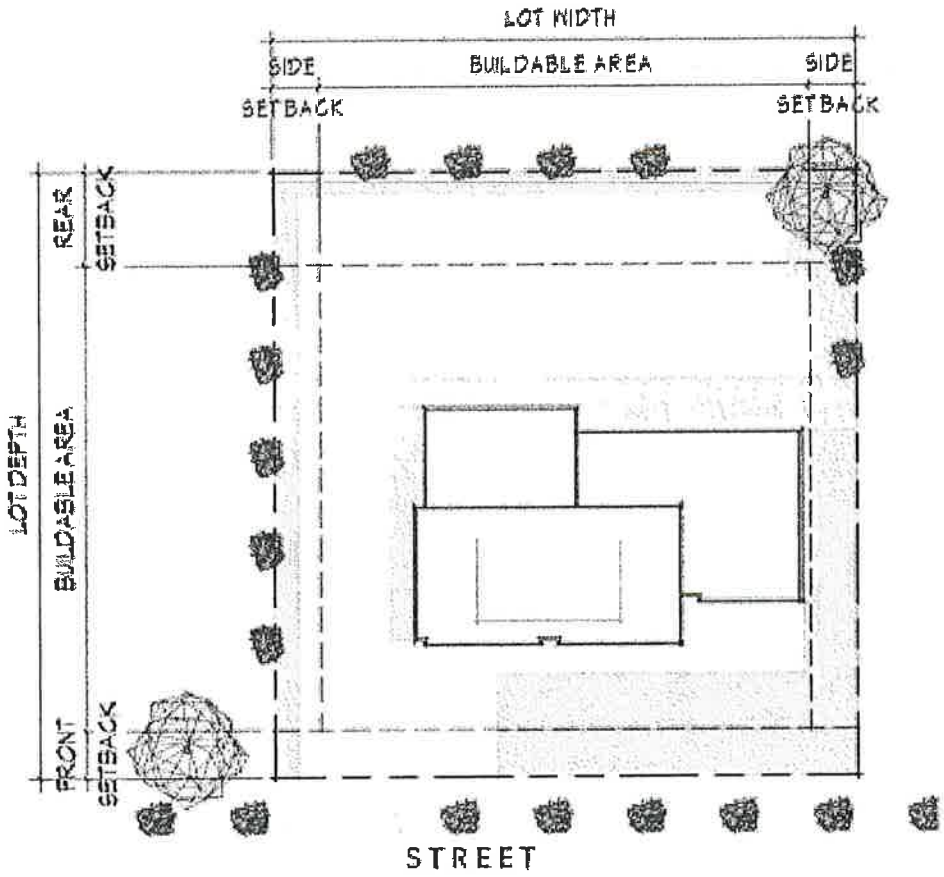


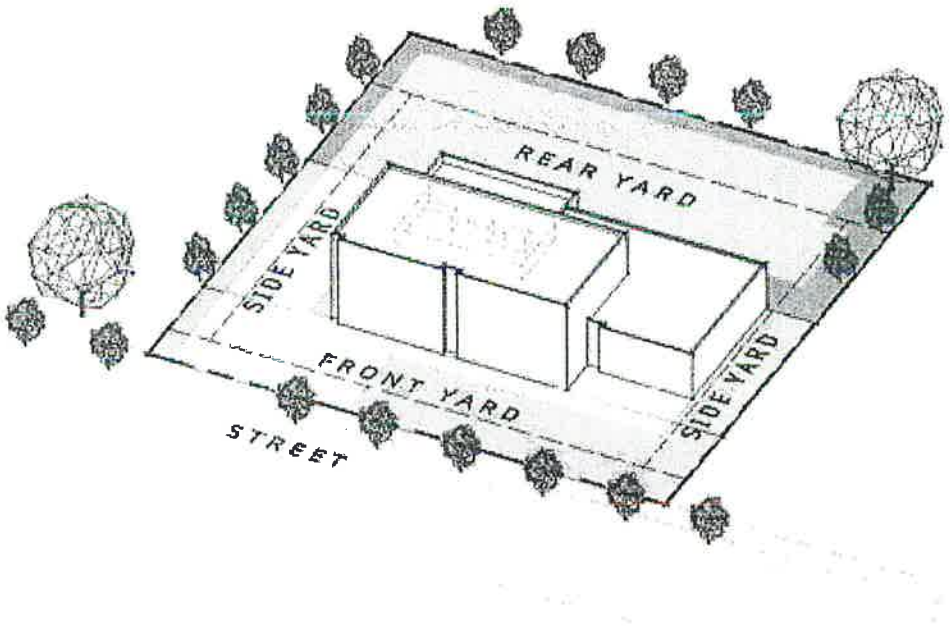
(c) Permitted, Special Exception, and Accessory Uses. See Section 1125.03 - Permitted, Special Exception, and Accessory Uses for each District.

(d) Lot Area, Setback, Height, and Lot Coverage Requirements.

| Development Standards | Commercial Neighborhood |
|---|---|
| **Minimum Lot Size (Sq. Ft.)** | None |
| **Minimum Frontage (Feet)** | None |
| **Minimum Front Setback (Feet)** | 10 |
| **Maximum Front Setback (Feet)** | 60 |
| **Minimum Side Setback (Feet)** | 10, except however, when a side or rear lot line abuts an existing residential use or District that permits one (1) unit dwellings, then a buffer shall be provided in accordance with Section 1141.10. |
| **Minimum Rear Setback (Feet)** | Twenty (20), except however, when a side or rear lot line abuts an existing residential use or District that permits one-unit dwellings, then a buffer shall be provided in accordance with Section 1141.10. |
| **Maximum Height (Feet)** | Thirty-five (35), except however, mechanical equipment and/or ventilation systems may extend up to ten feet above the height of the building. Said mechanical equipment/ventilation systems must be screened from view by parapet walls, mansard roofs or other screening material approved by the City Planner or designee, provided said material has one hundred (100) percent opacity year-round. |
| **Maximum Lot Coverage (Percent)** | 80 |

(e) Example Lot Layout and Rendering.




REAR YARD
SIDE YARD
FRONT YARD
SIDE YARD
STREET

(f) General Development Regulations.

| | Applicable | Section Reference | Notes |
|---|---|---|---|
| **Accessory Structures** | Y | Section 1147.02 | Detached Accessory Structures may encroach a side or rear setback but shall be no closer than five (5) feet from the side or rear lot line. Accessory structures shall also comply with all other requirements in Section 1147.02. |
| **Fences** | Y | Section 1147.05 | Fences and walls may be placed in a required minimum setback provided they comply with Section 1147.05. |
| **Landscaping/ Buffering** | Y | Chapter 1141 | Plant material and berms may be placed in the required setbacks provided they do not constitute a nuisance as provided in the Lancaster Codified Ordinances. |
| **Parking** | Y | Chapter 1143 | Limited - Parking is permitted in front of a principal building, but it is encouraged to be placed to the side or rear of the principal building. Parking may encroach a front, side or rear setback provided the parking is no closer than five feet from said lot line. |
| **Signs** | Y | Chapter 1145 | Signs, provided they comply with Section Chapter 1145, may be located within a front setback. |

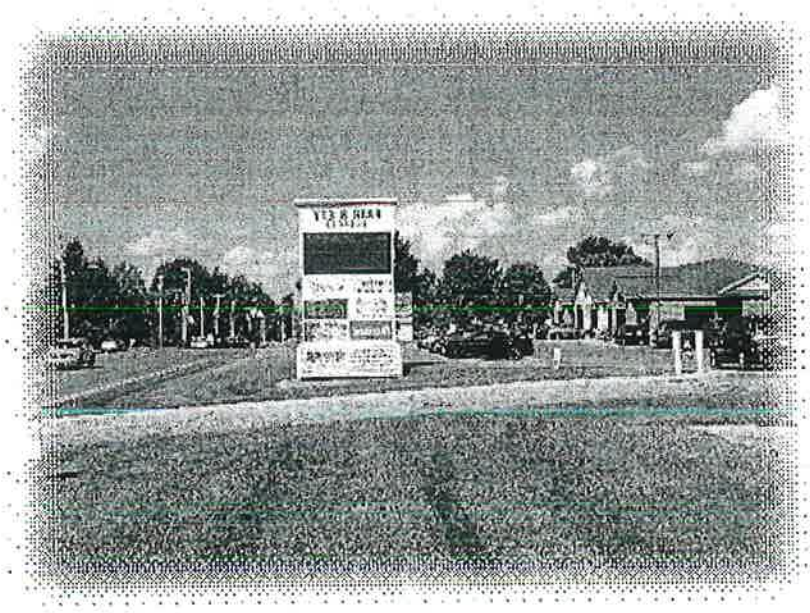
(Ord. 15-23. Passed 8-14-23.)

## 1133.03 COMMERCIAL - GENERAL (CG).

(a) Purpose.

- To accommodate uses that generate a high degree of vehicular traffic while integrating safe and appropriate pedestrian connections.
- To create design standards that include increased setbacks and building height to allow for these more intense business uses within high growth corridors.

(b) Target Areas.

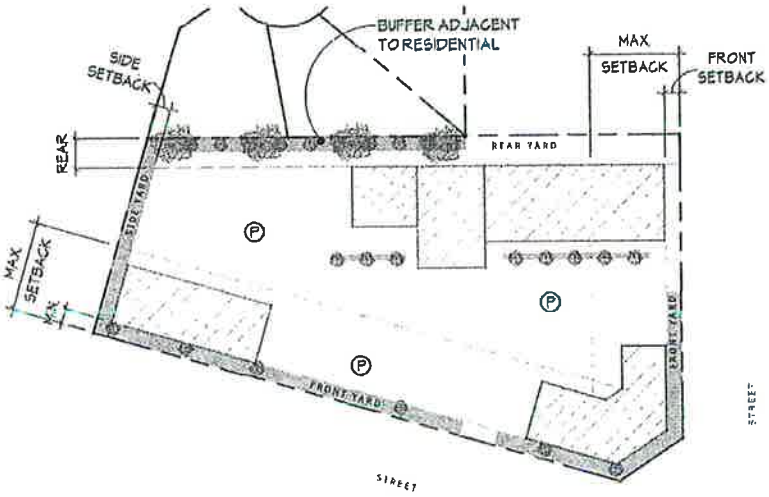


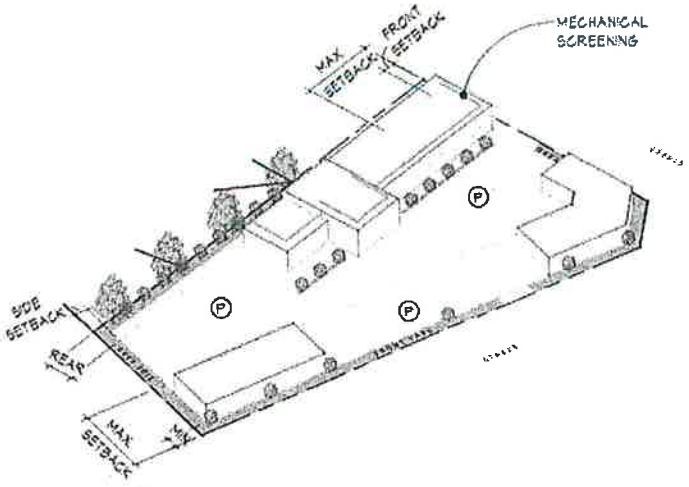
(c) Permitted, Special Exception, and Accessory Uses. See Section 1125.03 - Permitted, Special Exception, and Accessory Uses for each District.

(d) Lot Area, Setback, Height, and Lot Coverage Requirements.

| Development Standards | Commercial - General |
|---|---|
| **Minimum Lot Size (Sq. Ft.)** | None |
| **Minimum Frontage (Feet)** | 50 |
| **Minimum Front Setback (Feet)** | 50 (Arterial and Collector)<br>25 (all other roads) |
| **Maximum Front Setback (Feet)** | N/A |
| **Minimum Side Setback (Feet)** | Twenty (20), except however, when a side or rear lot line abuts an existing residential use or District that permits single unit dwellings, then a buffer shall be provided in accordance with Section 1141.10. |
| **Minimum Rear Setback (Feet)** | Twenty-five (25), except however, when a side or rear lot line abuts an existing residential use or District that permits single unit dwellings, then a buffer shall be provided in accordance with Section 1141.10. |
| **Maximum Height (Feet)** | Sixty (60), except however, mechanical equipment and/or ventilation systems may extend up to ten feet above the height of the building. Said mechanical equipment/ventilation systems must be screened from view by parapet walls, mansard roofs or other screening material approved by the City Planner or designee, provided said material has one hundred (100) percent opacity year-round. |
| **Maximum Lot Coverage (Percent)** | 80 |

(e) Example Lot Layout and Rendering.



(f) General Development Regulations.

| | Applicable | Section Reference | Notes |
|---|---|---|---|
| **Accessory Structures** | Y | Section 1147.02 | Detached Accessory Structures may encroach a side or rear setback but shall be no closer than five (5) feet from the side or rear lot line. Accessory structures shall also comply with all other requirements in Section 1147.02. |
| **Fences** | Y | Section 1147.05 | Fences and walls may be placed in a required minimum setback provided they comply with Section 1147.05. |
| **Landscaping/ Buffering** | Y | Chapter 1141 | Plant material and berms may be placed in the required setbacks provided they do not constitute a nuisance as provided in the Lancaster Codified Ordinances. |
| **Parking** | Y | Chapter 1143 | Limited - Parking is permitted in front of a principal building, but it is encouraged to be placed to the side or rear of the principal building. Parking may encroach a front, side or rear setback provided the parking is no closer than five feet from said lot line. |
| **Signs** | Y | Chapter 1145 | Signs, provided they comply with Section Chapter 1145, may encroach a front setback. |

(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1135
# Industrial Districts

1135.01 Service Industrial District (SI).
1135.02 Advanced Manufacturing District (AM).

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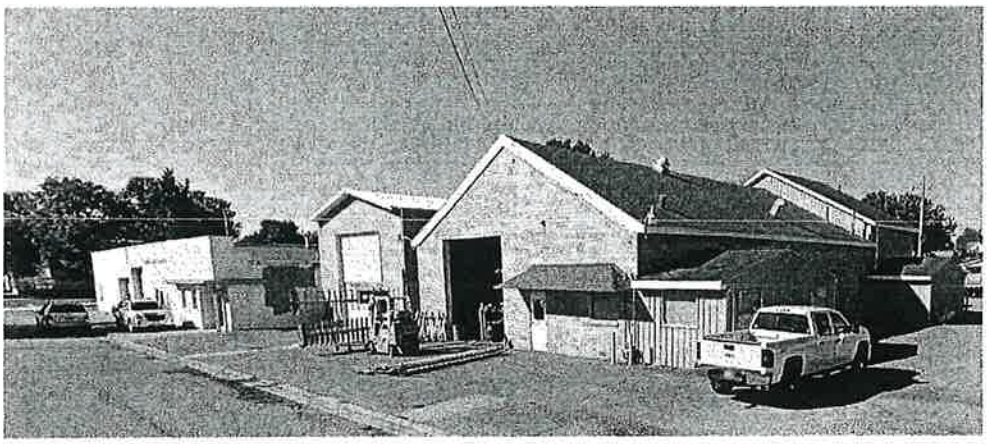
## 1135.01 SERVICE INDUSTRIAL DITRICT (SI).

(a) Purpose.

- To serve commercial and industrial businesses that create a transition from general business areas to more intense industrial uses.
- To encourage safe and appropriate pedestrian connections.

(b) Target Areas.

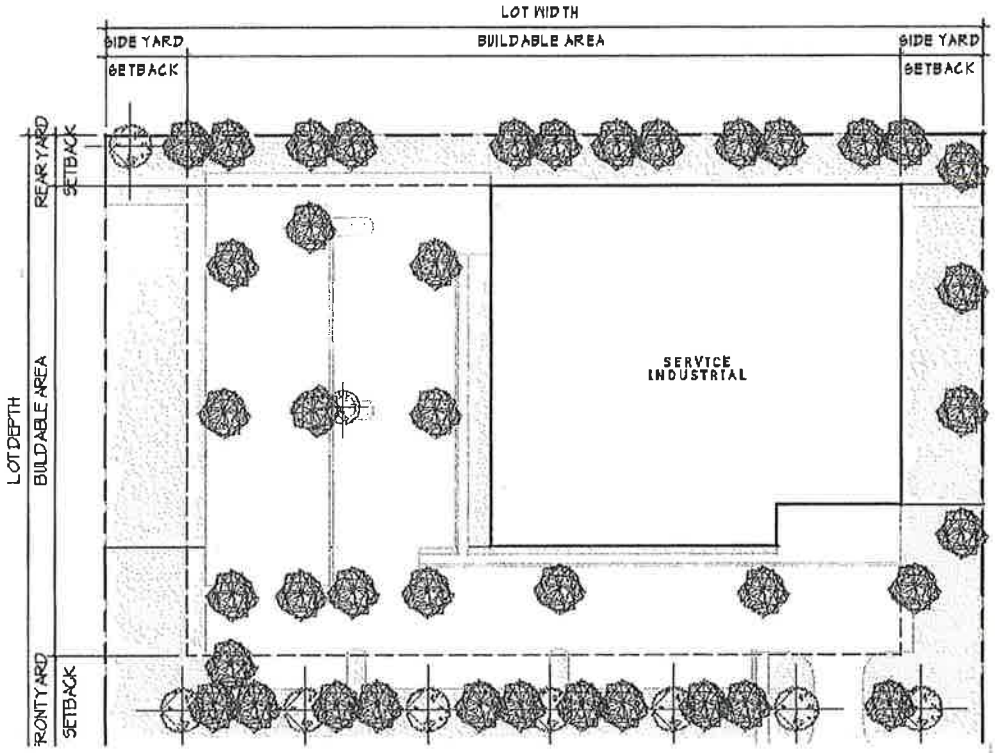


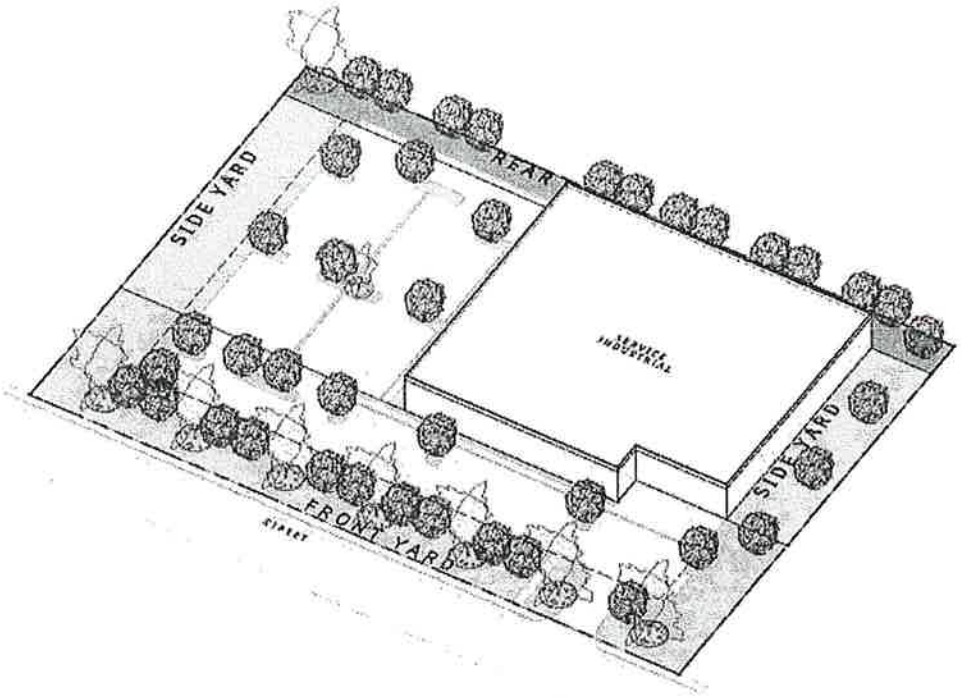
(c) Permitted, Special Exception, and Accessory Uses. See Section 1125.03 - Permitted, Special Exception, and Accessory Uses for each District.

(d) Lot Area, Setback, Height, and Lot Coverage Requirements.

| Development Standards | Service Industrial |
|---|---|
| Minimum Lot Size (Sq. Ft.) | None |
| Minimum Frontage (Feet) | 50 |
| Minimum Front Setback (Feet) | 45 |
| Minimum Side Setback (Feet) | Twenty-five (25) - when a side or rear lot line abuts an existing residential use or District that permits one-unit dwellings, then a buffer shall be provided in accordance with Section 1141.10. |
| Minimum Rear Setback (Feet) | Twenty-five (25) - when a side or rear lot line abuts an existing residential use or District that permits one-unit dwellings, then a buffer shall be provided in accordance with Section 1141.10. |
| Maximum Height (Feet) | Forty-five (45) except however, mechanical equipment and/or ventilation systems may extend up to ten (10) feet above the height of the building. Said mechanical equipment /ventilation systems must be screened from view by parapet walls, mansard roofs, or other screening material approved by the City Planner, provided said material has one hundred (100) percent opacity year-round. |
| Maximum Lot Coverage (Percent) | 80 |

(e) Example Lot Layout and Rendering.



(f) General Development Regulations.

| | Applicable | Section Reference | Notes |
|---|---|---|---|
| **Accessory Structures** | Y | Section 1147.02 | Detached Accessory Structures may encroach a side or rear setback but shall be no closer than five (5) feet from the side or rear lot line. Accessory structures shall also comply with all other requirements in Section 1147.02. |
| **Fences** | Y | Section 1147.05 | Fences and walls may be placed in a required minimum setback provided they comply with Section 1147.05. |
| **Landscaping/ Buffering** | Y | Chapter 1141 | Plant material and berms may be placed in the required setbacks provided they do not constitute a nuisance as provided in the Lancaster Codified Ordinances. |
| **Parking** | Y | Chapter 1143 | Limited - Parking is permitted in front of a principal building, but it is encouraged to be placed to the side or rear of the principal building. Parking may encroach a front, side or rear setback provided the parking is no closer than five feet from said lot line. |
| **Signs** | Y | Chapter 1145 | Signs, provided they comply with Section Chapter 1145, may be located within a front setback. |

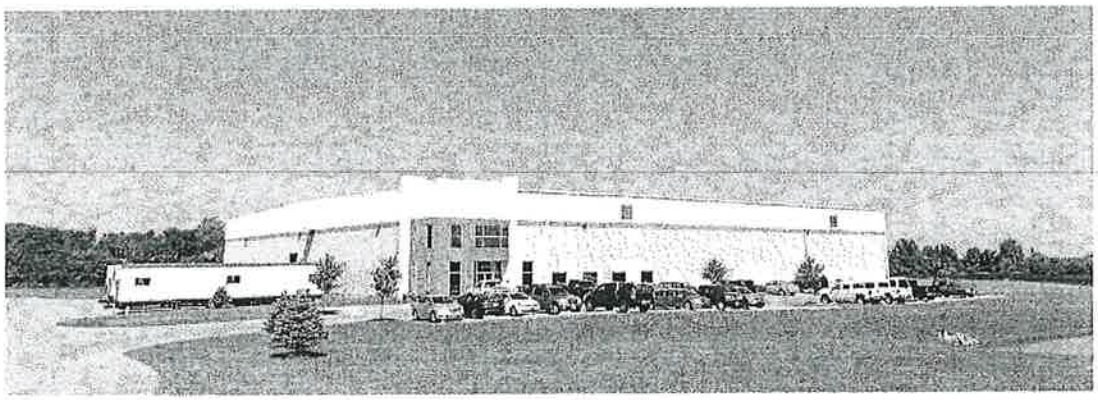
(Ord. 15-23. Passed 8-14-23.)

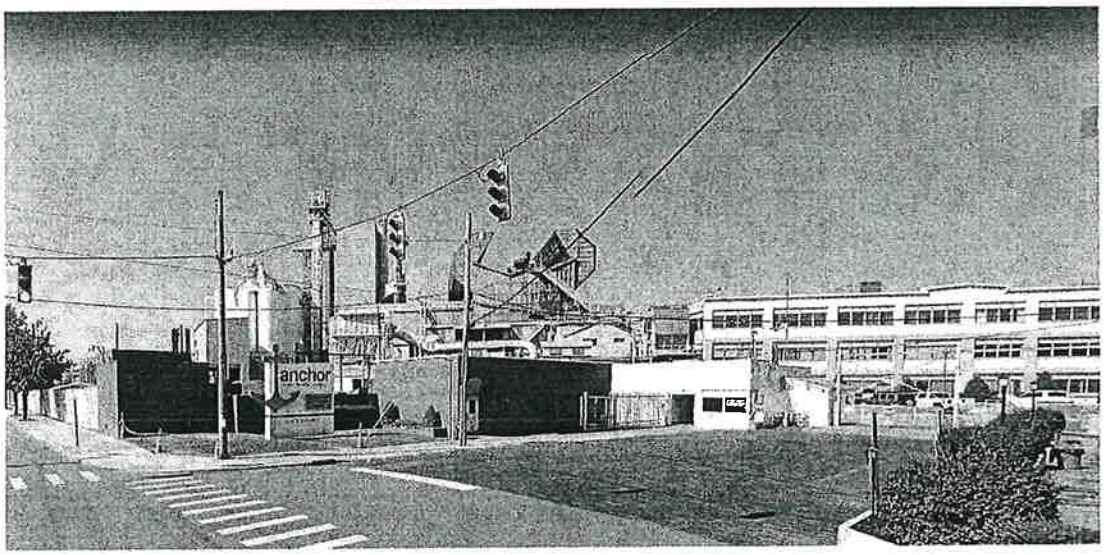
## 1135.02 ADVANCED MANUFACTURING DISTRICT (AM).

(a) Purpose.

- To broaden the economic development opportunities of the City of Lancaster by creating development standards that will promote innovation and employment opportunities.
- To promote advanced manufacturing, research and development opportunities, logistics and other similar businesses that support the supply chains serving existing or evolving industry clusters in the Columbus region.
- To improve pedestrian connectivity of workforce areas to residential neighborhoods.

(b) Target Areas.



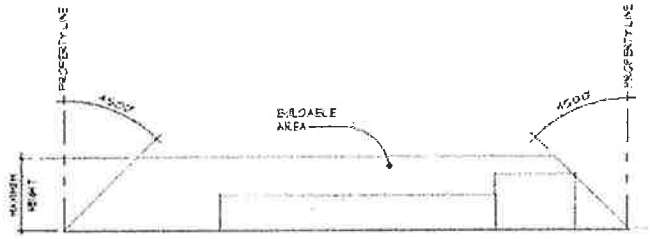


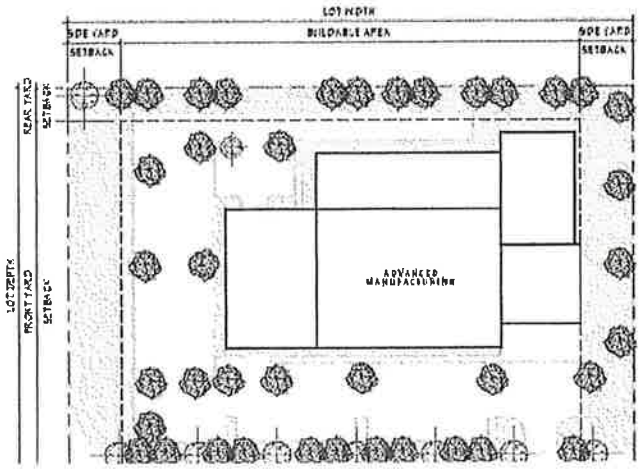

(c) Permitted, Special Exception, and Accessory Uses. See Section 1125.03 - Permitted, Special Exception, and Accessory Uses for each District.

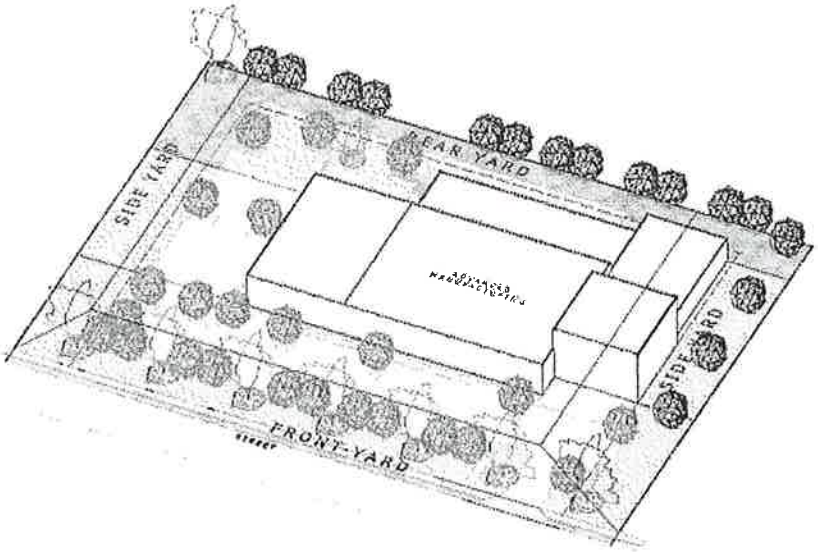
(d) Lot Area, Setback, Height, and Lot Coverage Requirements.

| Development Standards | Advanced Manufacturing |
|---|---|
| **Minimum Lot Size (Sq. Ft.)** | None |
| **Minimum Frontage (Feet)** | 100 |
| **Minimum Front Setback (Feet)** | 100 |
| **Minimum Side Setback (Feet)** | One (1) foot setback per one (1) foot of building height. When a side or rear lot line abuts an existing residential use or District that permits single unit dwellings, then a buffer shall be provided in accordance with Section 1141.10. |
| **Minimum Rear Setback (Feet)** | One (1) foot setback per one (1) foot of building height. When a side or rear lot line abuts an existing residential use or District that permits single unit dwellings, then a buffer shall be provided in accordance with Section 1141.10. |
| **Maximum Height (Feet)** | No maximum height |
| **Maximum Lot Coverage (Percent)** | 80 |

(e) Example Lot Layout and Rendering.



(f) General Development Regulations.

| | Applicable | Section Reference | Notes |
|---|---|---|---|
| **Accessory Structures** | Y | Section 1147.02 | Detached Accessory Structures may encroach a side or rear setback but shall be no closer than five (5) feet from the side or rear lot line. Accessory structures shall also comply with all other requirements in Section 1147.02. |
| **Fences** | Y | Section 1147.05 | Fences and walls may be placed in a required minimum setback provided they comply with Section 1147.05. |
| **Landscaping/ Buffering** | Y | Chapter 1141 | Plant material and berms may be placed in the required setbacks provided they do not constitute a nuisance as provided in the Lancaster Codified Ordinances. |
| **Parking** | Y | Chapter 1143 | Parking may encroach a front, side or rear setback provided the parking is no closer than five feet from said lot line. |
| **Signs** | Y | Chapter 1145 | Signs, provided they comply with Chapter 1145, may be located in a front setback. |

(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1137
# Planned Unit Development (PUD) District


**1137.01 General provisions and purpose.**
**1137.02 Conflict.**
**1137.03 Permitted uses.**
**1137.04 Planning and development principles.**
**1137.05 Procedure - PUD Map Amendment - preliminary development plan.**
**1137.06 Procedure - final development plan.**
**1137.07 Submittal requirements.**
**1137.08 Plan approval criteria.**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## 1137.01 GENERAL PROVISIONS AND PURPOSE.

The intent of the PUD, Planned Unit Development District, is to create flexible design criteria that the traditional Zoning Districts may not include. These regulations are based upon the premise that the ultimate quality of the built environment is determined not by the compatibility of uses, but how uses are appropriately integrated together through character type and design standards. This District is intended for large scale developments and aims to:

(a) Provide an opportunity for a mix of land uses otherwise not permitted within the standard municipal Zoning District classifications.

(b) Allow the creation of development standards that respect the unique characteristics, natural quality, beauty of the immediate vicinity, and protect the community's natural resources by avoiding development on, and destruction of, sensitive environmental areas.

(c) Enable greater review of design characteristics to ensure the development project is appropriately integrated into its surroundings.

(d) Pursue the housing and economic development goals of the City.

(e) Encourage innovative architecture.

(f) Establish objective criteria for development plan review that ensure conformity to community and development standards and allow for consistent treatment throughout.

(g) Support the proper relationships between buildings, developments and structures and the land.

(h) Encourage a more efficient land-use pattern by reducing the amount of public infrastructure, creating usable open space, preserving existing natural features, and providing for a variety of building styles, types, and uses.
(Ord. 15-23. Passed 8-14-23.)

**1137.02 CONFLICT.**

Whenever there is a conflict or difference between the PUD development text approved in accordance with Chapter 1137 and other sections of the City of Lancaster's Codified Ordinances, the provisions of the approved development text shall prevail for the development of land within the PUD District. Subjects not addressed within the approved development text shall be governed by the respective provisions found elsewhere in the City of Lancaster's Codified Ordinances. Unless otherwise stated and varied in the approved PUD development text, the standards in the City of Lancaster Zoning Code that pertain to the specific uses or land development in the PUD shall be applicable. Such standards include, but are not limited to:

(a) Floodplain Damage Prevention Regulations set forth in Section 1331.
(b) Off-street parking and loading requirements set forth in Section 1143.11.
(c) Subdivision requirements set forth in Part Eleven - Title One.
(d) Requirements for stormwater management set forth in Chapter 919.
(e) Minimum Project Area and Ownership. No tract of land shall be rezoned to the PUD District unless it is a minimum of twenty (20) acres and is under joint or common ownership or control of the applicant at the time the application is made for a PUD District. A preliminary development plan approved under these regulations for a PUD shall be binding upon the owners, their successors, and assigns. The preliminary development plan shall also limit and control the issuance and validity of all Zoning Clearance Permits.
(Ord. 15-23. Passed 8-14-23.)

**1137.03 PERMITTED USES.**

Permitted use within a PUD may include any combination of uses when such use(s) can be appropriately integrated into an overall design that maintains the intent of these general development criteria, provided the proposed location of the uses will not adversely affect adjacent property, or the public health, safety, and general welfare.

(a) The list of specific uses to be included in the proposed PUD shall be clearly delineated in the preliminary development plan, the Zoning text, and its supporting documentation.
(b) Listed uses shall be defined by their customary name or identification, except where they are specifically defined or limited in this Zoning Ordinance.
(c) Any listed use shall be limited to areas delineated in the preliminary development plan. (Ord. 15-23. Passed 8-14-23.)

**1137.04 PLANNING AND DEVELOPMENT PRINCIPLES.**

The PUD Zoning text shall create development standards designed according to the following planning and development principles.

(a) Arrangement of Use Areas.
(1) Buildings and uses within the proposed development shall be located to reduce any adverse influences and to protect and enhance the character of areas adjacent to the development.

(2) Whenever a proposed development includes areas of a higher intensity than that permitted in adjacent areas, the location and arrangement of use areas shall include appropriate buffers, open spaces, setbacks, or other transitional areas to ensure compatibility with the lower intensity areas.

(3) Buildings, structures, and parking areas shall be designed and located within the PUD to conserve environmentally sensitive or unique natural, historical, or cultural features while minimizing environmental impacts.

(b) Arrangement of Buildings and Yards.

(1) The physical relationship of buildings and other site improvements to one another and the surrounding open space, as created by building size, mass, height, shape, and setback, shall result in a harmonious development within the PUD and adjacent to it.

(2) Minimum lot size, width, and front, side and rear yard setbacks should be clearly denoted by subarea.

(3) The bulk and height of buildings within the proposed development shall be compatible with the surrounding development and sufficiently buffered from the surrounding development to mitigate any potential adverse impact(s).

(c) Density. The density of residential areas within a PUD shall be specifically defined within the PUD text.

(d) Landscaping, Screening, and Buffering.

(1) The pattern of landscaping shall be coordinated in design and type of materials, mounding and fencing used. Landscaping may vary in density, spacing and other treatments to reflect variations of topography, existing landscape, or land uses.

(2) Privacy for residential buildings shall be maintained using landscaping, screening, and buffering.

(3) Appropriate buffer zones with adequate landscaping shall be provided between the proposed development and adjacent areas.

(4) Alternative design approaches to meet the intent of the landscape regulations may be incorporated.

(e) Open Space. Adequate open spaces shall be integrated throughout the development as follows:

(1) Open space shall be sufficiently aggregated to create large useable areas of planned open space.

(2) Open space shall conserve significant natural features within the PUD to the extent practicable.

(3) Open space shall provide a scenic natural environment along existing public streets characterized by large building setbacks that enable the preservation of natural features.

(4) All open space shall be easily accessible to residents of the PUD.

(5) Where possible, open space areas shall be connected with open space areas on abutting parcels, and wherever possible, by open space corridors.

(6) Open space must comply with Section 1109.12 (Public Sites and Open Space) of the Subdivision Regulations.

(f) Protection of Natural Features.

(1) Trees shall be preserved, protected, and replaced in compliance with the requirements set forth Section 1141.06.

(2) A riparian buffer shall be provided along the entire length and on both sides of a river or perennial stream channel. Walkways may be located within riparian buffers when the Planning Commission determines that such will create minimal change to the riparian buffer.

(3) Floodplains shall be protected in compliance with Chapter 1331.

(4) Wetlands that are to be retained in their natural state within the PUD shall be protected. A buffer area not less than twenty (20) feet in width measured from the edge of the delineated wetland shall be provided along the entire perimeter of the designated wetland. The buffer area shall not be disturbed and shall be retained in its natural state. Minimum building and pavement setbacks to protect such wetlands and buffer areas shall be established and shall be measured from the edge of such wetlands.

(g) Pedestrian Circulation Systems. A pedestrian circulation system shall be included and designed to provide convenient and safe pedestrian access throughout the PUD, and to connect the neighboring developments and community facilities. The pedestrian circulation system may include sidewalks and other walkways not located along streets. Trails with public right of passage should also be incorporated in the pedestrian circulation system.

(h) Bike Paths and Other Trail Systems. Trail systems for bikes and other purposes shall be included and designed in accordance with the City's plan for bike paths. Such trail system shall have a minimum width of ten (10) feet and be properly buffered from any adjacent residential areas. Protected bike lanes, where appropriate as determined by the Planning Commission, may also be utilized to meet this requirement.

(i) Street Design and Vehicular Circulation.

(1) The proposed vehicular circulation system shall provide adequate connections to the existing street network.

(2) The area of the project devoted to streets and related pavement should be the minimum necessary to provide adequate and safe movement and access.

(3) Street alignments should be designed to conserve natural features and minimize the need for cut and fill practices.

(4) The function of adjacent thoroughfares shall be maintained by limiting access points to the minimum needed, relating them to existing access points, the street patterns on surrounding development, and the intensity of proposed uses.

(5) Private streets that utilize a common easement may provide access to clustered lots and/or structures.

(6) Street lighting and street signs shall be adequate for safety and security.

(7) The applicant shall provide and construct on-site and off-site street improvements for the PUD in accordance with the requirements of Part Eleven - Title One and consistent with recommendations included in traffic studies and with any agreements submitted as supporting documentation for the PUD.

(8) The design and locations of streets and parking areas shall comply with the requirements set forth in Chapter 913, Stormwater Management.

(j) Off-street Parking. The layout of parking areas, service areas, and related entrances, exits, signs, lighting, noise sources or other potentially adverse influences shall be designed and located to protect the character of the area and as well as those areas adjacent to the development. The number of minimum and maximum parking space requirements shall comply with Section 1143.11, unless the approved development text states otherwise.

(k) Signs. All signs and graphics within the PUD shall be compatible in size, location, height, material, shape, color, and illumination.

(1) A sign plan for the entire PUD shall set forth the design parameters for the entire project to ensure a consistent and comprehensive character throughout the project. The sign plan shall include the design, layout, and dimensions of all ground, window, canopy, awning, projecting, and wall signs as well as distances from rights-of-way and the type and intensity of illumination.

(2) Signs should contribute to an overall cohesive design, reflect simplicity, and avoid visual clutter.

(3) The overall design and placement of buildings should consider the general placement of signs so that all permanent signs and their associated lighting fixtures complement the appearance and architecture of the buildings and the PUD.

(4) Ground signs should be designed to relate to and share common design elements with the building.

(5) The materials and colors of the sign, sign background and sign frame should be compatible with the building's materials and colors.

(l) Utilities. The applicant shall provide and construct on-site and offsite water, sewer, and other infrastructure improvements for the PUD in accordance with the requirements of Part Eleven - Title One, Subdivision Regulations and any agreements submitted as supporting documentation for the PUD.

(m) Project Phasing. If the PUD is to be implemented in phases, each phase shall have adequate provision for access, parking, stormwater management, utilities, and other public improvements to serve the development in accordance with the applicable criteria set forth above. Each phase shall be provided with temporary and/or permanent transitional features, buffers, or protective areas to prevent any adverse impact on completed phases, future phases, and adjoining property. Open space areas shall be reasonably proportioned in each phase of the project.

(n) Common Facilities. Common facilities and park areas, regardless of ownership, require maintenance. Adequate access to these facilities for vehicular traffic shall be provided at all times so that fire, police, health, sanitation, and other public utility vehicles can serve the area. All streets and roadways not dedicated to the public shall be operated and maintained at no expense to any governmental unit. (Ord. 15-23. Passed 8-14-23.)

### 1137.05 PROCEDURE - PUD MAP AMENDMENT - PRELIMINARY DEVELOPMENT PLAN.

Review of applications for Planned Development Districts shall be conducted in compliance with the following general provisions:

(a) Review for Completeness. The City Planner or designee shall review each planned development application for completeness and compliance with the applicable submission requirements, unless the City Planner or designee, determines that specific items are inapplicable or unnecessary. If the City Planner or designees deems an application as insufficient, the City Planner or designee shall notify the applicant of the deficiencies. Only complete applications shall be placed on the Planning Commission agenda. When the application is determined complete and all applicable fees are paid, the City Planner or designee shall officially accept the application for consideration. This shall include either a preliminary development plan as set forth in Section 1137.07(b) or a final development plan as set forth in Section 1137.07(c).

(b) Previously Approved Planned Development Districts. Planned Development Districts, including development plans and development standards text adopted prior to the effective date of these Planned Development District regulations, shall continue in effect, and be considered legally conforming under this code. However, the procedures for the implementation of those developments must conform to the regulations indicated in this code.

(c) Subdivision Plat Approval. If the proposed development includes the subdivision of land, the development shall be subject to the requirements of the plat approval process in accordance with the subdivision regulations in Part Eleven - Title One including any subsequent changes to subdivision plats. The preliminary development plan and preliminary subdivision plat approval may proceed simultaneously. The final development plan and final plat shall proceed simultaneously unless a final plat has already been approved or is not required for completion of the project.

(d) Zoning Amendment Pre-application Meeting with Concept Plan. The applicant shall meet with the appropriate staff of the Planning Department for review of a concept plan prior to submitting an application for a Planned Development District Zoning amendment. The concept plan is intended to outline the basic scope, character, and nature of a proposed project. The review is to provide input in the formative stages of design.

(1) The applicant shall submit a concept plan for the City Planner or designee to review. The concept plan shall include the elements indicated in Section 1137.07(a).

(2) The City Planner or designee may forward complex projects to the Planning Commission for their review and feedback.

(3) The applicant may request review and feedback from the Planning Commission prior to preparing a preliminary development plan.

(4) No discussions, opinions, or suggestions provided on any aspect of the concept plan shall bind the applicant, or the city, or be relied upon by the applicant to indicate subsequent approval or disapproval by the city.

(e) Zoning Amendment Request. An application for a Zoning amendment to the Planned Development District shall be submitted in accordance with Section 1159.02. In addition to the submission requirements for Zoning amendments, the applicant shall also submit a preliminary development plan, development text, and supporting documentation as required below.

(f) Preliminary Development Plan Review Procedures. The application, including all submission requirements for preliminary development plans in accordance with Section 1137.07(c), shall be reviewed and distributed according to the following procedures. A preliminary subdivision plat may be reviewed simultaneously provided all the required plat information is submitted.

(g) City Planner or Designee Review and Transmittal to the Planning Commission. After determining that an application is complete according to Section 1137.05(a), the City Planner or designee shall forward the application to the appropriate city departments and, if determined necessary, professional consultants for review and comment. The City Planner or designee shall schedule a public hearing of the preliminary plan by the Planning Commission.

(h) Review and Recommendation by Planning Commission. The Planning Commission shall review the application to determine if it complies with the approval criteria set forth in Section 1137.08(a). The Planning Commission shall take into consideration any submitted staff reports, comments, and expert opinions when reviewing the application.

(i) Action by Planning Commission. The Planning Commission shall recommend to City Council one of the following:

(1) That the preliminary development plan, development text and its supporting documentation be approved as submitted;

(2) That the preliminary development plan, development text, and its supporting documentation be approved with specific conditions set forth by the Planning Zoning Commission, and agreed to by the applicant, to further protect and improve the proposed and surrounding developments; or

(3) That the preliminary development plan be disapproved.

(j) Transmission to Council. The Planning Commission shall transmit the Zoning amendment application and the preliminary development plan in the form of an ordinance along with all appropriate documentation, including their recommendation to City Council, within thirty (30) days of acting, unless otherwise requested by the applicant.

(k) Review and Action by City Council. City Council shall review and act on the proposed ordinance(s), including conducting a public hearing, in accordance with City Council procedures and public notice provisions set forth in Section 1159.02.

(1) In reviewing the ordinance(s), the City Council shall consider the approval criteria set forth in Section .

(2) Disapproval by City Council shall terminate the process. Another Zoning amendment application pertaining to the land included in the disapproved application shall not be accepted within one year from the date of disapproval unless there has been substantial change to warrant reconsideration.

(l) Approval of the Planned Development District/Preliminary Development Plan. Adoption of the ordinance shall constitute a rezoning of the property included in the preliminary development plan to a Planned Unit Development District, and the preliminary development plan and associated commitments become binding on the applicant. The Official Zoning Map shall be amended to reflect the Zoning changes. In the event City Council approves the preliminary development plan with modifications, the applicant shall incorporate such modifications into the appropriate documents and file the revised preliminary development plan with the City Planner or designee. No final development plan application will be processed until the revised preliminary development plan is submitted and approved.

(m) Significance of Approved Plan. Approval or approval with recommended modifications of the preliminary development plan by the City Council shall:

(1) Establish the development framework for the project, including the general location of open space, use areas, densities, unit types, recreational facilities, and street alignments;

(2) Permit the applicant to proceed with detailed planning of the final development plan; and

(3) Authorize the applicant to apply for all other required regulatory approvals for the project or subsequent phases thereof.

(n) Expiration of Zoning Approval. Given the nature of the Planned Unit Development District process and the unique standards simultaneously adopted, the Planned Unit Development District designation shall remain valid for three (3) years from the date of City Council approval. During that time, the applicant shall prepare and submit a final development plan for review in compliance with Section 1137.07(b) below. In the event progress on the PUD is discontinued, the City may begin procedures to rezone the property to the Zoning District in place prior to the Planned Unit Development District or to another District as may be determined appropriate. For the purpose of this section, progress shall be considered discontinued when:

(1) The final development plan for the PUD, or for the first phase of the PUD, is not submitted within three (3) years after approval by City Council of the preliminary development plan.

(2) A final development plan for the PUD is approved, and construction work is discontinued for a period of two (2) years or for a longer period as may be agreed to as part of the PUD Zoning amendment.

(3) At any time, the Planning Commission may grant an extension to the above stated timeframes for good cause shown.

(Ord. 15-23. Passed 8-14-23.)

## 1137.06 PROCEDURE - FINAL DEVELOPMENT PLAN.

(a) Final Development Plans. An application for final development plan review shall include the submission requirements set forth in Section 1137.07(c) and shall be submitted for review according to the following. An application for final development plan review shall be required for each phase of development. The applicant shall also submit a final subdivision plat for simultaneous review unless a final plat has already been approved or is not required for completion of the project.

(b) Area Included in Final Development Plan. The area included in an application for final development plan review shall be in substantial compliance with the phasing plan approved as part of the preliminary development plan.

(c) Review Procedures for Final Development Plan. The application shall be reviewed according to the following procedures:

(1) The City Planner or designee review. After determining that an application is complete according to Section 1137.05(a), the City Planner or designee shall forward the application to the appropriate city departments and, if determined necessary, professional consultants for review and comments. The City Planner or designee shall schedule the Final Development Plan on a Planning Commission agenda within sixty (60) days the date the application is deemed complete.

(2) The application shall be reviewed for compliance with the approved preliminary development plan, the requirements of this Code and other applicable city codes.

(3) During the review, the City Planner or designee may meet with the applicant to review the application, and the applicant may revise the final development plan application in response to the City Planner or designee's comments.

(4) The application and supporting documents, staff comments, any other reports and accompanying documents (such as, but not limited to, letters from residents or maps) shall be transmitted to the Planning Commission.

(d) Review by Planning Commission. The Planning Commission shall review the application to determine if it complies with the approval criteria set forth in Section 1137.08(b). The Planning Commission shall take into consideration any submitted staff reports when reviewing the application. In reviewing the application, the Planning Commission shall determine if the final development plan substantially complies with all specific requirements, the purposes, intent and basic objectives of the preliminary development plan, and any commitments made, or conditions agreed to with the adoption of the preliminary development plan and if it represents an expansion and delineation of the approved preliminary development plan. The Planning Commission may determine that the proposed plan complies with the preliminary development plan and may proceed to review the Final Development Plan in accordance with the procedures of this section.

(e) Action by Planning Commission. The Planning Commission shall take one of the following actions:

(1) Approve the final development plan as submitted;

(2) Approve the final development plan with modification(s) as agreed to by the applicant; or

(3) Disapprove the final development plan when the application does not demonstrate that the required standards have been met. Disapproval of the final development plan shall terminate the process. The applicant may revise the final development to respond to the Planning Commission's concerns and resubmit the plan. Such action shall be considered a new application for review containing all the information required for final development plans, including the payment of the application fee.

(4) The Planning Commission may, in reviewing the final development plan, approve a revision of a provision of the development standards text if they determine that all of the following provisions are satisfied:

A. The Planning Commission determines that the proposed modification does not significantly alter the list of permitted uses or cause an inappropriate increase in density;

B. The proposed modification results in a development of equivalent or higher quality than that which could be achieved through strict application of the requirement(s);

C. The principles of Section 1137.04 are achieved; and

D. The development, as proposed on the final development plan, will have no adverse impact upon the surrounding properties or upon the health, safety or general welfare of the community.

Any proposed revision to a preliminary development plan that fails to meet the above criteria shall require a Zoning amendment to the preliminary development plan according to Section 1137.05.

(f) Compliance with Current City-wide Standards. In the event development standards or construction standards that apply city-wide are updated, all subsequently approved final development plans shall comply with the updated standards when the Planning Commission determines that such updated standard(s) will not cause undue hardship.

(g) Zoning and Building Permits. Following the approval of the final development plan, and recording of the final subdivision plat if applicable, the applicant may proceed with the Zoning clearance and building permit process, consistent with approval as granted, including any conditions and modifications made by the Planning Commission. A Zoning clearance and building permit shall not be issued until the appropriate final plat has been recorded and the city has accepted any applicable land areas that are to be dedicated to the city. All construction and development under any building permit shall be in accordance with the approved final development plan, except as may be permitted in Section 1137.06(h). Any unauthorized departure from such plan shall be cause for revocation of the Zoning clearance. All required covenants, easements and restrictions shall be recorded prior to the approval of any construction permit in a location where such covenants, easements, or restrictions are intended to apply. The city may require a copy of the recorded document prior to issuing any construction permit.

(h) Modifications to Approved Final Development Plans. Requested modifications to approved final development plans shall be reviewed according to the following:

(1) Administrative approval. The City Planner or designee, in administering the approved final development plan and development text, may authorize minor plan modifications to building layouts, parking arrangements, sign locations, lighting, and other site-related improvements that are required to correct any undetected errors or address changes to the site made necessary during construction, provided the modifications remain consistent with the purpose of the approved final development plan.

A. No modifications shall be made that increase the permitted density of development or add to the list of permitted uses.

B. Modifications deemed minor may include such changes as:

1. Minor adjustments in lot lines provided no additional lots are created and required setbacks are maintained;
2. Minor adjustments in the location of and layout of parking lots provided the perimeter setbacks, yards and buffers are maintained;
3. Minor adjustments in building footprints up to ten percent (10%) in total floor area of the originally approved building, building height(s) or floor plans, that do not alter the character or intensity of the use;
4. Substitution of landscaping materials specified in the landscape plan with comparable materials of an equal or greater size;

5. Redesigning and/or relocating stormwater management facilities provided that general character and stormwater capacities are maintained and approved by the City's stormwater manager.
6. Redesigning and/or relocating landscape mounds, provided that the same level and quality of screening is maintained;
7. Minor modifications to the sign face, landscaping and lighting, provided the other sign requirements of the final development plan are maintained;
8. Minor changes in building material or colors that are similar to and have the same general appearance comparable to or of a higher quality as the material approved on the final development plan;
9. Changes required by outside agencies such as the county, state, or federal departments; or
10. Other minor modifications deemed by the City Planner or designee that do not alter the basic design or any specific conditions imposed as part of the original approval.

C. The City Planner or designee shall report approved modifications to the Planning Commission. The City Planner or designee may submit any modification to the Planning Commission that would otherwise be considered minor if the City Planner or designee finds that the overall extent and effect of the proposed modification should be reviewed by the Commission.

(2) Board of Zoning Appeals variances.

A. Any request for a variation to the development standards text that pertains to an individual one (1) unit dwelling shall be reviewed as a variance according to the procedures set forth in Section 1157.05.

B. Requests for establishing a model home within the Planned Development District shall be reviewed according to the requirements of Section 1157.06.

(3) Planning Commission approval.

A. Modifications other than those listed in Section 1137.06(h)(1) above not determined by the City Planner or designee to be minor shall be submitted to the Planning Commission. Modifications may be approved provided the Commission finds that the requested changes are compatible with the surrounding development and that the modifications remain consistent with the preliminary development plan.

B. Any requested changes shall be indicated on an amended final development plan. An application for an amended final development plan shall follow the review procedures for final development plan review set forth in this section. If approved, those amendments to the final development plan shall supersede the originally approved final development plan.

(Ord. 15-23. Passed 8-14-23.)

**1137.07 SUBMITTAL REQUIREMENTS.**

(a) Contents of Concept Plan Application. It is the intent of these regulations that the concept plan shall generally indicate overall design of the proposed project. Information submitted should be comprehensive enough to enable the City Planner or designee to understand the existing site and concept for the proposed development. The applicant shall submit a number of copies as determined by the City Planner or designee. The information submitted should include the following:

(1) Completed application form along with the application fee.

(2) Vicinity map indicating the location of the site in the city and the general location of principal thoroughfares.

(3) A regional context map showing the proposed site and all areas within two thousand (2,000) feet in all directions showing both the basics of the proposed layout contained in the application and the property lines of the adjacent areas on a drawing that is eleven (11) inches by seventeen (17) inches.

(4) Map of existing conditions and features drawn to scale, with accurate boundaries of the entire project and a north arrow, including the property proposed for development, all adjacent rights-of- way and one hundred (100) feet of property immediately adjacent thereto, indicating:

A. Existing public improvements, permanent facilities, easements and property boundaries;

B. General indication of existing structures on the site and abutting properties;

C. Physical features and natural conditions of the site including the location of streams, tree masses, open spaces, etc.;

D. General topography;

E. Existing Zoning District boundaries and jurisdictional boundaries;

F. Surface drainage and areas subject to flooding;

G. Existing public and private utility systems;

H. Regional transportation system.

(5) The concept plan map, drawn to scale with accurate boundaries of the entire project and a north arrow, including the property proposed for development, all adjacent rights-of-way and one hundred (100) feet of property immediately adjacent thereto, indicating:

A. Depiction of proposed land uses, including open space areas, indicating the approximate acreage by land use, density and type of buildings or dwelling units;

B. The location of any lands to be dedicated to any public agency;

C. The general circulation pattern;

D. The relationship of the proposed project to the surrounding area.

(b) Contents of Preliminary Development Plan Application. The application shall include the maps, plans, and supplementary documentation itemized below. The applicant shall submit a number of copies as determined by the City Planner or designee. The information submitted should include the following:

(1) Completed application form along with the application fee. The application shall be signed and notarized.

(2) Vicinity map showing the relationship of the proposed PD to existing development and including existing property lines, easements, utilities, and street rights-of-way of the subject property and property within five hundred (500) feet of the site, Zoning District boundaries, and existing land uses and structures.

(3) A regional context map showing the proposed site and all areas within two thousand (2,000) feet in all directions showing both the basics of the proposed layout contained in the application and the property lines of the adjacent areas on a drawing that is eleven (11) inches by seventeen (17) inches.

(4) Legal description.

(5) Map of existing conditions and features drawn to scale, with accurate boundaries of the entire project and a north arrow, including:

A. Boundaries of the area proposed for development, dimensions and total acreage;

B. Existing public rights-of-way, buildings, permanent facilities, access points and easements on, and adjacent to, the site;

C. Identification of any existing buildings or structures to be removed or demolished;

D. Existing Zoning District boundaries and jurisdictional boundaries;

E. Existing utility systems and providers;

F. The location of existing topography showing contour lines at vertical intervals of not more than five feet, highlighting ridges, rock outcroppings and other significant topographical features and identifying any areas with slopes over five (5) percent;

G. Locations of all wooded areas, tree lines, hedgerows, and a description of significant existing vegetation by type of species, health, and quality;

H. Delineation of existing drainage patterns on the property;

I. Location of wetlands (and potential wetlands) the 100-year floodplain, floodway boundary, twenty (20) foot buffer area beyond the floodway, and flood elevation as delineated by the Federal Emergency Management Agency maps including rivers and streams and their related river or stream bank, ponds, and water courses and as required by Chapter 1331, Flood Damage Reduction.

(6) The preliminary development plan map shall include a plan for the entire area of the proposed project and shall be drawn to an appropriate scale with accurate boundaries of the entire project including a north arrow. The applicant shall submit a number of copies as determined by the City Planner or designee. The information submitted shall indicate:

A. The proposed location, use and size of areas of residential, retail, office, industrial or institutional uses, community facilities, parks, playgrounds, school sites and other public areas and open spaces with the suggested ownership and maintenance provisions of such areas, and their related parking areas, and access points;

B. The general layout of the proposed internal road system, indicating the proposed vehicular right-of-way of all proposed public streets, general indication of private streets and pedestrian circulation, bike paths and other trail systems, access drive locations, improvements to existing streets, and traffic control requirements;

C. Any proposed off-site improvements and/or utility lines/extensions needed to serve the site;

D. Natural areas and other natural features to be conserved and any required buffer areas;

E. Natural features to be altered or impacted by the development and areas where new landscaping will be installed, etc.;

F. A summary table showing total acres of the proposed development; the number of acres devoted to each type of use, including streets and common areas; the number of dwelling units by type and density for each residential use area and the building height(s); and square footage as proposed for retail, office, industrial and institutional uses, by use area; and the number of parking spaces provided for each use area;

G. Space for signatures of the applicant and the City Planner or designee, Planning Commission Chair, and the dates of Planning a Commission and Council approvals.

(7) Preliminary plat, if appropriate, designed in compliance with the subdivision requirements set forth in Part Eleven - Title One, Subdivision Regulations. The required subdivision information may be included in the preliminary development plan.

(8) Architectural drawings demonstrating the prototypical designs of the proposed buildings, to demonstrate the exterior design, character, and general elements in sufficient detail to indicate the proposed visual character of the development.

(9) A phasing plan and schedule identifying the separate phases of the project, including utilities and any off-site improvements. Such schedule shall include the proposed use or reuse of existing features such as topography, structures, streets, easements, and natural areas.

(10) Proposed utilities including the proposed provision of water, sanitary sewer and surface drainage facilities, including engineering feasibility studies or other evidence of reasonableness, including verification of availability.

(11) Traffic study indicating the impact of future traffic on the existing and proposed roadway system, as required by the City Engineer.

(12) Explanation of relationship of proposed development to existing and future land use in the surrounding area, the street system, community facilities and open space system, services, and other public improvements.

(13) The PUD development text identifying the requirements that are to govern the design and layout of the PUD.

A. The development standards text shall include signature and date lines for the applicant certifying the text.

B. Dimensions and/or acreages illustrated on the development plan shall be described in the development standards text.

C. Any dimensions or other provision that departs from any applicable standards set forth in the City of Lancaster Zoning Code, especially addressing signs, landscaping, appearance, and parking, shall be clearly described.

D. Adequate provision shall be made to establish a private organization (i.e. homeowners association) with direct responsibility to provide for the operation and maintenance of all common facilities that are part of the planned development, and, in such instance legal assurances shall be provided to show that the private organization is self-perpetuating.

(c) Contents of Final Development Plan Application. The application shall include the maps, plans, designs and supplementary documents itemized below. Copies of the maps, plans, designs and supplementary documents shall be submitted. Final development plans are intended to be detailed refinements for development and, as such, shall be accurate, detailed representations of the total aspects of the approved preliminary development plan. The applicant shall submit a number of copies as determined by the Director of Planning. The information submitted shall include the following:

(1) Completed application form along with the application fee.

(2) Vicinity map showing the relationship of the area of the final development plan to the entire Planned Unit Development District and including existing structures, property lines, easements, utilities, and street rights-of-way of the subject property and property within five (500) feet of the site.

(3) A regional contact map showing the proposed site and all areas within two thousand (2,000) feet in all directions showing both the basics of the proposed layout contained in the application and the property lines of the adjacent areas on a drawing that is eleven (11) inches by seventeen (17) inches.

(4) A final plat shall be submitted in accordance with Part Eleven - Title One, Subdivision Regulations, if the proposed development includes the subdivision of land and a final plat has not already been approved.

(5) Legal description of the property if a final plat is not submitted. The legal description must include accurate distances and bearings from an established monument on the project to the three nearest established street lines or official monuments; and be stamped or sealed evidence from a surveyor registered in the State of Ohio or engineer that the monuments actually exist, and that all dimensional and geodetic details are correct.

(6) Final development plan map prepared by a qualified professional such as a licensed architect, surveyor, engineer, or landscape architect, and drawn to an appropriate scale indicating the following items, to the extent that the information is not already shown on the final subdivision plat or construction drawings for a subdivision:

A. A bar scale, north arrow, and total acreage of the area that is the subject of the final development plan, and accurate location of all monuments;

B. Radii, arcs, points of tangency, central angles for all curvilinear street, radii for all rounded corners, and length of all straight center line between curves on all public and private street;

C. The right-of-way lines of adjoining streets and alleys with their width and names, and indicating the edge of pavement and centerline;

D. All lot lines and easements with their dimensions;

E. The dimensions and locations of proposed structures, buildings, streets, parking areas, yards, playgrounds, school sites and other public or private facilities; the proposed pedestrian and bike path systems; the arrangement of internal and in-out traffic movement including access roads and drives; lane and other pavement markings to direct and control parking and circulation; and the location of signs related to parking and traffic control;

F. Location of existing and proposed structures including fences, walls, signs, and lighting;

G. Location and layout of all proposed and existing outdoor storage areas including storage of waste materials and location of trash receptacles;

H. Sanitary sewers, water and other utilities including fire hydrants, as required, and proposed drainage and stormwater management;

I. Delineation and identification of areas to be dedicated or reserved for public use, provided those areas are acceptable to the city, with the purposes indicated thereon, and of any area to be reserved by deed covenant for the common use of all property owners, listing who will maintain the acreage of such areas, or indicating if it is to be dedicated or reserved and the proposed timing of dedication or reservation;

J. Space for signatures of the owner, and applicant if different that the owner, and the Planning Commission Secretary, and the date of Commission approval;

K. Summary table showing total acres of the proposed development, the number of acres devoted to each type of use including streets and open space, and the number of proposed dwelling units by type, building square footage, number of parking spaces, pavement coverage, impervious surface area and acreage devoted to open space, private streets, and other public facilities.

(7) Verification of availability of all utilities, including water, sanitary sewer, gas, electric, cable, etc., and indication of all utility line extensions;

(8) Additional plans for proposed development.

A. Topographic maps showing existing and proposed grading contours, water courses, wetlands, flood plains and other flood hazard boundaries and information;

B. Landscaping and screening plans as required by Chapter 1141;

C. A lighting plan, including, but not limited to, light pole heights and locations, building accent lighting, pedestrian lighting, average footcandle calculations minimum foot-candles and maximum foot-candles.

D. A dimensioned sign plan indicating the character, material, dimensions, location, shape, color(s) and type of illumination of signs;

E. Architectural plans for the proposed development, showing all exterior elevations, building floor plans, colors, materials, and other details to indicate the type of architectural style proposed for the development and conformity with applicable appearance standards, prepared by a licensed architect;

F. Construction plans for all public improvements, site grading, and required development practices specified by the city code.

(9) The ownership interests of the subject property, including liens and easements, and the nature of the developer's interest if not the owner.

(10) Covenants, easements and restrictions.

A. The substance of covenants, grants of easements, or other restrictions which will be imposed upon the use of the land, buildings, and structures, including proposed easements or grants for public utilities; and proper acknowledgment of owners and/or holders of mortgages accepting such restrictions.

B. For projects that include any area for common use of or to be maintained by multiple property owners, the association's bylaws, or code of regulations, which shall include provisions that comply with the following requirements:

1. Membership in the association shall be mandatory for all purchasers of lots in the development or units in a condominium;
2. The association shall be responsible for maintenance, control, and insurance of common areas;
3. The association shall have the power to impose assessments on members for the maintenance, control and insurance of common facilities, and have the power to place liens against individual properties for failure to pay assessments;
4. The association shall have the authority to enforce reasonable rules and regulations governing the use of, and payment of assessments for maintenance, control and insurance of, common facilities by such means as reasonable monetary fines, suspension of the right to vote and the right to use any common recreational facilities, the right to suspend any services provided by the association to any owner, and the right to exercise self-help to cure violations;
5. The conditions and timing of transfer of control from the developer to the unit or lot owners shall be specified;
6. The association shall convey to the City and other appropriate governmental bodies, after proper notice, the right to entrance to any common facilities for emergency purposes or in the event of nonperformance of maintenance or improvements affecting the public health, safety, and welfare. The City shall have the right, after proper notice, to make improvements and perform maintenance functions. In addition, the city shall have the right to proceed against the association for reimbursements of said costs, including the right to file liens against individual condominium units, houses, and vacant building lots.

(11) A statement identifying any aspect of the final development plan in which the applicant is requesting a modification from the preliminary development plan, pursuant to Section 1137.06(e).

(12) Updated existing conditions. An updated/revised map of existing conditions indicating all changes since the map was submitted with the preliminary development plan.

(13) Table of contents. Table of contents or other index indicating where each of the plan submission requirements is located within the application package (page number of narrative or drawing).

(Ord. 15-23. Passed 8-14-23.)

**1137.08 PLAN APPROVAL CRITERIA.**

(a) Preliminary Development Plan. In the review of proposed planned developments, the Planning Commission and City Council shall determine whether or not the preliminary development plan complies with the following criteria. In the event the Planning Commission determines that the proposed preliminary development plan does not comply with a preponderance of these criteria, the Planning Commission shall disapprove the application:

(1) The proposed development is consistent with the purpose, intent and applicable standards of the Zoning Code;

(2) The proposed development advances the general welfare of the City and immediate vicinity and will not impede the normal and orderly development and improvement of the surrounding areas;

(3) The proposed uses are appropriately located in the City so that the use and value of property within and adjacent to the area will be safeguarded;

(4) Proposed residential development will have sufficient open space areas;

(5) The proposed development respects the unique characteristic of the natural features and protects the natural resources of the site;

(6) Adequate utilities, access roads, drainage, retention and/or necessary facilities have been or are being provided;

(7) Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion on the surrounding public streets and to maximize public safety and to accommodate adequate pedestrian and bike circulation systems so that the proposed development provides for a safe, convenient and non-conflicting circulation system for motorists, bicyclists and pedestrians;

(8) The relationship of buildings and structures to each other and to such other facilities provides for the coordination and integration of this development within the PUD and the larger community;

(9) The density, building gross floor area, building heights, setbacks, distances between buildings and structures, design and layout of open space systems and parking areas, traffic accessibility and other elements having a bearing on the overall acceptability of the development plans contribute to the orderly development of land within the city;

(10) Adequate provision is made for storm drainage within and through the site so as to maintain, as far as practicable, usual and normal swales, water courses and drainage areas;

(11) The design, site arrangement, and anticipated benefits of the proposed development justify any deviation from the standard development regulations included in the Zoning Code or Subdivision Regulation, and that any such deviations are consistent with the intent of the Planned Unit Development District regulations;

(12) The proposed building design meets or exceeds the quality of the building designs in the surrounding area and all applicable appearance standards of the City;

(13) The proposed phasing of development is appropriate for the existing and proposed infrastructure and is sufficiently coordinated among the various phases to ultimately yield the intended overall development;

(14) The proposed development can be adequately serviced by existing or planned public improvements and not impair the existing public service system for the area;

(15) The applicant's contributions to the public infrastructure are consistent with the Thoroughfare Plan and are sufficient to service the new development.

(b) Final Development Plan. In the review of proposed PUD developments, the Planning Commission shall determine whether the proposed development, as depicted on the final development plan, complies with the following:

(1) The plan conforms in all pertinent respects to the approved preliminary development plan provided however, that the Planning Commission may authorize revisions to said plans in accordance with Section 1137.06(e).

(2) Adequate provisions are made for safe and efficient pedestrian and vehicular circulation within the site and to adjacent property;

(3) The development has adequate public services and open spaces;

(4) The development preserves and is sensitive to the natural characteristics of the site in a manner that complies with the applicable regulations set forth in this code;

(5) The development provides adequate lighting for safe and convenient use of the streets, walkways, driveways, and parking areas without unnecessarily spilling or emitting light onto adjacent properties or the general vicinity;

(6) The proposed signs, as indicated on the submitted sign plan, will be coordinated within the PUD and with adjacent development; are of an appropriate size, scale, and design in relationship with the principal building, site, and surroundings; and are located so as to maintain safe and orderly pedestrian and vehicular circulation;

(7) The landscape plan will adequately enhance the principal building and site; maintain existing trees to the extent possible; buffer adjacent incompatible uses; break up large expanses of pavement with natural material; and provide appropriate plant materials for the buildings, site, and climate;

(8) Adequate provision is made for storm drainage within and through the site which complies with the applicable regulations in this code and any other design criteria established by the City or any other governmental entity which may have jurisdiction over such matters;

(9) If the project is to be carried out in progressive stages, each stage shall be so planned that the foregoing conditions are complied with at the completion of each stage;

(10) The project appears to be in compliance with all other local, state and federal laws and regulations.

(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1139
## Sexually Oriented Businesses


**1139.01 Rationale and findings.**
**1139.02 Definitions.**
**1139.03 Criteria.**
**1139.04 Severability.**


CROSS REFERENCES
Sexually oriented business standards - see BUS. REG. Ch. 707

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### 1139.01 RATIONALE AND FINDINGS.

(a) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, moral, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

(b) Findings and Rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of City of Littleton v. Z.J. Gifts D-4, L.L.C., 124 S.Ct. 2219 (June 7, 2004); City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002); Pap's A.M. v. City of Erie, 529 U.S. 277 (2000); City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); California v. LaRue, 409 U.S. 109 (1972); and Deja Vu of Cincinnati, Inc. v. Union Township, Ohio, 411 F.3d 777 (6th Cir. 2005) (en banc); DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); Brandywine, Inc. v. City of Richmond, 359 F.3d 830 (6th Cir. 2004); Currence v. City of Cincinnati, 2002 U.S. App. LEXIS 1258; Broadway Books v. Roberts, 642 F.Supp. 486 (E.D. Tenn. 1986); Bright Lights, Inc. v. City of Newport, 830 F.Supp. 378 (E.D. Ky. 1993); Richland Bookmart v. Nichols, 137 F.3d 435 (6th Cir. 1998); Center for Fair Public Policy v. Maricopa County, 336 F.3d 1153 (9th Cir. 2003); DéjB vu v. Metro Government, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); Bamon Corp. v. City of Dayton, 923 F.2d 470 (6th Cir. 1991); Triplett Grille, Inc. v. City of Akron, 40 F.3d 129 (6th Cir. 1994); O'Connor v. City and County of Denver, 894 F.2d 1210 (10th Cir. 1990); DéjB vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County, 274 F.3d 377 (6th Cir. 2001); Z.J. Gifts D-2, L.L.C. v. City of Aurora, 136 F.3d 683 (10th Cir. 1998); ILQ Investments, Inc. v. City of

Rochester, 25 F.3d 1413 (8th Cir. 1994); Threesome Entertainment v. Strittmather, 4 F.Supp.2d 710 (N.D. Ohio 1998); Bigg Wolf Discount Video Sales, Inc. v. Montgomery County, 256 F. Supp. 2d 385 (D. Md. 2003); Kentucky Restaurant Concepts, Inc. v. City of Louisville and Jefferson County, 209 F.Supp.2d 672 (W.D. Ky. 2002); Lady J. Lingerie, Inc. v. City of Jacksonville, 176 F.3d 1358 (11th Cir. 1999); Restaurant Ventures v. Lexington-Fayette Urban County Gov't, 60 S.W.3d 572 (Ct. App. Ky. 2001); World Wide Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003); and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Minneapolis, Minnesota - 1980; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the City Council finds:

(1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.

(2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.

(3) Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

(Ord. 15-23. Passed 8-14-23.)

**1139.02 DEFINITIONS.**

The words in this chapter shall have the meanings therein respectively ascribed to them by Chapter 707 of the Lancaster Code of Ordinances unless a different meaning is clearly indicated by the context. (Ord. 15-23. Passed 8-14-23.)

**1139.03 CRITERIA.**

Sexually oriented businesses shall be considered a Special Exception in the SI District, subject to the following conditions:

(a) No sexually oriented business shall be established within five hundred (500) feet of any R District including R, MHC, etc. or any single or multi-family use.

(b) No sexually oriented business shall be established within a radius of five hundred (500) feet of any school, library, or teaching facility, whether public or private, when such school, library, or teaching facility is attended by persons under eighteen (18) years of age.

(c) No sexually oriented business shall be established within a radius of five hundred (500) feet of a nursery, preschool or daycare facility.

(d) No sexually oriented business shall be established within a radius of five hundred (500) feet of any park or recreational facility attended by persons under eighteen (18) years of age.

(e) No sexually oriented business shall be established within a radius of five hundred (500) feet of any church, synagogue, or worship facility.

(f) No sexually oriented business shall be established within a radius of five hundred (500) feet of any other sexually oriented business.

(g) Lighting on the exterior of the building shall be arranged so as to illuminate the entire off-street parking area with sufficient intensity to provide illumination of not less than two (2.0) foot candles as measured at the floor level.

The distances as cited in this Section above shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the building in which the proposed sexually oriented business is to be located, to the nearest point of the property line, or District from which the proposed sexually oriented business is to be separated.

(Ord. 15-23. Passed 8-14-23.)

**1139.04 SEVERABILITY.**

This ordinance and each section and provision of said chapter hereunder, are hereby declared to be independent divisions and subdivisions and, not withstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1141
# Landscaping


1141.01 Purpose.
1141.02 Sites affected.
1141.03 Minimum standards.
1141.04 Permitted and prohibited tree species.
1141.05 Street trees and tree lawn.
1141.06 Tree preservation.
1141.07 Parking lot screening.
1141.08 Landscaping in parking lot islands.
1141.09 Right-of-way setback landscaping.
1141.10 Buffer yard requirements.
1141.11 Screening of mechanical equipment - service area - storage areas - trash containers - loading zones.
1141.12 Landscaping for redeveloped sites.
1141.13 Landscape - streetscape requirements for the CBD.


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## 1141.01 PURPOSE.

The purpose of this Chapter is to improve the beautification of the City of Lancaster and enhance its aesthetics thereby increasing the quality of life for residents. It is further the intent of this Chapter to promote the reasonable preservation and replacement of valued trees and landscaping, to aid in the establishing of ecological balance by contributing to air purification, oxygen regeneration, ground water recharge, and stormwater runoff retardation, and to promote public health and safety through the reduction in noise, air, and visual pollution.
(Ord. 15-23. Passed 8-14-23.)

## 1141.02 SITES AFFECTED.

(a) Individual One Dwelling Unit Lots Exempted. Individual one dwelling unit lots are exempt from the requirements of this Chapter following the transfer of ownership from a developer or builder to the homeowner except that one dwelling unit lot owners must maintain and replace street trees with trees on the approved tree list and must comply with vegetative cover requirements in Section 1141.03(a).

(b) New Construction. No Zoning Clearance Permit shall be granted for any new construction of any building, structure or parking lot, unless the landscaping standards in Chapter 1141 are met.

(c) Redeveloped Sites. Landscaping for redeveloped sites shall comply with Section 1141.12. Redeveloped for purposes of this section means the expansion of more than twenty-five percent (25%) of a building or parking lot or the alteration of more than twenty-five percent (25%) of the interior of the building.

(d) CBD Development Sites. Landscaping for sites located within the CBD shall comply with Section 1141.13.
(Ord. 15-23. Passed 8-14-23.)

**1141.03 MINIMUM STANDARDS.**

(a) Grass (seed or sod), shrubs, trees, garden planting areas or other appropriate landscaping materials shall be planted in all exterior areas. Other groundcover, such as ivy, may be planted in exterior areas which are not occupied by required landscaping material or required for drainage.

(b) All trees required by these regulations, or other applicable standards, shall be live plants and meet the following minimum tree sizes at the time of planting:

| Tree Type | Minimum Size at Time of Planting |
|---|---|
| Deciduous Trees | 2-inch caliper |
| Coniferous | 5 feet in height |
| Shrubs and Hedges | 3 feet in height |

(c) All plants shall meet or exceed American Standards for nursery stock as set forth by the American Association of Nurserymen.

(d) Artificial plant materials shall be prohibited.

(e) All trees and landscaping shall be well maintained. Dead trees, shrubs and other landscaping material shall be promptly removed and, when required, shall be replaced within six (6) months.

(f) Landscaping shall be planted in a manner so that it does not extend beyond a property line at full growth.

(g) New trees installed under power lines shall be maintained so that there is a minimum overhead clearance of thirty (30) feet.

(h) Landscaping shall be planted and kept trimmed so that it complies with the Visibility at Intersection requirements in Section 1147.16.
(Ord. 15-23. Passed 8-14-23.)

**1141.04 PERMITTED AND PROHIBITED TREE SPECIES.**

The City of Lancaster Tree Commission shall establish and adopt an Approved and Prohibited Tree Species list. This list may be amended from time to time by the Tree Commission. All trees required by this Chapter shall adhere to the then current Approved and Prohibited Tree Species list.
(Ord. 15-23. Passed 8-14-23.)

**1141.05 STREET TREES AND TREE LAWN.**

(a) In all Zoning Districts, new sites shall plant and maintain street trees along public roadways in compliance with the following:

(1) The tree to be planted shall be listed on the Approved Tree Species List adopted by the Tree Commission.

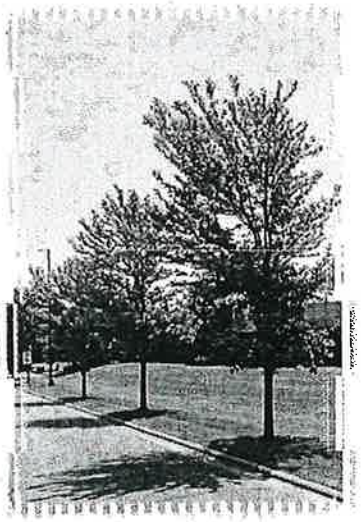
(2) One (1) tree shall be provided for every forty (40) linear feet of frontage, or fraction thereof, along each public right-of-way.

(3) The minimum spacing between trees shall be forty (40) feet for large trees, thirty (30) feet for medium trees and twenty (20) feet for small trees.

(4) The minimum distance between the tree and the edge of the street shall be two and one-half (2.5) feet for a large tree, two (2) feet for a medium tree and one and one-half (1.5) feet for a small tree. In areas where a sidewalk exists or is proposed, the minimum distance between the tree trunk and both the edge of the street and the sidewalks shall be two (2) feet for a large tree, two (2) feet for a medium tree and one and one-half (1.5) feet for a small tree.

(5) The tree location shall be at least thirty (30) feet from street intersections, twenty (20) feet from fire hydrants or utility poles, and ten (10) feet from driveways.

(6) A small tree shall be used when planting under or within ten (10) lateral feet of overhead utility wires. A small or medium tree shall be used when planting within ten (10) to twenty (20) lateral feet of overhead utility wires.



(b) Required Tree Lawn. A minimum tree lawn shall be established for all new sites involving a new publicly dedicated right-of-way. The required tree lawn shall comply with the following requirements:

(1) The tree lawn along any new roadway shall be a minimum of nine (9) feet in width.

(2) No person shall reduce the width of a tree lawn without first procuring permission from the Tree Commission.

(Ord. 15-23. Passed 8-14-23.)

**1141.06 TREE PRESERVATION.**

Reasonable and good faith efforts will be made to preserve existing trees. Consideration shall be given to laying out service roads, lots, structures, and parking areas to avoid the unnecessary destruction of wooded areas and individual trees. Additionally, standard tree preservation practices must be used to preserve and protect trees during all phases of construction, including the installation of snow fencing at the drip line.

(Ord. 15-23. Passed 8-14-23.)

**1141.07 PARKING LOT SCREENING.**

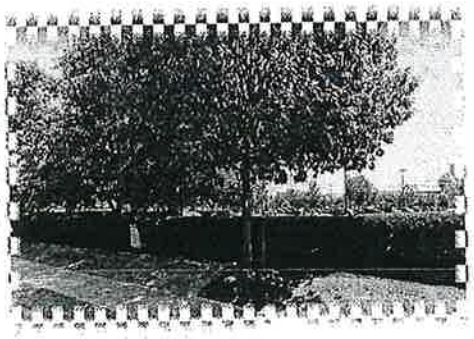
(a) All parking lots within all Districts shall comply with the following parking lot screening requirements:

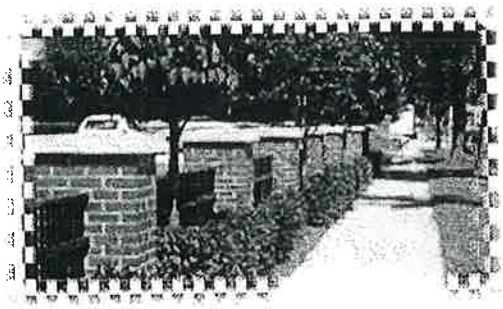
(1) Any surface parking areas adjacent to an existing or planned public right-of-way shall be screened from the respective right-of-way with a minimum of a thirty-six (36) inch continuous planting hedge and tree combination.

(2) In the CBD District, in lieu of continuous hedge planning, the use of a thirty-six (36) inch decorative wall with fence in conjunction with landscaping may be utilized to effectively screen the parking provided it complies with Chapter 1327 and receives approval of the Historic Lancaster Commission.

(3) The height of the required hedge or wall shall be measured from the elevation of the adjacent parking area.

(4) The City Planner or designee may waive the parking lot screening requirements when there is a natural separation of at least five (5) feet between the elevation of an existing road and the existing grade of the lot where the parking lot will be located for at least seventy-five percent (75%) of the property's frontage along the public right-of-way. This natural separation is deemed to be sufficient to effectively screen the parking from the public right-of-way.

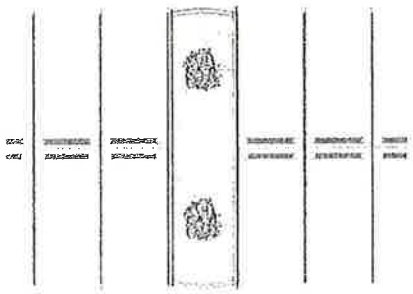


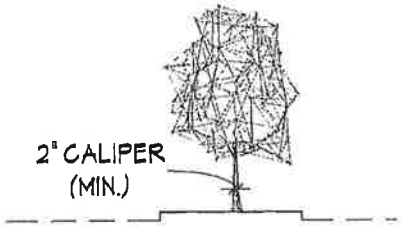


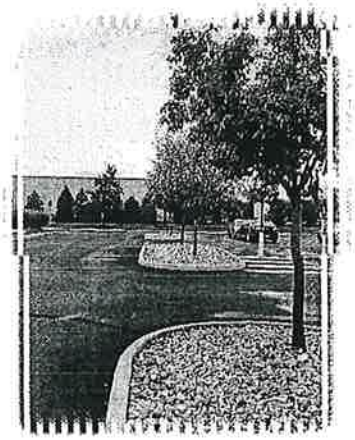
(Ord. 15-23. Passed 8-14-23.)

**1141.08 LANDSCAPING IN PARKING LOT ISLANDS.**

All parking islands required in Section 1143.05(b) shall have a minimum of one (1) shade tree with a minimum of two (2) inch in caliper. The remaining area of the landscaped island shall be planted with grass or covered with stone.





Example: Parking island with stone material

(Ord. 15-23. Passed 8-14-23.)

**1141.09 RIGHT-OF-WAY SETBACK LANDSCAPING.**

Right-of-way setback landscaping is required for all new sites abutting an arterial or collector road, except for those located within the TR, CBD and CN Districts. Throughout the setback area along an existing or planned public right-of-way, there shall be a minimum of four (4) trees per one hundred (100) linear feet. Trees may be deciduous, coniferous or a combination thereof. This requirement shall not apply in the areas of ingress and egress, or to existing trees which are undisturbed by the project.

Example: Setback Landscaping
(Ord. 15-23. Passed 8-14-23.)

**1141.10 BUFFER YARD REQUIREMENTS.**

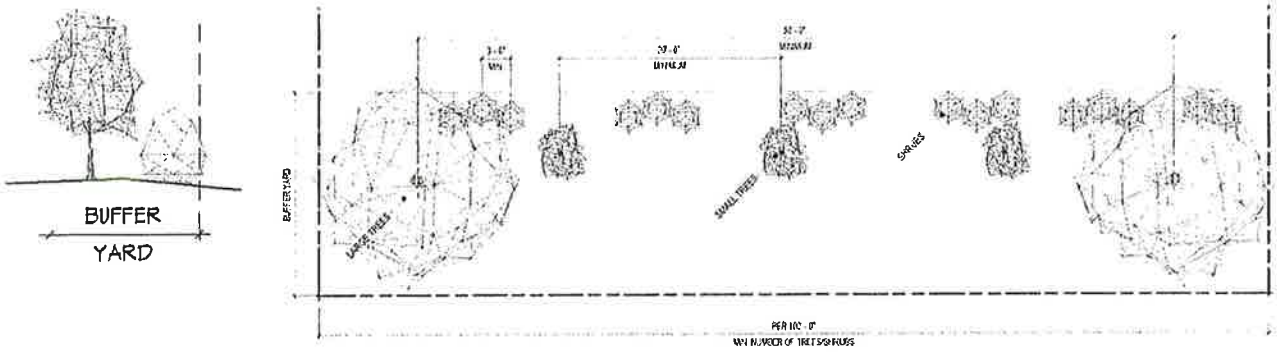
Buffer Yard and Screening Requirements. The following buffer yard and screening requirements apply as follows:

| | | | | Min. # of trees per 50 lineal feet*** adjoining lot lines must include the following: | | |
|---|---|---|---|---|---|---|
| District of Proposed Use | Abutting District | Yard | Buffer Yard Width (Feet)* | # of Large Trees (a) | # of Small Trees (b) | # of Shrubs (c) |
| TR** | RE; R-LD; R-MD | Side or Rear | 10 | 2 | 3 | 17 |
| CBD | RE; R-LD; R-MD; TR | Side or Rear | 20 | 3 | 5 | 25 |
| CN | RE; R-LD; R-MD; TR | Side or Rear | 20 | 3 | 5 | 25 |
| CG, SI | RE; R-LD; R-MD; TR | Side or Rear | 20 | 3 | 5 | 25 |
| AM | RE; R-LD; R-MD; TR | Side or Rear | 45 | 4 | 10 | 33 |
| AM | CBD, NB, GB, SI | Side or Rear | N/A | N/A | N/A | N/A |

Minimum Spacing Requirements
(a) Planted twenty-five (25) feet on center
(b) Planted (ten) 10 feet on center
(c) Planted three (3) feet on center

*A six (6) foot tall buffer fence may be utilized may take the place of shrubs. For purposes of this section, a Buffer Fence is a fence constructed of brick, stone, treated wood, painted rustproof metal, chain link with vinyl or metal screening inserts, vinyl, or other commercially produced synthetic fencing material so long as it is durable, uniform, and attractive. Opaque gates matching the type, height, etc. of the fence shall be provided for access. The use of chain link fencing or gates with mesh screening, tarps, and similar materials shall not be considered as Buffer Fence.
**These buffer requirements do not apply when a proposed one-unit dwelling in the TR District will about another one-unit dwelling.
***If adjoining lots have less than one hundred (100) lineal feet, utilize the spacing standards above to determine the number of plantings required on a prorated basis. For lots with more than one hundred (100) lineal feet, all units of one hundred (100) lineal feet must meet the buffer standard in the chart, and the fractional remainder will be determined using the minimum spacing requirements above.

Example shows AM adjacent to RE District:




(Ord. 15-23. Passed 8-14-23.)

**1141.11 SCREENING OF MECHANICAL EQUIPMENT - SERVICE AREA - STORAGE AREAS - TRASH CONTAINERS - LOADING ZONES.**

(a) Mechanical Equipment. All external mechanical equipment in all Districts, except the RE; R-LD, R-MD, and one (1) or two (2) unit dwellings in the TR Districts, shall be screened from adjacent existing or planned public rights-of-way or when located adjacent to a District that permits one (1) unit residential dwellings. Said screening shall comply with one of the following requirements:

(1) A wall or fence that is a minimum of one (1) foot taller than the mechanical units to be screened. Said wall or fence must be constructed with the same or similar materials as those used on the principal building; or

(2) A landscape screen that consists of evergreen trees that are a minimum of one (1) foot taller than said mechanical units at the time of installation. The evergreen trees or shrubs shall be installed in linear fashion around all sides of the mechanical unit(s) and shall have a maximum spacing of twelve (12) linear feet between each tree.

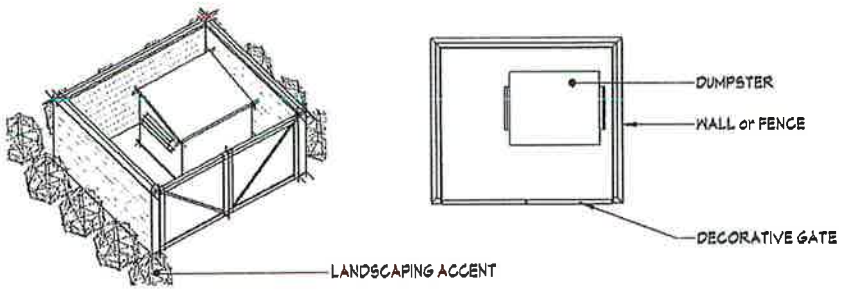
(3) Rooftop mechanicals shall be screened by a parapet wall or other similar screening mechanism that extends a minimum of one (1) foot above said mechanical units.

(b) Service Areas, Production Areas, Storage Areas, Trash Containers, and Loading Zones. All production areas, service areas, storage areas, trash containers and loading zones for all uses in all Districts shall be located at the rear or the side of the building. They shall be effectively screened on all sides from all adjacent property lines, existing or planned public rights-of-way and private streets as follows:

(1) Production areas, service areas, and loading zones: Screening of such areas shall consist of either landscaping or a minimum six (6) foot wall accented with landscaping materials that extends the entire length of the production area, service area of loading zone. Screening consisting of walls shall utilize the same or similar materials as those used on the principal building. When landscaping is utilized in lieu of a wall, it shall consist of evergreen trees that are a minimum of six (6) in height at the time of installation and spaced a maximum of twelve (12) feet between each tree.

(2) Trash containers and storage areas: Trash containers and storage areas shall be screened on three (3) sides with a solid wall or fence that is a minimum of one (1) foot taller than the trash container or the material within the storage area to be screened. Said wall or fence must be constructed with the same or similar materials as those used on the principal building and must be accented with landscaping for the entire screening perimeter. So that the trash container or storage area can be accessed, a solid, decorative gate of the same height as the wall/fence shall be utilized as screening on the fourth side of said trash container or storage area.

(3) Accent landscaping, as utilized in this section, means shrubs planted no more than five (5) feet apart and adjacent to the entire perimeter of the fence or wall utilized to screen the production area, service area, loading zone, or trash storage area as required by this section.




(Ord. 15-23. Passed 8-14-23.)

## 1141.12 LANDSCAPING FOR REDEVELOPED SITES.

The redevelopment of existing sites is key to furthering the City's goals of maintaining a healthy economy. Existing parking lots that do not comply with current screening and landscape standards present unique challenges. Imposing the same landscaping requirements to redeveloped sites as for new sites could become cost prohibitive and discourages the reinvestment into the community. The purpose of this section is to apply minimal landscaping requirements to enhance these existing properties. This section also promotes an urban tree canopy, assists with reducing the amount of impervious surfaces and fosters strong neighborhoods with successful commercial Districts.

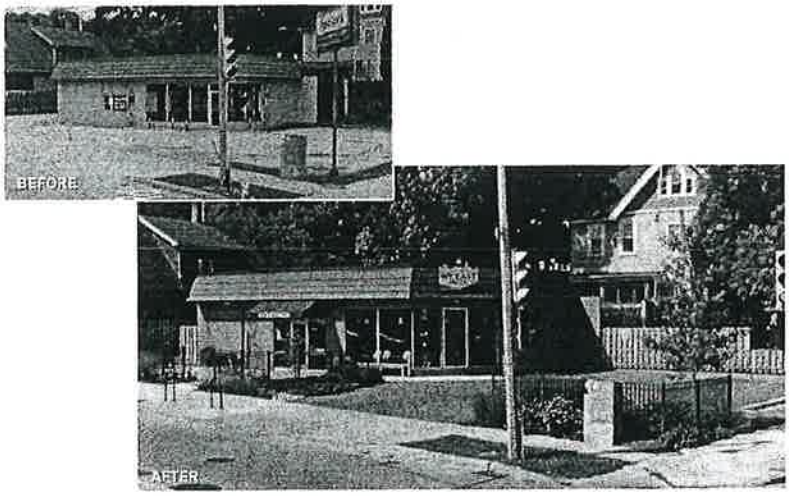
This section applies only to sites where the property is being redeveloped. Redeveloped for purposes of this section means the expansion of more than twenty-five percent (25%) of a building or parking lot or the alteration of more than twenty-five percent (25%) of the interior or exterior of the building. Furthermore, existing buildings, structures or parking lots that are maintained in their existing lawfully existing condition upon the adoption of this Ordinance can continue as non-conforming use in accordance with Section 1153.05.

In lieu of the landscaping requirements in Sections 1141.05-1141.10, the following regulations shall apply when a property is being redeveloped:

(a) When a site is redeveloped, it shall provide a minimum of one hundred (100) square feet of landscaping for every three thousand five hundred (3,500) square feet of parking lot area. These landscaped areas shall be clustered and placed strategically within the parking lot to provide visual curb appeal as approved by the City Planner or designee. Any decision of the City Planner or designee on visual curb appeal may be submitted to the Board of Zoning Appeals in accordance with Section 1157.07.

(b) The requirements of Section 1141.11 shall apply to the redevelopment of property.

(c) The requirements of Section 1141.03 and 1141.04 shall apply to any landscaping required or otherwise provided on redeveloped sites.




(Ord. 15-23. Passed 8-14-23.)

**1141.13 LANDSCAPE - STREETSCAPE REQUIREMENTS FOR THE CBD.**

Historically, commercial buildings in the Central Business District are built to the setback, meaning that the buildings are constructed on or extremely close to the front lot line, leaving minimal area for significant landscaping or open space typically required for new development sites. In lieu of the landscaping requirements in Sections 1141.06-1141.10, The Landscaping - Streetscape Requirements for the CBD have been established to scale the landscaping to a traditional downtown setting and to create an attractive pedestrian streetscape. The following standards shall apply to all CBD sites, unless otherwise modified by the Historic Lancaster Commission when a site is located within the Historic Lancaster District.

(a) When a front setback is less than three (3) feet, no landscaping shall be required between the front building façade and the front lot line.

Example of clustered/offset shrubs

(b) When the front setback is between three (3) and ten (10) from the front property line, the front setback shall include one of the following:

(1) A minimum of two (2) shrubs for every twenty (20) lineal feet of building façade. These shrubs can be clustered/offset or planted in a continuous hedgerow; or

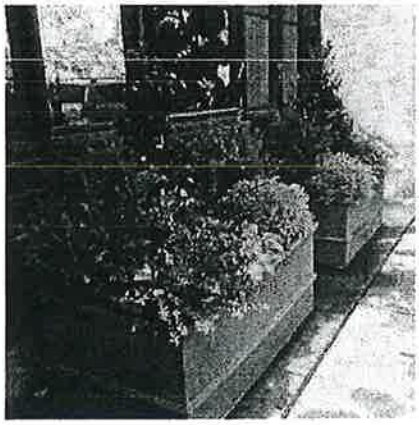
(2) An ornamental fence or a decorative wall not exceeding three (3) feet in height and extending for the entire length of the front building façade. Outdoor seating may be provided in this area. A break in the fence may be allowed in order to provide adequate pedestrian ingress/egress to the building.

(3) One planter box for every twenty (20) feet of front building façade. Each planter box shall have a minimum soil capacity of ten (10) gallons and shall be planted and maintained with all season plant material to ensure year-round curb appeal. All season plant material shall be defined as those plant materials listed on the Approved Decorative Planter List, as approved by the Lancaster Historic Commission. The Approved Decorative Planter List shall apply to all properties within the Central Business District including those outside of the Historic Lancaster District.

Example of continuous hedge row

(4) A combination of any of the three above options may also be approved by the City Planner.

Example ornamental fencing with optional outdoor seating



Example of planter box

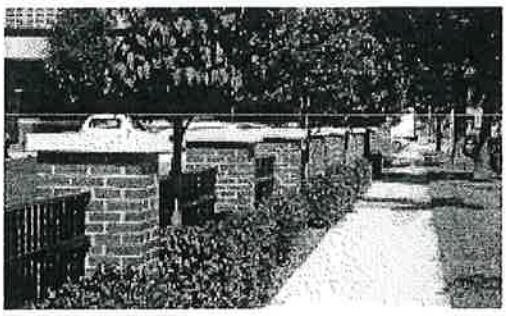
(c) Parking Lot Screening. Any surface parking area adjacent to a public right-of-way shall be screened from the respective right-of-way using one of the following methods:

(1) A thirty-six (36) inch tall, continuous planting hedge and tree combination; or

(2) A thirty-six (36) inch tall decorative wall with fence in conjunction with landscaping; or

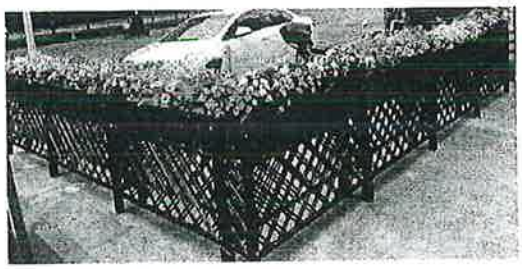
(3) A thirty-six (36) inch tall, continuous decorative planter with lattice or other similar design. The decorative planter shall be planted and maintained with flowers that are listed on the Approved Decorative Planter List, as approved by the City Tree Commission.

(4) The height of the required screening shall be measured from the elevation of the adjacent parking area to the top of the screening material.



Example of decorative wall with fence.

(d) Tree Wells. Tree wells are strategically located within the sidewalks along various streets within the CBD. If the site is located in an area where such tree wells are provided, then no additional street trees shall be required. Otherwise, the site shall comply with the Street Tree requirements in Section 1141.05.



Example of decorative planter with lattice

(e) Buffer Yard. Whenever a proposed use within the CBD abuts the RE, R LD, R-MD or a one (1) unit dwelling in the TR District, a buffer yard that is a minimum of twenty (20) feet in width shall be provided. It shall contain a minimum of three (3) Large Trees, five (5) Small Trees, and twenty-five (25) Shrubs.

(f) The requirements of Section 1141.03 and 1141.04 shall apply to any landscaping required or otherwise provided on sites in the CBD.

(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1143
## Parking, Loading Spaces, Access and Vehicular and Pedestrian Connectivity


**1143.01 Purpose.**
**1143.02 Applicability of requirements.**
**1143.03 General requirements.**
**1143.04 Parking lot location.**
**1143.05 Parking bays.**
**1143.06 Design standards for off-street parking areas.**
**1143.07 Special event parking.**
**1143.08 Design standards for off-street loading areas.**
**1143.09 Parking in the (CBD) Central Business District.**
**1143.10 Shared parking.**
**1143.11 Schedule of required off-street parking spaces.**
**1143.12 Drive thru stacking requirements.**
**1143.13 Parking of commercial vehicles in residential districts.**
**1143.14 Electrical vehicle charging stations.**
**1143.15 Access, vehicular and pedestrian/bikeway connectivity.**


CROSS REFERENCES
Parking generally - see TRAF. Ch. 351

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### 1143.01 PURPOSE.

Parking lot areas shall be designed and constructed to minimize the visual impact of the parking area, minimize production of excess heat, and prohibit any adverse effects on drainage. Appropriately sized landscaped areas shall be provided within each parking lot area allowing for a variety of shade trees to be planted. In order to accomplish these goals, all off-street parking lot areas shall be designed and constructed using the "Parking Bay" concept, which consists of parking spaces grouped together, with each Parking Bay separated by landscaped tree islands. (Ord. 15-23. Passed 8-14-23.)

### 1143.02 APPLICABILITY OF REQUIREMENTS.

Unless otherwise noted, these parking standards apply to all uses in all Districts. The off-street parking and off-street loading facilities whether they are principal uses, accessory uses, or a change of use, shall meet the requirements of this Chapter as follows, unless modified by Section 1143.10 and Section 1157.05.

(a) For all buildings and structures erected and all uses of land established after the effective date of this Code, parking and loading facilities shall be provided as required by the applicable use unit.

(b) When the intensity of use of any building, structure, or premises shall be increased through the addition of dwelling units, floor area, seating capacity, or other units of measurement specified herein for required parking or loading facilities, parking, and loading facilities as required herein shall be provided for such increase in intensity of use.

(c) Except as noted herein, whenever the existing use of a building or structure shall hereafter be changed to a new use, parking and loading facilities shall be provided as required for such new use. However, if the existing use is non-conforming as to parking requirements, then parking requirements for the change in use shall be established by the Board of Zoning Appeals.

(d) Accessory off-street parking and loading facilities in existence on the effective date of this Code and located on the same lot as the building or use served shall not hereafter be reduced below or if already less than, shall not be further reduced below the requirements for a similar new building or use under the provisions of this Code. (Ord. 15-23. Passed 8-14-23.)

**1143.03 GENERAL REQUIREMENTS.**

(a) Off-street parking and off-street loading facilities shall not occupy required livability space. Space allocated to any required off-street loading berth shall not be used to satisfy the space requirements for any off-street parking facilities. Space allocated to any required off-street parking shall not be used to satisfy the space requirements for any off-street loading facilities.

(b) Required off-street parking spaces and required off-street loading spaces shall not be used for the storage, sale, dismantling, or servicing of any vehicle, equipment, materials or supplies.

(c) Required off-street parking spaces and required off-street loading spaces shall be located on the lot containing the use for which the required spaces or spaces are to be provided except as modified by Section 1143.10.

(d) In the CN, CB, SI and AM Districts, all off-street parking spaces shall be designed in a manner that allows each space to be entered and exited without passing through another parking space. Stacked parking may be allowed in the Central Business District with the approval of the Board of Zoning Appeals.

(e) Parking spaces provided inside of a garage that are dedicated to the principal use of the property shall count towards the parking space requirements.
(Ord. 15-23. Passed 8-14-23.)

**1143.04 PARKING LOT LOCATION.**

All parking lots shall be located in accordance with the parking lot location requirements as noted in the development standards table for each District.
(Ord. 15-23. Passed 8-14-23.)

**1143.05 PARKING BAYS.**

(a) All new sites shall provide parking bays within the parking lots. No parking bay shall contain more than twenty-four (24) parking spaces, with a maximum of twelve (12) spaces in a single row in the CN and CG Districts. In the SI and AM Districts, no parking bay shall contain more than forty-eight (48) parking spaces, with a maximum of twenty-four (24) spaces in a single row. Each parking bay shall be separated by a parking lot island on each side.

(b) Parking Lot Islands: Each landscape island in a single loaded parking stall design shall have a minimum area of one hundred sixty-two (162) square feet with a minimum width of nine (9) feet. Each landscape island in a double loaded parking stall design shall have a minimum of three hundred twenty-four (324) square feet with a minimum width of nine (9) feet and shall be landscaped in accordance with Section 1141.08.

(c) Parking bays are not required for property being redeveloped. For purposes of this section, redeveloped means the expansion of more than twenty-five percent (25%) of a building or parking lot or the alteration of more than twenty-five percent (25%) of the interior or exterior of the building. (Ord. 15-23. Passed 8-14-23.)

**1143.06 DESIGN STANDARDS FOR OFF-STREET PARKING AREAS.**

The following standards shall apply:

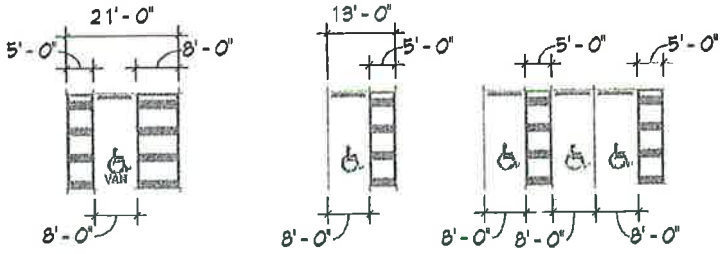
(a) All off-street parking spaces shall have a vertical clearance of at least six (6) feet six (6) inches.

(b) All parking areas, common areas and adjacent driveways in all Districts shall be paved with asphalt material, cement, cobblestone, or brick pavers and parking spaces shall be striped. The use of gravel or asphalt grindings for parking lots or driveways shall be prohibited. All vehicles in all Districts shall be parked on paved driveways or parking areas and shall be prohibited from being parked in grass or other unpaved areas of lots. Required off-street parking material shall be installed prior to the initiation of the use, unless an extension is granted based upon weather or unusual circumstances as determined by the City Planner or designee. This requirement does not apply to Special Event Parking as regulated in Section 1143.07.

(c) Off-street parking spaces shall be at least nine (9) feet in width and eighteen (18) feet in length exclusive of access drives and aisles.

(d) All off-street parking spaces shall be designed in accordance with Parking Table - 1.

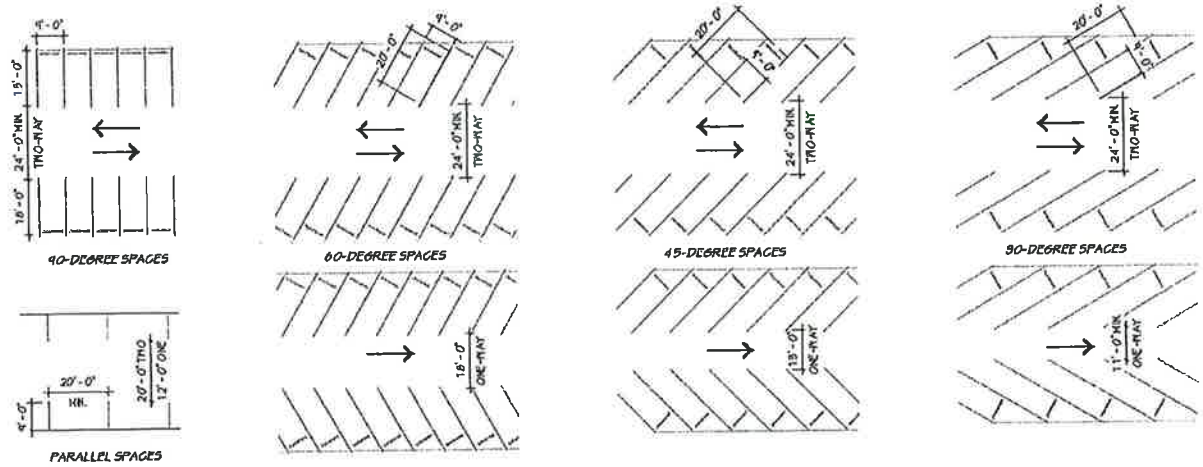
(e) Handicap accessible parking spaces shall be provided in accordance with the Americans with Disabilities Act requirements and Ohio Building Code.




VAN SPACE STANDARD ACCESSIBLE SPACES

## Parking Table - 1

| Angle[3] | Parking Row Depth | Drive Aisle Width | | Space Width[2] | Space Length |
|---|---|---|---|---|---|
| | | One-Way | Two-Way | | |
| | (A) | (B) | (C) | (D) | (E) |
| Parallel | 9' | 12' | 20' | 9' | 20' |
| 30° | 17'[1] | 11' | 24' | 9' | 20'[1] |
| 45° | 20'[1] | 13' | 24' | 9' | 20'[1] |
| 60° | 21'[1] | 18' | 24' | 9' | 20'[1] |
| Perpendicular | 18'[1] | 24' | 24' | 9' | 18'[1] |
| Tandem (two spaces) | 18'[1] | 14' | 24' | 9' | 36'[1] |




(Ord. 15-23. Passed 8-14-23.)

**1143.07 SPECIAL EVENT PARKING.**

Special event parking areas shall comply with the following conditions:

(a) Special event parking shall not be used for more than thirty (30) days in any calendar year.

(b) Special event parking cannot occur for more than fifteen (15) consecutive days during any thirty (30) day period.

(c) Special event parking shall be set back at least fifty (50) feet from any off-site lot in any R District or any residential development area in a PUD.

(d) Special event parking areas shall be on the same lot(s) approved for the principal use to which they are accessory.

(Ord. 15-23. Passed 8-14-23.)

**1143.08 DESIGN STANDARDS FOR OFF-STREET LOADING AREAS.**

(a) All off-street loading spaces must be located to the side or rear of the principal structure and screened in accordance with Section 1141.07 and are prohibited within any front yard.

(b) Required off-street loading spaces shall be provided access to and from a public street or alley by an access drive of at least ten (10) feet in width designed to permit convenient access by semi-trailer trucks.

(c) An off-street loading space shall consist of a rectangular area adequate for loading and unloading and be accessible from a maneuvering area.

(d) All off-street loading spaces and maneuvering areas shall be located on the same lot as the use they are intended to serve.

(e) A required off-street loading space shall have a clearance height of not less than fifteen (15) feet and shall have minimum dimensions of not less than twelve (12) feet in width and fifty (50) feet in length, exclusive of any driveway, aisle, or other circulation area.

(f) All unenclosed off-street loading areas, common areas and adjacent driveways shall be paved with asphalt material, cement, cobblestone, or brick pavers and parking spaces shall be striped.

(g) The number of off-street loading spaces required for various types of uses shall be no less than as set forth in the following:

CN, CG, and SI Districts: Each use in these Districts shall provide loading spaces based on gross floor area as follows:

Less than five thousand (5,000) square feet - none required.

Five thousand (5,000) to two hundred fifty Thousand (250,000) square feet = one (one) space.

Over two hundred fifty (250,000) square feet = one (1) space for each two (2) hundred fifty (250,000) square feet or portion thereof.

AM District: Each use in this District shall provide loading spaces based on gross floor area as follows:

Under ten thousand (10,000) square feet = none.

Ten Thousand (10,000) square feet or more but less than seventy-five thousand (75,000) square feet = one (1) space.

Seventy-five thousand (75,000) square feet or more but less than one hundred fifty thousand (150,000) square feet = two (2) spaces.

One hundred fifty thousand (150,000) square feet or more but less than three hundred thousand (300,000) square feet = three (3) spaces

Over three hundred thousand (300,000) square feet = one (1) space for each one hundred thousand (100,000) square feet or portion thereof.

The loading space requirements for buildings with multiple uses or tenants shall be determined based on the aggregate total of gross floor area of all uses or tenants.
(Ord. 15-23. Passed 8-14-23.)

**1143.09 PARKING IN THE (CBD) CENTRAL BUSINESS DISTRICT.**

(a) The (CBD) Central Business District is characterized by higher development density, small lots, and minimal building setbacks. Historically, a significant portion of the parking needs of this area has been provided by on-street parking, an option that is typically not available for suburban-type locations. For this reason, special parking regulations are warranted.

(b) A specific number of off-street parking spaces is not required as long as the property is within one thousand (1,000) feet from sufficient on-street parking spaces or a public parking facility that has adequate capacity to serve the use(s) on the property, as determined by:

(1) The Historic Review Commission if located within the Historic Overlay; or

(2) The Board of Zoning Appeals, if outside of the Historic Overlay.

Otherwise, the site must follow the required parking spaces as specified in Section 1143.11.

(c) When Section 1143.09(b) cannot be met and off-street parking spaces are required in accordance with Section 1143.11, two (2) or more uses within the CBD District may meet the parking requirements by complying with the Shared Parking Requirements in Section 1143.10. Additionally, if bicycle parking is provided, the number of required spaces can be reduced at the ratio of one (1) automobile off-street parking space for every six (6) bicycle spaces provided.
(Ord. 15-23. Passed 8-14-23.)

**1143.10 SHARED PARKING.**

(a) In any District, when a mix of uses creates staggered peak periods of parking (see Parking Table - 2), the total parking requirements for the uses may be reduced provided a shared parking plan is submitted and approved as a Special Exception by the Board of Zoning Appeals.

(b) The shared parking plan must be based upon the number of originally required spaces for differed uses or facilities sharing the same parking area and documentation that the required parking needed for different uses is at different days and times generally based upon Table 2.

(c) Parking spaces included in the shared parking plan must be distributed in a manner that provides parking spaces within a reasonable distance from all proposed uses as determined by applicable reviewing entity.

(d) Shared parking must remain under common ownership providing access to all users of the shared parking. If common ownership is not proposed, the applicable approving authority may require documentation of shared access agreements to be provided.

**Parking Table - 2**

| Weekday Peaks | Evening Peaks | Weekend Peaks |
|---|---|---|
| Banks | Bars | Retails Uses |
| Professional Offices | Ice Cream Shops | Movie Theaters |
| Medical Offices | Restaurants | Residential |
| Library | Movie Theaters | |
| Daycare | Residential | |
| Coffee Shops | | |
| Restaurants | | |

(Ord. 15-23. Passed 8-14-23.)

**1143.11 SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES.**

All uses within all Districts shall comply with the number of off-street parking spaces requirements specified herein. These standards are being established to encourage efficient use of parking areas by establishing a maximum number of spaces required and permitting sensible shared parking to reduce Impervious Surfaces and increase green space. The Total Number of Required Parking Spaces shall be calculated for each separate use on the lot. In no case shall the total number of parking spaces for a particular use be less than the Minimum nor more than the Maximum Number of Required Parking Spaces for said use based upon the below chart. When calculating the required number of spaces, fractional numbers shall be increased to the next whole number.

**Parking Table - 3 - Required Off-Street Parking Spaces**

| Use | Minimum Number of Required Parking Spaces | Maximum Number of Required Parking Spaces |
|---|---|---|
| **General Business - Personal Services – Institutional - Office not otherwise specified herein** | 1 space per 500 square feet | 1 space per 225 square feet |
| **Daycare/School** | 1 space for every 7 children and 1 space for each employee on the largest shift | 1 space for every 5 children and 1 space for each employee on the largest shift |
| **Hospital/Nursing Home/Hospice - other than medical offices** | 1 space for every bed plus 1 space for each employee on largest shift | 1 space for every bed, 4 spaces for every 1,000 square feet of inpatient treatment area, and 5 parking spaces for every 1,000 square feet of outpatient treatment area |
| **Hotel/Motel** | 1 space per room | 1.5 spaces per room |
| **Movie Theater - Places of Assembly** | .25 spaces per seat or 1 space per 40 square feet | .3 spaces per seat or 1 space per 30 square feet |
| **Restaurants, Bars, Coffee and Ice Cream Shops** | 1 space per 100 square feet | 1 space per 75 square feet |
| **Recreational Uses** | | |
| Mini-Golf, Batting Cage | 1 per tee or cage | 1.5 per tee or cage |
| Bowling Alley | 3 per lane | 4 per lane |
| Recreation/Fitness Centers | 7 spaces per 1,000 square feet | 8 spaces per 1,000 square feet |
| Outdoor Recreation Fields | 50 per field | 75 per field |
| Ice Skating Rinks or other recreational use not specified herein | 1 per 200 square feet | 1 per 150 square feet |
| **Industrial Uses not otherwise defined below** | 1 space per 2,500 square feet | 2 spaces per 2,500 square feet |

| Use | Minimum Number of Required Parking Spaces | Maximum Number of Required Parking Spaces |
|---|---|---|
| **Flex-Office/Flex-Warehouse/Advanced Manufacturing** | 2 spaces per 1,000 square feet | 2.5 spaces per 1,000 square feet |
| **Logistics/Warehouses/Data Processing Center/Contractor's Office/Machine Shop/ Equipment Repair** | 1 space per employee on largest shift plus 1 space per vehicle stored on site | 1.5 space per employee on largest shift lus 1 space per vehicle stored on site |
| **Residential, One- and Two-Family Units** | 1 space per unit | 2 spaces per unit |
| **Assisted Living Facilities** | 1 space for every 2.5 Dwelling Units plus 1 space for every 2 employees | 1 space for 2 Dwelling Units plus 1 space for every 2 employees on largest shift |
| **Independent Senior Living Facilities/Adult Group Homes** | .85 spaces per Dwelling Unit | 1 space per Dwelling Unit |
| **Multi-Family Dwelling Units, Townhomes** | 1 space per Dwelling Unit | 3 spaces per Dwelling Unit |
| **Note: Utilize gross square footage whenever there is a reference to square feet** | | |

(Ord. 15-23. Passed 8-14-23.)

**1143.12 DRIVE THRU STACKING REQUIREMENTS.**

Drive thus are considered Automobile Oriented Uses and require a Special Exception permit from the Board of Zoning Appeals.

(a) The following criteria shall be utilized by the Board of Zoning Appeals when approving a Special Exception permit for a drive thru.

| Activity | Minimum Stacking Spaces (per lane) | Measured From and Including |
|---|---|---|
| Banks and ATMs | 3 | Teller/Window or ATM machine |
| Restaurant, Coffee Shop, or other similar use | 8 | First pick up window |
| Full Service Car Wash* | 20 | Entrance of tunnel |
| Self Service - Automated Car Wash* | 4 | Washing Bay |
| Fuel/Gasoline Pump Island | 1 | Pump Island |
| Other - Not Specified | As determined by the Board of Zoning Appeals | |

* BZA shall also ensure adequate spaces are provided at the end of the tunnel or wash bay for the drying and vacuuming of vehicles.

(b) Design and Layout.

(1) Pump spaces can count toward the stacking space requirement.

(2) Stacking spaces shall be a minimum of nine (9) feet by twenty (20) feet in size.

(3) Stacking spaces may not impede on- or off-site traffic movements or movements in or out of off-street parking spaces. There shall be a separate drive aisle allowing ingress and egress of vehicles that are not waiting in the drive thru lanes.

(4) Stacking spaces shall be separated from other internal driveways by surface markings or raised medians.

(5) These stacking space requirements shall be in addition to the off-street parking space requirements.

(6) When adjacent to the RE, R-LD, or R-MD Districts, stacking spaces shall be required to be located on sides of the lot opposite the adjacent residential use. (Ord. 15-23. Passed 8-14-23.)

## 1143.13 PARKING OF COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS.

(a) No commercial tractor, truck, trailer or commercial automobile weighing more than eight thousand (8,000) pounds shall be parked, stored or allowed on any lot or parcel of land or on the street in any residential District.

(b) This section shall not apply to such vehicles used for conveying the necessary tools and materials to premises where labor using such tools and materials is to be performed during the actual time of parking of such vehicles, nor to the actual time during which such vehicles are being loaded or unloaded or used to deliver or hoist property or merchandise for completion of delivery as long as such activities referred to in this provision are conducted diligently and without unnecessary delay. (Ord. 15-23. Passed 8-14-23.)

## 1143.14 ELECTRICAL VEHICLE CHARGING STATIONS.

(a) The purpose of this section is to encourage electrical vehicle charging stations but not require them.

(b) To promote the installations of these stations, the total number of required automobile off-street parking spaces required by this code shall be reduced by two (2) automobile off-street parking spaces for every one (1) electric vehicle space with a charger provided. (Ord. 15-23. Passed 8-14-23.)

## 1143.15 ACCESS, VEHICULAR AND PEDESTRIAN/BIKEWAY CONNECTIVITY.

(a) New sites shall be designed to provide for vehicular and pedestrian connectivity between adjoining properties.

(b) Vehicular Connectivity.

(1) Parking lots for new sites in the RM, CN, CG, SI and AM Districts shall provide a future connection point to each adjacent parcel that has the potential to develop or redevelop in the future, as determined by the City Planner or designee. If an adjacent parcel has an established connection point, the new site shall be required to connect to it. Cross access easements shall be provided when adjacent parking lots are connected.

(2) New roads established for residential developments in the RE, R-LD, or R-MD Districts shall provide for the future extension and connection to adjoining properties in accordance with Part Eleven - Title One, Subdivision Regulations.

(c) Pedestrian Connectivity.

(1) All new sites and redeveloped sites in all Districts shall provide a five (5) foot sidewalk adjacent to the public street when such sidewalk does not exist. The City Planner or designee may require a ten (10) foot multi-use path (MUP) in lieu of the five (5) foot sidewalk, when necessary to connect to an existing MUP.

(2) Additionally, any proposed new development or redevelopment of a Multi-Family, Commercial or Industrial Use or any single-family development that contains five (5) or more new or redeveloped lots shall provide a Pedestrian and Bikeway Study. This study shall show all existing Pedestrian and Bicycle Accommodations within 0.25-mile buffer around the entire site ("study area"). For purposes of this Ordinance, Pedestrian and Bicycle Accommodations shall include all existing sidewalks, crosswalks, pedestrian signals, pedestrian push buttons, bike lanes and trails, sidewalk buffers, on-street parking, medians, and transit stops within the study area. This study shall be prepared and stamped by a Professional Engineer and submitted with the application for a Zoning Clearance Permit for review by the City Engineer. The City Planner or designee shall require the applicant to install any on-site Pedestrian and Bicycle Accommodations as deemed necessary by the City Engineer to increase connectivity and safety of pedestrians and cyclists as part of the Zoning Clearance Permit.
(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1145
# Sign Regulations


1145.01 Purpose.
1145.02 Regulations that apply to all signs.
1145.03 Prohibited signs.
1145.04 Types of wall and freestanding signs.
1145.05 Ground mounted signs.
1145.06 Wall signs.
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1145.15 Entry feature signs.
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1145.18 Changeable copy and electronic message display.
1145.19 Murals and wallscapes.
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## 1145.01 PURPOSE.

Signs are an important mode of communication and should be permitted where safely and appropriately integrated into the surrounding areas within the City of Lancaster. This Chapter identifies various types of signs and the Zoning Districts in which each type of sign would be suitable. This Chapter also establishes time, place, and manner standards to help appropriately integrate the signs into the intended design and character of each Zoning District. It is further the intent of this Chapter to prevent signs from becoming a distraction or obstruction to the safe and efficient flow of pedestrian and vehicular traffic and to prevent signs from having an adverse impact on adjacent properties or uses to help promote the health, safety and welfare of the citizens of the City of Lancaster.
(Ord. 15-23. Passed 8-14-23.)

**1145.02 REGULATIONS THAT APPLY TO ALL SIGNS.**

(a) The following regulations apply to all Signs within the City of Lancaster:

(1) Unless otherwise exempted, a Zoning Clearance Permit shall be obtained prior to erecting any sign in any District. The following types of signs are exempt from obtaining a Sign Permit:

A. Signs not exceeding four (4) square feet in area that are customarily associated with a residential use. Signs associated with home occupations and/or special exceptions within said residential Districts shall not be exempt 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 include legal notices and traffic control devices, provided such signs carry no supplementary advertising.

C. Signs that are on the inside of a structure or building that are not affixed to the window and are typically not visible from outside the window. This does not include:

1. Signs that are not affixed to the window but can be seen from outside the window. Such signs shall be considered as Temporary Signs as defined in Chapter 1161 and shall be regulated per 1145.17.

2. Signs that are physically affixed to or painted on to the window - such signs are considered Window Signs as defined in Chapter 1161 and shall be regulated per Section 1145.09.

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.

(2) In all Districts, except the AG, RE, R-LD, and R-MD, a Comprehensive Sign Package, as defined in Chapter 1161, shall be provided prior to the issuance of any Sign Permit. A sign shall comply with the Comprehensive Sign Package for said parcel(s) and these regulations in order for a Sign Permit to be issued.

(3) All signage and graphics shall be carefully coordinated with the building and architecture.

(4) Each building and unit, if applicable, shall have an address number that is clearly visible from the public right-of-way. Such signs shall not require a permit.

(5) No sign shall extend into the right-of-way, unless the City Engineer determines, upon demonstration from the applicant, 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 such cases, said signs shall comply with the City of Lancaster Right-of-Way Ordinance - Chapter 901 Management, Administration, and Control Ordinance Governing the Use of Public Rights-of-Way - and a right-of-way permit shall be obtained.

(6) Small temporary signs as defined in Chapter 1161 provided said signs are located outside of the right-of-way and comply with Section 1145.17.

(7) 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.

(8) 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 changed or altered.

(9) Non-conforming signs shall be governed as a non-conforming structure subject to Section 1153 of this Ordinance.

(10) If any sign is found, upon inspection by the City Planner or designee, to constitute a hazard to public safety, such sign shall be subject to immediate removal by order of the City Planner or designee.

(11) No person or company shall install a sign requiring a permit unless the sign installer is a Registered Contractor with the City of Lancaster. The City may revoke a registration for failure to conform to all parts of this chapter. A registration fee shall be required of persons or companies installing a sign that requires a permit.

(12) Enforcement and Penalty - The enforcement and penalty of this Article shall be subject to Chapter 1155 of this Ordinance.

(Ord. 15-23. Passed 8-14-23.)

**1145.03 PROHIBITED SIGNS.**

(a) Any sign painted directly on the surface of a fence.

(b) Roof signs or roof mounted signs shall be prohibited. No part of any sign shall extend higher than the eave of any building, except when placed on the parapet of a building.

(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 signpost 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) Feathered flags.

(f) Any sign that obstructs any part of a direct access doorway, exit or fire escape.

(g) Portable displays or mobile signs that are not anchored or secured so as to prevent collapse or unintended movement.

(h) Any sign located within the Sight Visibility Triangle in Section 1147.16.

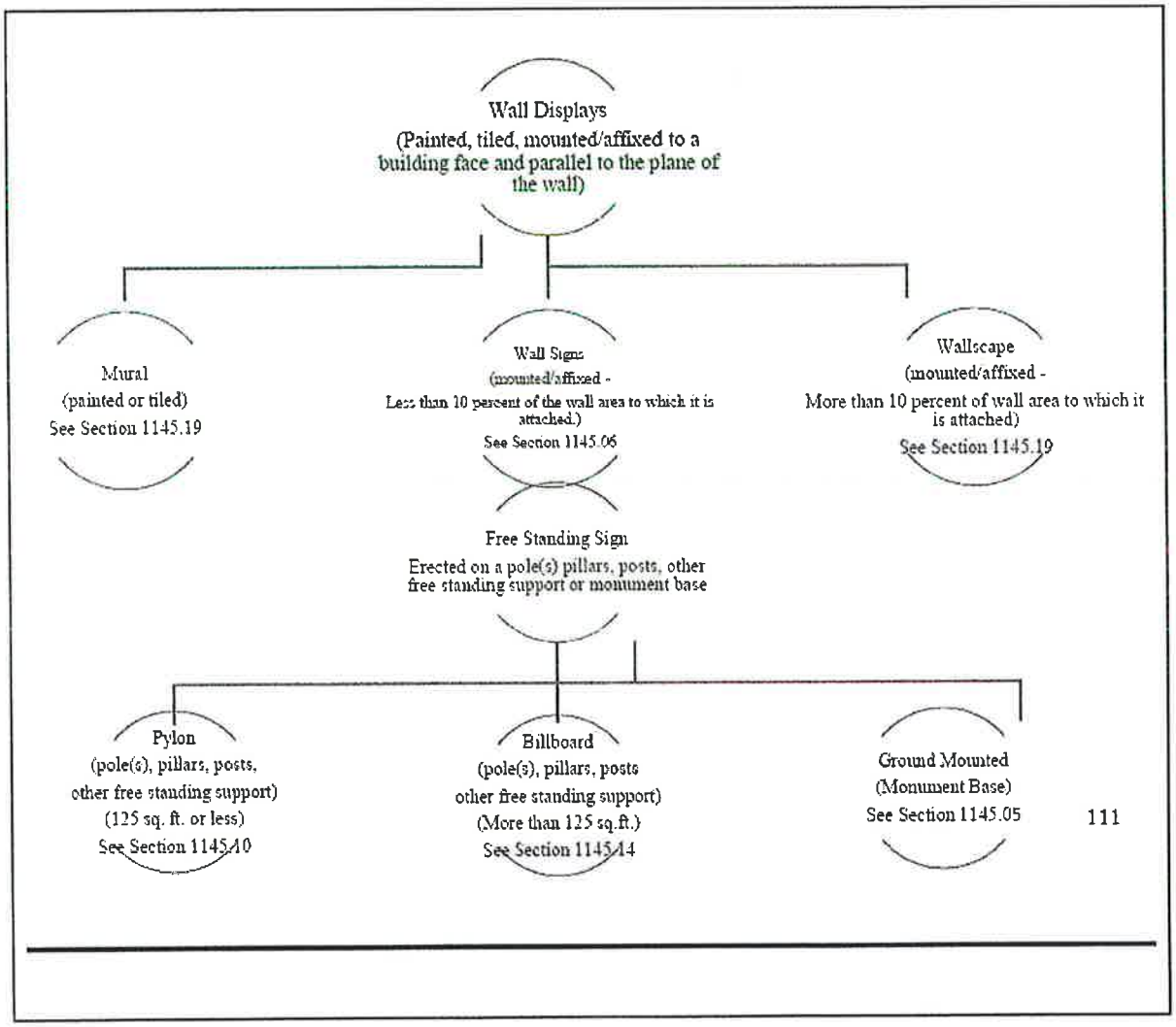
(i) Gas or air-filled devices, revolving or rotating signs, exposed neon signs, exposed LED signs, signs with flashing messages or bare bulbs, flashing or high intensity lights mounted on a sign, signs on backlit awnings, signs with moving text or pictures, bench signs, and trailer signs.

(j) Off-Premises signs.

(Ord. 15-23. Passed 8-14-23.)

## 1145.04 TYPES OF WALL AND FREESTANDING SIGNS.

The following graphic summarizes the various types of wall displays and freestanding signs. This graphic is for illustrative purposes only. The definitions for each type of signs Chapter 1161. The size, height, and setback requirements (time, place and manner regulations) in this Chapter also apply to each type of sign (see referenced section numbers for application regulations).




(Ord. 15-23. Passed 8-14-23.)

**1145.05 GROUND MOUNTED SIGNS.**

(a) Sign Table - 1 lists all Zoning Districts in which ground mounted signs are permitted. If a Zoning District is not listed, ground mounted signs are considered prohibited in said District. All ground mounted signs shall comply with the time, place and manner regulations Sign Table - 1. A sign permit shall be obtained prior to installing said sign.

(b) The maximum square footage in Sign Table - 1 applies to each sign face, and each sign face shall count towards the maximum size of the sign and total maximum square footage of all signs. There shall be a maximum of two (2) sign faces per sign.

(c) All ground mounted signs shall have a solid base consistent with the primary building material and have a minimum of fifty (50) square feet of landscaping around all sides of the ground mounted sign. Sign shall be affixed directly to a base having a width at least equal to that of the sign.

(d) Ground mounted signs shall not be permitted along rear access roads.

(e) The architecture of the sign base and sign face shall be coordinated with the overall architecture of the building(s) on the property.

Sign Table - 1 - Ground Mounted Signs

| | Districts | | | | |
|---|---|---|---|---|---|
| | **RM When associated with a Special Exception** | **CBD** | **CN** | **CG, SI, AM** | **PUD** |
| **Maximum Number of Signs Permitted Per Public Road Frontage** | 1 | Prohibited | 1 | 1 | Per Approved Development Plan |
| **Maximum Square Footage** | 12 | | 20 | 40 | Per Approved Development Plan |
| **Maximum Height (Feet)** | 6 | | 6 | 8 | Per Approved Development Plan |
| **Setback Minimum Distance from ROW (Feet)** | 10 | | 10* | 20* | Per Approved Development Plan |

*The following roads are existing developed corridors where new signs should be strategically placed to fit within the existing character of the area.

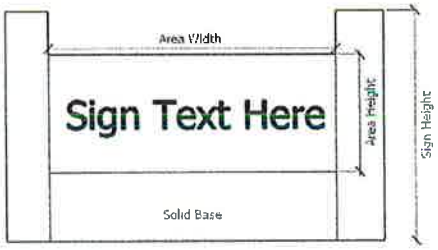
1. East Main Street from intersection of Pearl Avenue to the intersection of Kanawha Road.
2. Memorial Drive from the intersection of Main Steet Road to the intersection of Ety Road.
3. West Fair Avenue from the intersection of Memorial Drive to the intersection of Pierce Avenue.

Within these corridors, the City Planner or designee may administratively approve a sign that does not meet the minimum setback requirement for the applicable Zoning District as defined in Sign Table 1, provided any of the following criteria are met:

1. The location of existing building(s) on the lot where the proposed sign will be located, prevents the proposed sign from complying with the minimum setbacks for the applicable Zoning District as defined in Sign Table 1;
2. The location of the existing signs on the immediately adjacent lots are located in a manner that is less than the minimum setback requirements for the applicable Zoning District as defined in Sign Table 1, and the proposed sign location will maintain a consistent setback with the exiting signs on said adjacent lots.

In no such case shall City Planner or designee allow a new sign within these corridors to be placed less than five feet from the right-of-way line. Such action would require a variance through the BZA.

(f) Measurement of Ground Mounted Sign Area and Height:



(Ord. 15-23. Passed 8-14-23.)

**1145.06 WALL SIGNS.**

(a) Sign Table - 2 lists all Zoning Districts in which wall signs are permitted. If a Zoning District is not listed, wall signs are considered prohibited in said District. All wall signs shall comply with the time, place, and manner regulations Sign Table - 2. A sign permit shall be obtained prior to installing said sign.

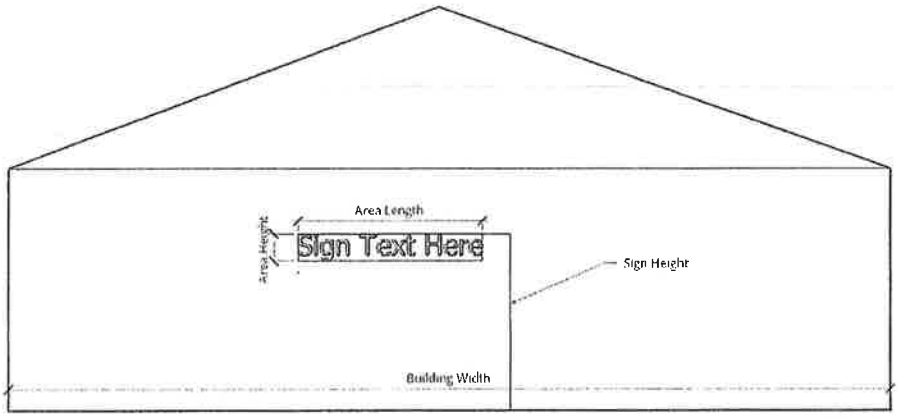
(b) Each wall sign shall count towards the total maximum square footage of all signs.

(c) Wall signs may be erected on any building wall or extension of a building wall (i.e. parapet) which faces a street, parking lot, or service drive. Wall signs shall be attached parallel to the building face and may be extend outward perpendicular from the building face a maximum of fifteen (15) inches from the wall surface, 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.

Sign Table 2 - Wall Signs

| | Districts | | | | |
|---|---|---|---|---|---|
| | RE, R-LD, R-MD, RT, RM, MHC Permitted Uses | RE, R-LD, R-MD, RT, RM When associated with a Special Exception | CBD, CN | CG, SI, AM | PUD |
| Maximum Number of Signs Permitted Per Public Road Frontage | 1 | 1 | 1 | 1 | Per Approved Development Plan |
| Maximum Square Footage | 2 | 12 | 1 sf. ft. per 1 lineal foot of building wall | 2 sq. ft. per 1 lineal foot of building wall | Per Approved Development Plan |
| Maximum Height (Feet) | 8 | 15 | Height of Eave | Height of Eave | Per Approved Development Plan |

Measurement of Wall Sign Area and Height




(Ord. 15-23. Passed 8-14-23.)

**1145.07 PROJECTING SIGNS.**

(a) Sign Table - 3 lists all Zoning Districts in which projecting signs are permitted. If a Zoning District is not listed, projecting signs are considered prohibited in said District. All projecting signs shall comply with the time, place, and manner regulations Sign Table - 3. A sign permit shall be obtained prior to installing said sign.

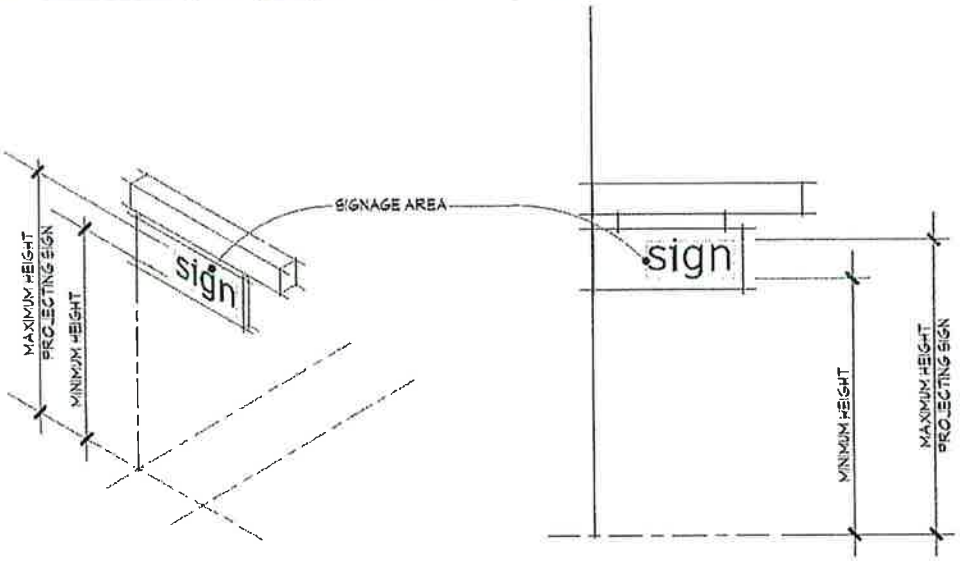
(b) The maximum square footage in Sign Table - 3 applies to each sign face, and each sign face shall count towards the maximum size of the sign and total maximum square footage of all signs. There shall be a maximum of two (2) sign faces per sign.

(c) Projecting signs shall be scaled with the building design and shall blend with the architectural design of the building to which it is attached.

Sign Table - 3 - Projecting Signs

| | RT When Associated with a Special Exception | RM, CBD, CN | CG, SI, AM | PUD |
|---|---|---|---|---|
| Number of Signs Per Business | 1 | 1 | 1 | Per Approved Development Plan |
| Maximum Square Footage | 12 | 12 | 24 | Per Approved Development Plan |
| Maximum Height (Feet) | Height of Eave | Height of Eave | Height of Eave | Per Approved Development Plan |
| Minimum Height (Feet) | 9 | 9 | 9 | Per Approved Development Plan |
| Maximum Projection from Edge of Building (Feet). Section 1145.02(a)(4) will apply, if the proposed sign will project into the right-of-way. | 3 | 3 | 4 | Per Approved Development Plan |

Measurement of Projecting Sign Area and Height:




(Ord. 15-23. Passed 8-14-23.)

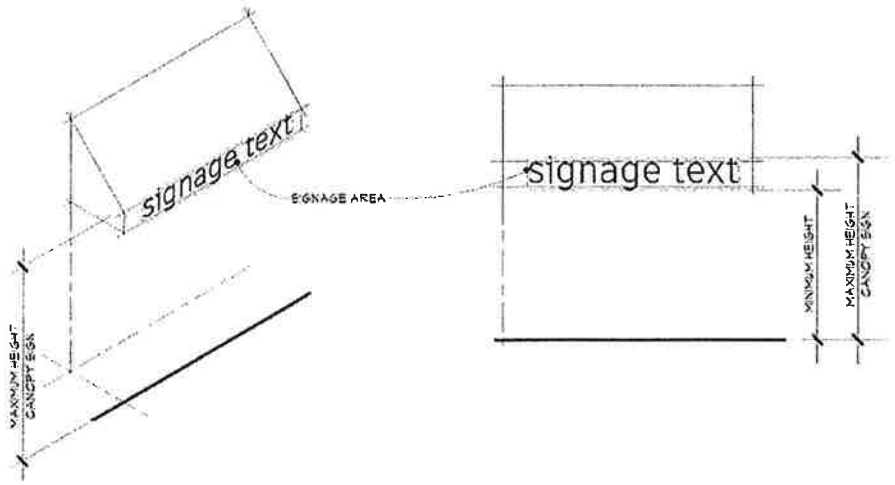
**1145.08 AWNING SIGNS.**

(a) Sign Table - 4 lists all Zoning Districts in which awning signs are permitted. If a Zoning District is not listed, awning signs are considered prohibited in said District. All awning signs shall comply with the time, place, and manner regulations Sign Table - 4. A sign permit shall be obtained prior to installing said sign.

Sign Table - 4 - Awning Signs

| | RT When Associated with a Special Exception | CBD, CN, CG, SI, AM | PUD |
|---|---|---|---|
| **Maximum Number of Signs Per Business** | 1 | 1 | Per Approved Development Plan |
| **Maximum Square Footage** | 2 sf/lf of awning | 2 sf/lf of awning | Per Approved Development Plan |
| **Maximum Height (Feet)** | 15 | 15 | Per Approved Development Plan |
| **Minimum Height (Feet) Section 1145.02(a)(4) will apply, if the proposed sign will project into the right-of-way** | 8 | 8 | Per approved Development Plan |

Measurement of Awning Sign Area and Height:




(Ord. 15-23. Passed 8-14-23.)

**1145.09 WINDOW SIGNS.**

(a) Sign Table - 5 lists all Zoning Districts in which window signs are permitted. If a Zoning District is not listed, window signs are considered prohibited in said District. All window signs shall comply with the time, place, and manner regulations Sign Table - 5. A sign permit shall be obtained prior to installing said sign.

(b) Window signs do not count toward the maximum size of the sign and total maximum square footage of all signs.

Sign Table - 5 - Window Signs

| | | | |
|---|---|---|---|
| | **AG, RE, R-LD, R-MD, RT, RM, MHC** | **CBD, CN, CG, SI, AM** | **PUD** |
| **Maximum Number of Signs Permitted** | 1 per lot | 1 per window | Per Approved Development Plan |
| **Maximum Square Footage** | 10 percent of window area | 33 percent of window area | Per Approved Development Plan |
| **Maximum Height (Feet)** | 15 | 15 | Per Approved Development Plan |

(Ord. 15-23. Passed 8-14-23.)

**1145.10 PYLON SIGNS.**

(a) Sign Table - 6 lists all Zoning Districts in which pylon signs are permitted. If a Zoning District is not listed, pylon signs are considered prohibited in said District. All pylon signs shall comply with the time, place, and manner regulations Sign Table - 6. A sign permit shall be obtained prior to installing said sign.

(b) The maximum square footage in Sign Table - 6 is per sign face. Each sign face shall count towards the maximum size of the sign and total maximum square footage of all signs. There shall be a maximum of two (2) Sign faces per sign.

Sign Table - 6 - Pylon Signs

| | | | Districts | |
|---|---|---|---|---|
| | RE, R-LD, R-MD, RT, RM, MHC, CBD | CN | CG, SI, AM | PUD |
| **Maximum Number of Signs Permitted Per Public Road Frontage** | Prohibited | 1 | 1 | Per Approved Development Plan |
| **Maximum Square Footage** | Prohibited | 50 | 125 | Per Approved Development Plan |
| **Maximum Height (Feet)** | Prohibited | 15 | 35 | Per Approved Development Plan |
| **Minimum Distance from ROW (Feet)** | Prohibited | 20* | 20* | Per Approved Development Plan |

*The following roads are existing developed corridors where new signs should be strategically placed to fit within the existing character of the area.

1. East Main Street from intersection of Pearl Avenue to the intersection of Kanawha Road.
2. Memorial Drive from the intersection of Main Street to the intersection of Ety Road.
3. West Fair Avenue from the intersection of Memorial Drive to the intersection of Pierce Avenue.

Within these corridors, the City Planner or designee may administratively approve a sign that does not meet the minimum setback requirement for the applicable Zoning District as defined in Sign Table 1, provided any of the following criteria are met:

1. The location of existing building(s) on the lot where the proposed sign will be located, prevents the proposed sign from complying with the minimum setbacks for the applicable Zoning District as defined in Sign Table 1;
2. The location of the existing signs on the immediately adjacent lots are located in a manner that is less than the minimum setback requirements for the applicable Zoning District as defined in Sign Table 1, and the proposed sign location will maintain a consistent setback with the exiting signs on said adjacent lots. In no such case shall City Planner or designee allow a new sign within these corridors to be placed less than five feet from the right-of-way line. Such action would require a variance through the BZA.

(Ord. 15-23. Passed 8-14-23.)

**1145.11 DRIVE THRU SIGNS.**

(a) Signs accessory and adjacent to drive-thru food and beverage establishments, car washes, and other similar uses are subject to the following standards:

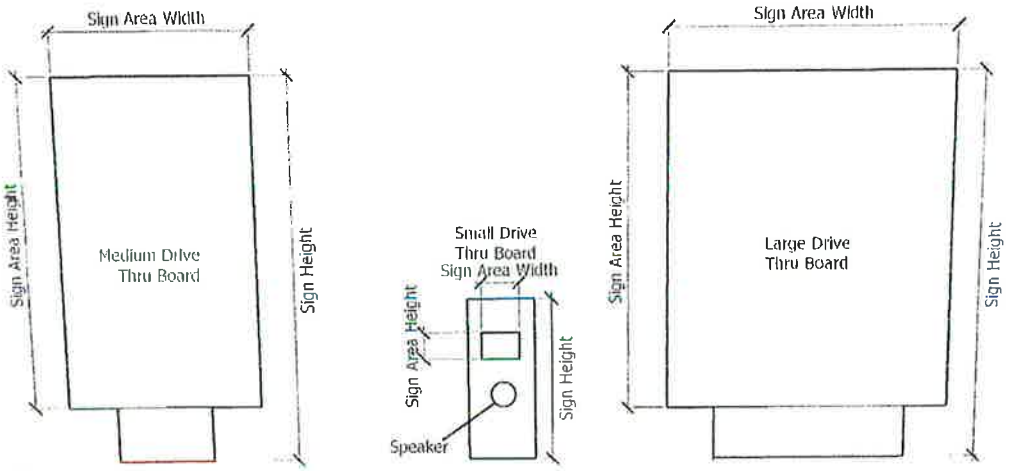
(1) One large drive-thru board shall be permitted per drive-thru lane. Said sign shall not exceed fifty (50) square feet, must be located a minimum of one (1) foot and a maximum of five (5) feet from the edge of pavement of the drive thru lane to which it serves and shall not exceed eight (8) feet in height.

(2) One medium drive thru board shall be permitted per drive thru lane. Said sign shall not exceed fifteen (15) square feet in area, must be located a minimum of one (1) foot and a maximum of five (5) feet from the edge of pavement of the drive through lane to which is serves and shall not exceed eight (8) feet in height.

(3) One small drive-thru sign board shall be permitted per drive through lane. Said sign shall not exceed two and half (2.5) square feet area, must be located on the drive thru speaker and shall not exceed five (5) feet in height.

(4) Drive thru board signs shall be permitted to have changeable copy electronic display messages provided the graphics and/or words on the sign change no more than once per car service. Video, flashing images or effects, or moving content shall be prohibited.

(b) Each sign face shall count toward the maximum size of the sign and total maximum square footage of all signs.




(Ord. 15-23. Passed 8-14-23.)

## 1145.12 WAY FINDING SIGNS.

There may be two way finding signs per access driveway connecting to a public or private street. Way finding signs shall be limited to a maximum height of three (3) feet, a maximum area of six (6) square feet per side and shall be located outside of the right-of-way and on the property of the user(s) of which they are identifying the entry or exit.
(Ord. 15-23. Passed 8-14-23.)

## 1145.13 TOTAL MAXIMUM SQUARE FOOTAGE OF ALL SIGNS.

The total maximum square footage of all signs shall not exceed the amounts listed in Sign Table - 7 below:

Sign Table - 7 - Total Maximum Square Footage for All Signs

| Total Maximum Square Footage for All Signs | |
|---|---|
| **CBD, CN** | 150 for internal lots<br>250 for corner lots |
| **CG, SI, AM** | 400 for internal lots<br>500 for corner lots |
| **PUD** | Per Approved Development Plan |

(Ord. 15-23. Passed 8-14-23.)

**1145.14 BILLBOARDS.**

Billboards shall be prohibited in all Districts except the CG and AM Districts. In the CG and AM Districts, billboards shall be considered special exceptions and shall not exceed four hundred (400) square feet in area (per sign face); shall be setback a minimum of two hundred (200) feet from the right-of-way, and a minimum one thousand five hundred (1,500) feet from any residential Zoning District or existing residential use. There shall also be a minimum of one thousand (1,000) feet between billboards. Billboards shall maintain a maximum height of forty-five (45) feet and not less than ten (10) feet 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 (15) feet 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. Billboards may be back-to-back, double faced, "V" type and/or multiple faced with not more than two (2) faces facing the same direction, and such structure shall be considered as one (1) billboard, provided that the area of all faces toward one (1) direction shall not exceed six hundred (600) square feet. In areas not adjacent to roadways on the Federal Aid Primary Highway System, billboards shall not have more than one (1) face per structure toward each direction. 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.
(Ord. 15-23. Passed 8-14-23.)

**1145.15 ENTRY FEATURE SIGNS.**

Each development (residential or non-residential) that consists of more than one (1) lot or contains a multi-tenant building is permitted to have one Entry Feature Sign per entrance that does not exceed twenty (20) square feet (per side), fifteen (15) feet in height and setback a minimum of ten (10) feet from the right-of-way.
(Ord. 15-23. Passed 8-14-23.)

**1145.16 SIGN LIGHTING.**

(a) Sign lighting shall be consistent, understated, and properly disguised. One (1) of the following methods of lighting may be employed:

(1) A white, steady, stationary light that does not glare onto surrounding areas, is directed solely at the sign, and is otherwise prevented from beaming directly onto adjacent properties or rights-of-way.

(2) A white interior light with primary and secondary images lit or silhouetted on an opaque background. The background must be opaque. No additional background lighting or illuminated borders or outlines shall be permitted.

A. The color temperature of the sign lighting shall not exceed 4,000K.

B. The level of illumination emitted or reflected from a sign shall not be of an intensity sufficient to constitute a demonstrable hazard to vehicular traffic on any right - of - way or parking lot from which the sign can be viewed.

C. Light fixtures shall be screened from view by site grading or landscaping.

(Ord. 15-23. Passed 8-14-23.)

**1145.17 TEMPORARY SIGNS.**

(a) The following Temporary Sign regulations apply to all uses within all Zoning Districts:

(1) All temporary signs shall be prohibited within the right-of-way.

(2) Small Temporary Signs:

A. In residential Zoning Districts, two (2) small temporary signs shall be permitted per parcel per street frontage without a permit.

B. In all other Zoning Districts, the following small temporary signs shall be permitted:

1. Up to six (6) small temporary signs shall be permitted per parcel per street frontage without a permit. Each small temporary sign shall be eight (8) square feet in area or less and three (3) feet in height or less.

2. Temporary freestanding changeable copy signs shall be permitted only through the granting of a special exception permit. Said signs shall count toward the maximum number of temporary signs permitted on said property.

3. On all properties within the CN, CG and CBD Districts, folding portable A-frame signs shall be permitted provided such signs are secured and/or anchored so as to prevent accidental collapse or unintended movement, are eight (8) square feet in area or less, and are three (3) feet in height or less. Such signs shall count toward the maximum number of temporary signs permitted on said lot.

(3) Two (2) large temporary signs, including banners, shall be permitted per parcel provided a sign permit is issued in accordance with the following regulations. Large temporary signs and banners shall be subject to the following restrictions:

A. Shall not exceed eight (8) feet in height.

B. Shall not exceed forty (40) square feet in area (per sign face).

C. Banners shall be secured to prevent movement which would allow any portion of the banner to extend into the right-of-way. Pennants and streamers are only as temporary signs. Each banner shall count toward the maximum number of temporary signs permitted for said lot.

D. On parcels of five (5) acres or less, such signs shall be displayed for no more than thirty (30) consecutive days and no more than three (3) times per calendar year. A new permit must be obtained for each thirty (30) day or less period. After said permits have been exhausted, the City Planner or designee may grant one (1) extension for up to ninety (90) days per sign. No other extensions may be administratively approved and must be approved by the Board of Zoning Appeals. On parcels that are greater than five (5) acres, such signs may be displayed for up to three-hundred and sixty-five (365) days. Upon the expiration of this permit, the City Planner or designee may grant one (1) extension up to an additional one-hundred eighty (180) days. No other extensions may be administratively approved and must be approved by the Board of Zoning Appeals.

E. The sign permit number for large temporary signs must be printed on the sign in a visible location.

(4) Small and large temporary signs shall not count toward the total maximum square footage of signs permitted on a lot as designated in Section 1145.13.
(Ord. 15-23. Passed 8-14-23.)

**1145.18 CHANGEABLE COPY AND ELECTRONIC MESSAGE DISPLAY.**

(a) These Changeable Copy and Electronic Message Display standards are applicable to all signs, except as follows:

(1) Drive thru menu boards since the purpose of these boards is to service those utilizing the drive through lane, and cars are typically stopped to view said sign.

(2) Video screens on individual gas pumps since the purpose of these devices is to service those outside of a stopped vehicle; and

(3) Any sign that is located along a state or federal highway and is regulated by the state of Ohio.

(b) All other changeable copy and electronic messaging displays shall:

(1) Be limited to fifty percent (50%) of the overall sign area.

(2) The electronic display shall comply with the following requirements:

A. Any digital display containing animation, streaming video, or text or images that flash, pulsate, move or scroll is prohibited.

B. The digital display may change, but it must transition by changing instantly with no transition graphics (e.g., no fade in/no fade out).

C. The duration of the digital display shall not be less than (8) seconds.

D. The brightness of all digital signs shall be reduced to sixty percent (60%) at dusk. In no case shall the brightness of the sign, that abuts a residential Zoning District, exceed a maximum of 0.3 footcandles above ambient light levels, as measured from the base of the sign.

(3) 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 changed or altered.
(Ord. 15-23. Passed 8-14-23.)

**1145.19 MURALS AND WALLSCAPES.**

(a) Original Art Mural Requirements ("Mural"). Original art murals and wallscapes that meet all of the following requirements shall be issued a Special Exception permit by the Board of Zoning Appeals:

(1) Original Art Murals ("mural") and wallscapes are permitted as Special Exception only in the CBD, CN, CG, SI, and AM. Original Art Murals and wallscapes are also permitted as part of an approved development plan in a PUD.

(2) A mural or wallscape shall not exceed thirty percent (30%) of the wall area to which it is painted or attached.

(3) The mural or wallscape shall remain in place without alteration, for a period of five (5) years. The applicant shall certify in the permit application that the applicant agrees to maintain the mural or wallscape in accordance with this regulation.

(4) The applicant, if different from the property owner, must obtain an affidavit from the building's owner giving permission for the applicant to adhere the mural or wallscape to the building.

(5) There shall be no more than one mural or wallscape per parcel or per building, whichever is more restrictive.

(6) Murals and wallscapes shall only be permitted on sides and rear elevations and shall be prohibited on front elevations of buildings.

(7) No part of the mural or wallscape shall exceed the height of the structure to which it is tiled or painted.

(8) The materials or paint utilized to create the mural or wallscape shall be weatherproofed or resistant to wear.

(9) The mural or wallscape shall be properly maintained through repair and paint, or any necessary treatment so as to prevent decay. Defective or insufficient weather protection for exterior treatments and facades, including fading paint or materials or graffiti shall be promptly repaired or shall otherwise be subject to the violation provisions in this Ordinance.

(10) Murals or wallscapes on properties within the Historic Overlay District must obtain a Certificate of Appropriateness from the Historic Review Board prior to the Board of Zoning Appeals issuing a Special Exception permit for a mural or wallscape.

(11) Murals or wallscapes that would result in a property becoming out of compliance with any other City Ordinance shall be prohibited.

(12) Ghost and Vintage Art Murals. All murals created prior to the date of adoption of this Ordinance shall be considered existing non-conforming and may be maintained in accordance with Chapter 1153 of this Ordinance. (Ord. 15-23. Passed 8-14-23.)

**1145.20 SIGN PERMITS AND ADMINISTRATION.**

(a) Permit Required. No sign, except as exempted in Section 1145.02(a)(1) shall hereafter be erected, constructed, or maintained within the City of Lancaster unless a permit for the same has been issued by the City Planner or designee. Application for a permit to construct or erect a sign shall be made by the owner of sign or the property upon which the sign is proposed, or their agent. An application for a permit to erect a sign shall contain, at a minimum and drawn to scale;

(1) The dimensions and weight of the sign, and where applicable, the dimension of the wall surface of the building to which it is to be attached.

(2) The dimension and weight of the sign's supporting members.
(3) The maximum and minimum height of the sign.
(4) The proposed location of the sign in relation to the face of the building, in front of or above which it is to be erected.
(5) Where the sign is to be attached to an existing building, a diagram of the face of the building to which the sign is to be attached.
(6) A color rendering of the proposed sign image.
(7) The name and address of the user, or owner of the sign and the location of the sign.
(8) The name and address of the sign installer. In addition, if the proposed sign requires an installation permit from the State of Ohio, a copy of such permit shall be provided prior to erection of the sign.

(b) Action on Sign Permit. The City Planner or designee 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 City Planner or designee 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.
(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1147
# General Development Standards


**1147.01 Accessory dwelling units.**
**1147.02 Accessory uses and structures.**
**1147.03 Architectural requirements.**
**1147.04 Community gardens.**
**1147.05 Fences and walls.**
**1147.06 Food trucks.**
**1147.07 Home occupations.**
**1147.08 Lighting.**
**1147.09 Portable storage units and roll-off containers.**
**1147.10 Private swimming pools, hot tubs and spas.**
**1147.11 Recreational vehicles.**
**1147.12 Reserved for future use.**
**1147.13 Solar energy systems.**
**1147.14 Temporary construction trailers/offices.**
**1147.15 Temporary tents.**
**1147.16 Visibility at intersections.**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## 1147.01 ACCESSORY DWELLING UNITS.

(a) Purpose. The purpose of the Accessory Dwelling Unit (ADU) regulations is to:

- Respond to changes in housing needs and increasing housing costs, while simultaneously respecting the curb appeal and scale of the dwelling units within the surrounding residential area; and
- Increase affordable housing options to vulnerable populations such as the elderly and persons with disabilities; and
- Support more efficient use of the existing housing stock and associated infrastructure; and
- Reduce the carbon footprint by allowing smaller dwelling units.

(b) Applicability. The standards apply to any residential District where ADUs are listed as a permitted - accessory use.

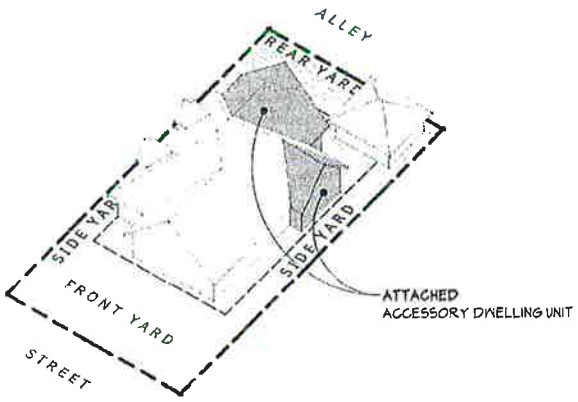
(1) Number. Only one ADU shall be permitted on a lot in the R-MD, RT and CBD Districts.

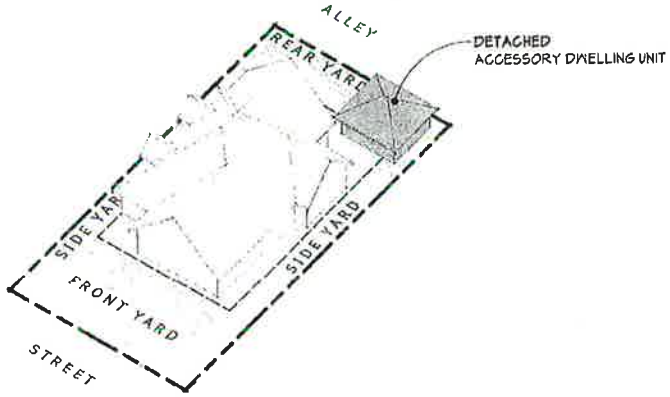
(2) Density. ADUs do not count toward the density calculations for the District in which they are located.

(3) Accessory Suite (Attached) ADU Standards: All Accessory Suite ADUs shall comply with the following general ADU design standards:

A. The primary dwelling in which the ADU is located shall be owner occupied.
B. An ADU may be no larger than eight hundred (800) square feet or the size of the primary dwelling unit, whichever is less.
C. ADU's shall be limited to residential uses including a minor home occupation and shall not be utilized for any other purpose.
D. One (1) additional parking space is required for the ADU.
E. No new entrances into the primary dwelling shall be created for the Accessory Suite ADU.
F. Any required fire escapes or exterior stairs for access to an upper-level Accessory Suite ADU shall not be located along the front façade of the primary dwelling.

(c) Detached ADU: Detached ADU's shall be prohibited.




(Ord. 15-23. Passed 8-14-23.)

**1147.02 ACCESSORY USES AND STRUCTURES.**

(a) Applicability. These standards shall apply to all Accessory Structures as defined in Chapter 1161.

(b) Location. All accessory structures shall be located to the side or rear of the principal structure. In no case, shall an accessory structure be located nearer to the front lot line than the principal building.

(c) Accessory structures may encroach a required side or rear yard setback as follows:

| District | Minimum Distance Between Accessory Structure and Side or Rear Lot Line (Ft) |
|---|---|
| AG, RE & R-LD | 10* |
| All other districts | 5* |

*If a side or rear yard abuts an alley, an accessory structure must be setback a minimum of twenty (20) feet from the alley.

(d) An accessory structure shall not be located closer than five (5) feet from the principal building or any other accessory structure.

(e) Height.

(1) Accessory structures located in the AG, RE, R-LD, R-MD, RT, MHC and RM Districts shall not exceed eighteen (18) feet.

(2) Accessory structures located in the CBD and CN Districts shall not exceed twenty-five (25) feet.

(3) Accessory structure located in the CG, SI and AM Districts shall not exceed the height of the principal building.

(f) Size.

(1) In the AG, RE, R-LD, R-MD, MHC and TR Districts, the cumulative area of all accessory structures shall not exceed eight hundred (800) square feet or ten percent (10%) of the lot area, whichever is smaller. In any District, if ten percent (10%) of the lot size is less than five hundred eighty (580) square feet, the lot shall be permitted to have one (1) accessory structure up to five hundred eighty (580) square feet in area.

(2) In the RM District, a lot containing one or more multi-unit residential building(s) may have accessory structures devoted to each unit (i.e., detached garage) or may have one (1) or more larger structures accessible to all units (i.e., club house). The cumulative maximum size of all accessory structures on a lot shall be calculated on a rate of two hundred ninety (290) square feet of accessory structure per residential unit on said lot.

(3) CDB and CN District, the cumulative area of all accessory structures shall not exceed one thousand (1,000) square feet or ten percent (10%) of the lot area, whichever is smaller.

(4) There is no maximum cumulative square footage of accessory structures in the CB, SI and AM Districts, but in no may the total square footage of all accessory structures exceed the size of the principal building.

(g) Accessory Commercial Uses in the RM District. Any commercial use allowed in the RM District shall be considered an accessory use and shall be designed and located for the convenience of the occupants of the multi-unit structure. Said accessory use shall be located entirely within such structure with exterior public entrance(s) solely from the lobby of the structure and shall occupy not more than ten percent (10%) of the gross floor area of the multi-unit structure. (Ord. 15-23. Passed 8-14-23.)

**1147.03 ARCHITECTURAL REQUIREMENTS.**

(a) Purpose. These requirements are designed to increase the quality of neighborhoods and commercial centers, to promote positive architectural appearance within the city, to encourage design flexibility and creativity, and to establish an interesting, aesthetically pleasing built environment. It is also the intent of this section to promote durable, quality materials that will allow neighborhoods and commercial centers to endure and mature for future generations in the City.

(b) Applicability.

(1) Unless otherwise exempted below in Section 1147.03(b)(3), Section 1147.03 applies to all apply to all Zoning Clearance Permits issued for any new house, multi-unit dwelling, commercial, office, mixed-use building or industrial structure located on a lot within the City of Lancaster.

(2) Any house, multi-unit dwelling, or non-residential structure constructed within a Planned Unit Development approved after the effective date of this section shall comply with these requirements. Substitute residential appearance requirements may be applied in lieu of these standards as approved in the Planned Unit Development Zoning text approved by Council.

(3) Exemptions: These regulations shall not apply to:

A. Any house, multi-unit dwelling or other structure proposed to be constructed on a lot that is a part of a PUD approved by City Council prior to the effective date of this section.

B. Any structure constructed prior to the effective date of this section.

C. The addition or modification to any structure existing prior to the effective date of this section.

D. Structures located within the Historic Overlay District.

E. Accessory structures.

(4) Infill Housing: The City acknowledges the importance of infill housing and aims for it to adhere to design standards, while also granting the city planner the authority to waive any such requirement in case where the proposed standard fails to harmonize with the prevailing character of the existing neighborhood. Any decision of the City Planner can be appealed to the Board of Zoning Appeals in accordance with Section 1157.07 of this Ordinance.

(c) Residential Architectural Requirements. For purposes of this section, one-unit dwellings, duplexes and triplexes will be referred to as a "house". Unless otherwise exempted in Section 1147.03(b)(3), the following requirements apply to all new houses in any District:

(1) Building Materials. Street facing facades shall be comprised of a minimum of thirty-five percent (35%) of the following materials: brick, stone, cultured or cast stone, wood board and batten, wood shake, or fiber cement. Windows, doors and attached garage doors shall be excluded in the calculations for determining minimum natural materials percentages on front facades.

All vinyl material that is permitted on a house must have a minimum thickness of forty-four (44) mils and must be applied over minimum one-half (1/2) inch thick oriented strand board or plywood.

(2) Shutter and Trim. Shutters or trim shall be required on all the single and double-wide windows on all street facing facades. Shutters shall be full height and at least one-half the width of the single or one-quarter the width of the double window. When trim is utilized in lieu of shutters, the trim shall include either a top and bottom finish of soldier course, rowlock, lintel or sill; or a minimum three and one-half (3 ½)-inch board around all sides of the window.

(3) Roof Pitch.

Houses. The main architectural roof of a house must have a minimum 6:12 pitch. Flat roofs may be permitted, but not as the main architectural roof. Dormers, porches, and other similar secondary architectural features may have roofs with a minimum 4:12 pitch. The roof shall have a minimum eight (8) inch overhangs on all sides.

(4) Design Elements. Blank walls facing a public right-of-way shall be prohibited. All street facing facades must contain at least three design elements, in any combination. Design elements include any of the following:

- A door of at least seventeen (17) square feet in area
- A window of at least six (6) square feet in area. Windows with a horizontal separation of less than ten (10) feet shall be considered as one (1) design element. Sets of adjacent windows shall be considered as one (1) design element.
- A chimney
- A Portico
- Dormer
- A gable vent of at least four (4) square feet in area
- Porches, decks or similar structures
- Water table

Design elements do not include side of porches, rooflines, or interior chimneys.

(5) Garages. Garage door openings totaling eighteen (18) feet in width or less shall not make up more than forty-two percent (42%) of the linear distance of the front elevation nor project more than twelve (12) feet from the adjacent vertical wall plane. Garage door openings totaling more than eighteen (18) feet to thirty-six (36) feet in width shall not make up more than forty-five percent (45%) of the linear distance of the front elevation nor project more than ten (10) feet from the adjacent vertical wall plane. For purposes of this section, a covered porch shall be considered a vertical wall plane, whereas an open uncovered porches shall not be considered a vertical wall plane.

(d) Multi-Unit Dwellings, Mixed-Use Buildings and Non-Residential Structures. Unless otherwise exempted in Section 1147.03(b)(3), the following requirements apply to all new multi-family dwellings, mixed-use buildings and non-residential structures located within any District, except the SI and AM Districts.

(1) Blank walls shall not be permitted. There shall be a minimum of three design elements for every one hundred (100) feet of elevation width for any street facing elevation and a minimum of two (2) design elements for every one hundred (100) feet of elevation for each side and rear elevation that does not face a public right-of-way.

(2) Typical design elements are as follows:
A door of at least twenty-eight (28) square feet in area with an awning, window, faux window or other feature subject to approval by the City Planner or designee, as applicable;

- A window of at least six (6) square feet in area. Windows closer than ten (10) feet shall be considered as one (1) element. A set of adjacent windows, such as double or bay windows, shall be considered one element;
- Portico;
- Dormers;
- Projecting canopy;
- Masonry water table;
- Trellis containing plantings;
- A gabled vent of at least four (4) square feet in area;
- Patio, deck, or similar feature; or
- A similar significant permanent architectural feature consistent with the style of the building upon approval of the City Planner or designee.

(3) All elevations shall have similar style, materials, colors and details.

(4) Façade Appearance. A building frontage that exceeds a width of fifty (50) feet shall incorporate sectioning and offset of the wall plane to inhibit a large expanse of blank wall and add interest to the façade. Such offsets may be met through the use of bay windows, porches, porticos, building extensions, gables, dormers, or other architectural treatments.

(5) Materials.
Predominant Materials. All exterior walls shall be comprised of eighty percent (80%) natural materials or of synthetic materials that the city has deemed to mimic the look of natural materials. This permitted list of materials includes only the following: brick, stone, cultured or cast stone, E.I.F.S., wood, or fiber cement. Foundations must be clad with the same natural material utilized on building to blend with the overall architecture of the structure. Exposed cement block or split face block foundations shall be prohibited.
As technology evolves, newer synthetic materials, that did not exist at the time of the adoption of this Article, may be created and may mimic the look of the natural materials required within this Section. The City Planner or designee may approve the use of a newer material under the following conditions:

- The manufacturing of said material did not exist at the time of adoption of this section; and
- The City Planner or designee determines that said material provides a substantially similar appearance to the natural materials required by this section.

Accent Materials. Fiber cement, E.I.F.S., and like materials may be used as accents provided the total square footage of accent material does not exceed twenty (20) percent of the gross exterior building wall square footage. Other natural materials may also be incorporated into the building's exterior design. Vinyl and/or aluminum shall be prohibited except when used for trim details such as downspouts, soffits, gutters, and shutters.

(6) Glass. The use of black, gold, green, silver, opaque or any other reflective or colored glass on a building is prohibited.

(7) Roofing. All single-story buildings shall have a pitched roof. Multi-story buildings may be permitted to have flat roofs. When pitched roofs are utilized, they shall be constructed of dimensional shingles, standing seam metal, slate, or simulated slate.

(8) In-Line Retail Exemption. Side or rear elevations of an in-line retail development may be exempt from the building design standards of these regulations if such elevations are not visible to customer traffic, a public right-of-way, or if a future phase of the in-line retail development is forthcoming adjacent to the elevation. Such exempt elevations shall use materials complimentary to the primary elevation and be screened by landscaping, mounding fencing, or a combination thereof, as deemed appropriate by the City Planner or designee.

(9) Drive Thru Features. When a drive thru is permitted, it shall be designed as an integral part of the structure it serves. Features incorporated with a drive thru including, but not limited to, canopies, awning, and support posts shall match the materials and color scheme of the building they are serving. Drive thru features shall not have any pickup windows, ordering areas, signage, or other related items located on the front elevation of a building or located between the building and a street right-of-way.

(e) Buildings Within The SI and AM Districts. Unless otherwise exempted in Section 1147.03(b)(3), the following requirements apply to all new structures located within in the SI and AM District:

(1) Façade. Sides of building visible from a public right-of-way shall be broken up with architectural design elements, landscaping, or a combination thereof.

(2) Use of Color. Earth tones, muted hues, and natural tones are permitted as a structure's base color. Brighter hues are permitted only as an accent feature on building elements such as awnings, doors, and trim. A mixed color palette on a single building should be carefully selected so all colors harmonize with each other.

(3) Glass. The use of black, gold, green, silver, opaque or any other reflective or colored glass on a building is prohibited. Frosted glass may be permitted in some cases, subject to approval of the Planning Commission.
(Ord. 15-23. Passed 8-14-23.)

**1147.04 COMMUNITY GARDENS.**

When Community Gardens are listed as a Permitted Use in a Zoning District, they shall be prohibited within the right-of-way and a required front setback. Any shed, storage container or other similar structure associated with a community garden shall be considered an accessory structure and shall comply with the requirements in Section 1147.02.
(Ord. 15-23. Passed 8-14-23.)

**1147.05 FENCES AND WALLS.**

Fences are not required to obtain a permit, but all fences in the AG, RE, R-LD, R-MD, and TR Districts shall not exceed four (4) feet when located forward of the front plane of the house and eight (8) feet when located to the side and rear of the house. No fence shall be permitted within the right-of-way and must comply with the Visibility at Intersection requirements in Section 1147.16. Fences or walls containing barbed wire or charged with electrical current are prohibited. unless such fences or walls are in the AG District and solely used for the enclosure of livestock. (Ord. 15-23. Passed 8-14-23.)

**1147.06 FOOD TRUCKS.**

(a) Purpose. The intent of these regulations is to create an entrepreneurial opportunity for the food industry by providing creative opportunities outside of the traditional brick and mortar restaurants while controlling potential impacts such as traffic, food safety and compatibility with the surrounding areas. The City of Lancaster understands the importance of these startup businesses and the economic benefits they provide by creating additional foot traffic to better support surrounding businesses. These regulations have been crafted to ensure that Food Trucks are properly integrated into the overall existing or future streetscape designs of the surrounding area. It is further the purpose of these regulations to limit the time frame for food trucks to allow ample time for business incubation but also discourage them from becoming permanent fixtures.

(b) Applicability.

(1) These standards apply to all food trucks that are located on private property within any District that allows restaurant uses. Food trucks shall comply with the requirements of this section.

(2) Food trucks located within the public right-of-way shall be governed by a Right-of-Way Permit and are not subject to this Zoning Code.

(c) All Food Trucks when located on private property must comply with the following regulations:

(1) Food trucks shall be lit with existing and available site lighting. No additional exterior lighting shall be permitted. Lighting inside the food truck for the purpose of inside food preparation and menu illumination may be permitted. There shall be no light trespass or additional glare onto adjacent properties. Flashing lights shall be prohibited.

(2) No signs shall be permitted except as follows:

A. Signs directly painted or applied directly onto the food truck shall be permitted.

B. One small temporary sign that does not exceed eight (8) square feet.

(3) The selling of alcohol shall be prohibited.

(4) There shall be one (1) trash receptacle for use by patrons and placed a convenient location that does not impede pedestrian or vehicular traffic. Trash must be removed daily from the site.

(5) The food truck shall be located on an entirely paved, level parking lot to enhance the safety of pedestrians and patrons.

(6) All equipment and storage associated with and required for the operations of the food truck, except for the trash receptacles required in this Section, shall be located on or within the Food Truck. This includes any generators.

(7) There shall be no furniture, umbrellas, or other objects outside of the food truck. Any proposed furniture or umbrellas shall be subject to the outdoor dining standards of the applicable District in addition to these regulations.

(8) The food truck shall have access to water (i.e., water tank, connection to central water line, etc.) and electricity (generator, connection to utility lines, etc.) and such services shall be located in a manner that does not create a safety hazard to employees, patrons, or pedestrians.

(9) When a food truck is proposed to be located within five hundred (500) feet of an existing single family dwelling unit, operations of said food truck are limited to 10:30 a.m. to 3:30 p.m. daily. The operations of food trucks in all other locations shall be limited to 6:00 a.m. to 9:00 p.m. Sunday - Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday.

(10) There shall not be obstruction or interference with the free flow of pedestrian or vehicular traffic, including but not limited to or from any business, public building, the remainder of the parking area or adjacent public right-of-way.

(11) There shall be no restriction of the visibility area sight distance at any driveway or intersection.

(12) The food truck may only operate in the location approved on the site plan for the Zoning Clearance Permit and may not be moved to any other location on the property or to a different property within the City of Lancaster without first receiving a new Zoning Clearance Permit.

(13) Each food truck shall have a minimum thirty-five (35) by fifteen (15)-foot area. Any food truck that exceeds twenty-seven (27) feet in length shall have a minimum seventy (70) by fifteen (15) feet area. In no case shall the combined area of all food trucks permitted on one lot exceed twenty-five percent of the lot area.

(14) The applicant, if not the owner of the property, shall provide written permission from the property owner to utilize the property for a food truck.

(15) The food truck shall pass a fire safety inspection.

(16) Due to the temporary nature of food trucks, the General Development Standards in this Code for parking (Chapter 1141), landscaping (Chapter 1143) and signs (Chapter 1145) do not apply to these uses.

(17) If the food truck complies with all of the above standards, a Food Truck Permit may be issued for up to thirty (30) consecutive days on a property within any sixty (60) consecutive calendar days.

(d) Exemptions. Food Trucks are exempt from obtaining a Food Truck Permit when:

(1) It is parked in one location for a period of less than eight (8) hours; or

(2) It operates exclusively as a subset of a City approved Special Event, within the approved areas and time frames. The City may increase the maximum number of food trucks allowed for one (1) lot for City approved Special Events. (Ord. 15-23. Passed 8-14-23.)

**1147.07 HOME OCCUPATIONS.**

A Home Occupation shall be conducted entirely within a dwelling unit and shall be clearly subordinate to the use of the dwelling unit. Home occupations shall not be conducted within accessory structures, such as garages or sheds.

(a) The following regulations apply to all home occupations:

(1) The appearance of the dwelling unit in which a home occupation is conducted shall not be altered or the occupation within the dwelling shall not be conducted in a manner which would cause the premises to differ from its surrounding character either by colors, materials, construction, or lighting.

(2) The home occupation shall not generate traffic greater in volume than normal for the subarea.

(3) The home occupation shall not involve delivery trucks other than normal parcel delivery services.

(4) No equipment or processes shall be used in a home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses on the lot. No equipment or processes shall be used which creates visual, audible, or electrical interference in any radio or television receiver or computer terminal off the premises or causes fluctuations in voltage off the premises.

(5) There shall be no employees of the minor home occupation other than a person or person(s) who are residents of the dwelling unit in which the home occupation is conducted.

(6) Home occupations shall not be conducted within accessory structures, such as garages or sheds.

(7) There shall be no signs associated with the minor home occupation.

(8) The minor home occupation shall not occupy more than twenty percent (20%) of the livable floor area of the dwelling unit.

(9) There is no permit required for a minor home occupation.

(Ord. 15-23. Passed 8-14-23.)

**1147.08 LIGHTING.**

(a) Exterior lighting shall comply with these standards unless otherwise specified in this code.

(b) Exemptions.

(1) All exterior lighting fixtures producing light directly by the combustion of fossil fuels, such as kerosene lanterns or gas lamps are exempt from the requirements of this section.

(2) Holiday lighting shall be exempt from the requirements of this section.

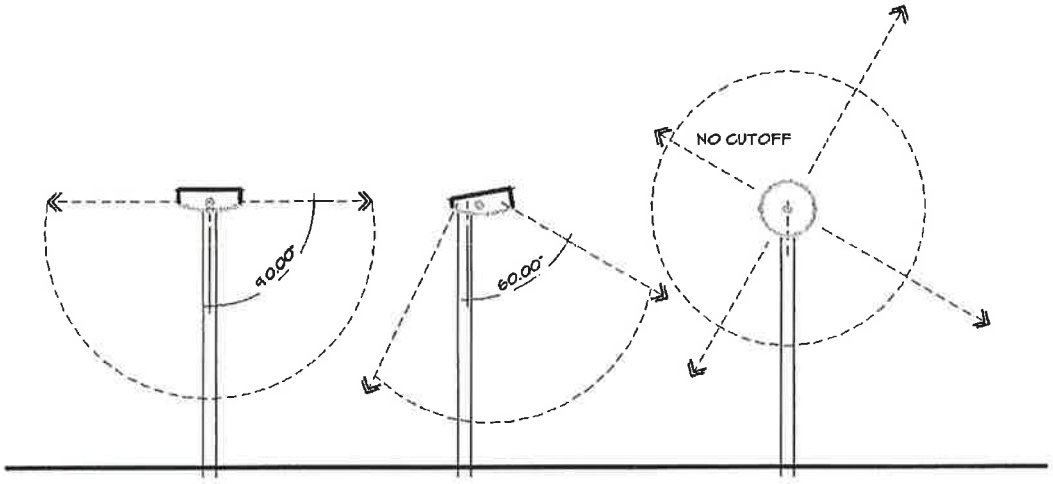
(3) All temporary emergency lighting needed by the police, fire department, other emergency service vehicles, and public service vehicles, as well as all vehicular luminaries, shall be exempt from the requirements of this section including flashing or blinking lights.

(4) Streetlights shall be exempt from the provisions of this section.

(c) Prohibited Lighting. Search lights, beacons, laser source lights, or any similar high-intensity or flashing lights are prohibited, except in emergencies by police and/or fire department personnel.

(d) Types of Fixtures. All light fixtures shall be full cut-off type fixtures except for decorative light fixtures.

Full cutoff fixtures qualify with a cutoff angle equal to or less than ninety (90) degrees with no light projecting skyward.




(e) Fixture Height.
(1) The fixture height in parking lots shall not exceed 20 feet.
(2) Lighting located under canopies shall be flush mounted or recessed within the canopy.
(3) Fixture height shall be measured from the finished grade to the topmost point of the fixture.

(f) Kelvin Temperature. The color temperature for all lights shall not exceed 4,000K.

(g) Exterior lighting shall be designed and located to have the following maximum illumination levels. The levels shall be measured at the finished grade at the lot line as demonstrated by a lighting plan:
(1) The maximum illumination at a lot line that abuts a lot within an existing residential use or is zoned or designated for residential uses shall be 0.3 foot-candles.
(2) The maximum illumination at a lot line that abuts any other use shall be one (1) foot candles.
(3) The maximum illumination at a lot line for properties used for outdoor sports and recreation shall be reviewed for compliance with regard to the intent of these guidelines to minimize the impact of light trespass and glare on all surrounding properties and public rights-of-way.

The illumination across any property shall be designed to not create excessive dark spots that may create safety issues.

(h) Automobile Oriented Uses - Canopy Lighting. Automobile Oriented Use canopy lighting must be recessed within the canopy and use an opaque shield around the sides of the light. (Ord. 15-23. Passed 8-14-23.)

**1147.09 PORTABLE STORAGE UNITS AND ROLL-OFF CONTAINERS.**

(a) Portable Home Storage Units and Roll-Off Containers shall be permitted within any residential District, provided the following regulations are met. A Zoning Clearance Permit shall be obtained for any portable home storage unit or roll-off container.

(1) Portable home storage and roll-off containers shall be prohibited from being located within any right-of-way.

(2) Portable home storage units and roll-off containers shall be kept in the driveway of the property at the furthest accessible point from the street.

(3) Only two (2) portable home storage units or one (1) roll-off container shall be permitted on any residential property at any one time.

(4) Portable home storage units shall be permitted for thirty (30) consecutive calendar-days within any 365 calendar-day period.

(5) Roll-off containers shall be permitted for three (3) consecutive calendar months within any 365 calendar-day period.

(6) The City Planner may grant a one-time extension of up to thirty (30) consecutive calendar days. Any additional extensions would require action by the Board of Zoning Appeals, which would be processed as a variance from these regulations.

(7) Portable home storage units and roll-off containers shall not be utilized for living purposes.

(Ord. 15-23. Passed 8-14-23.)

**1147.10 PRIVATE SWIMMING POOLS, HOT TUBS AND SPAS.**

No private swimming pool, exclusive of storable swimming pools, shall be allowed in any residential District unless the following conditions and requirements are complied with.

A Zoning Clearance Permit shall be required for the construction or installation of any private swimming pool. The owner of the property, or their agent, shall certify that the pool will be constructed, installed, and maintained in conformance with the requirements below:

(a) Shall meet the requirements established in the 2009 International Residential Code ("IRC") Appendix G Swimming Pools, Spas and Hot Tubs.

(b) The pool is intended to be used solely for the occupants of the principal use of the property on which it is located.

(c) No pool of any kind (including storable swimming pools), including any walks, paved areas, and appurtenances thereto, shall not be in any front yard, nor closer than five (5) feet from any side or rear yard including corner lots or any other structure.

(d) The area of the swimming pool, spa, or hot tub, exclusive of decks, walks and other appurtenances, shall not exceed ten percent (10%) of the area of the lot or parcel.

(e) Any private swimming pool, spa or hot tub, or the property on which the pool, spa or hot tub is located, shall be enclosed by a wall or fence constructed to prevent uncontrolled access. Such wall or fence shall meet the requirements established by the 2009 IRC Appendix G AG105 and maintained in good condition.

(f) All lights used for the illumination of the swimming pool, spa or hot tub and adjacent areas shall be designed, located, and installed so as to confine the direct beams thereof to the lot or parcel in which the swimming pool, spa or hot tub is located. (Ord. 15-23. Passed 8-14-23.)

**1147.11 RECREATIONAL VEHICLES.**

Recreational Vehicles. Residents shall be permitted to park a recreational vehicle on a lot in any Zoning District which permits one or two dwelling units, provided the following criteria are met:

(a) There shall be a maximum of one (1) recreational vehicle per dwelling unit permitted on said lot. For purposes of this Ordinance, a boat stored on a boat trailer is considered one (1) recreational vehicle. Said recreational vehicle shall not exceed thirty (30) feet in length, nine (9) feet in width, and twelve (12) feet in height.

(b) Said vehicles shall be parked on a paved surface and shall not be parked in the grass or on any other unpaved surface.

(c) Said vehicle shall be parked no closer than three (3) feet from any side property line.

(d) Said vehicle shall not be located forward of the front plane of the main dwelling, except however, the recreational vehicle may be parked on the paved driveway in front of the main dwelling for a period not to exceed forty-eight (48) hours for loading and unloading. In no case shall said recreational vehicle be parked, stored, or displayed for sale in a manner that blocks any sidewalk or obstructs sight lines for any vehicle entering or exiting the right-of-way.

(e) In no case, shall a recreational vehicle be utilized for living, sleeping, housekeeping, business, or storage purposes.

(Ord. 15-23. Passed 8-14-23.)

**1147.12 RESERVED FOR FUTURE USE.**

**1147.13 SOLAR ENERGY SYSTEMS.**

(a) Establishment and Purpose. The purpose of this article is to provide a regulatory framework for the installation and construction of solar energy systems (SES) in the City of Lancaster, subject to reasonable restrictions, which will preserve the public health, safety, and welfare, while also maintaining the character of the City of Lancaster. This section applies to SES to be installed and constructed on any property in any Zoning District.

(b) Solar Energy Systems in the Historic District. Solar energy systems in the Historic Lancaster District shall receive a Certificate of Appropriateness from the Historic Lancaster Commission prior to Zoning approval. The process for applying for a Certificate of Appropriateness can be found in Section 1327.09 of this code. These SES shall be designed, sized, and located to minimize their effect on the character of a historic building and/or property by observing the following:

(1) Place SES to avoid obscuring significant features or adversely affecting the perception of the overall character of the property.

(2) Minimize visual impacts by locating the SES so that there is no visibility of the SES from the front of the historic building or structure.

(3) When applicable, the SES should be installed on an addition or secondary structure.

(4) Use the least invasive method feasible to attach the SES to a historic roof such that it avoids damage to significant features and historic materials and can be removed and the original character easily restored.

(5) Additionally, the SES shall comply with all applicable criteria in Section 1327.10 of this code.

(c) Roof-Mounted and Integrated Solar Energy System Standards.

(1) Roof-mounted and integrated SES shall be considered an accessory use and permitted by right within all Districts if mounted to an existing structure subject to the standards for accessory uses in the applicable Zoning District and the specific criteria set forth in this code.

(2) All SES are subject to the requirements of Section 1147.02 of this code and must comply with all bulk and area requirements for the corresponding Zoning District.

(3) On a pitched/sloped roof, the SES shall be installed parallel to the roof surface and shall not extend beyond the roof peak or roof edge.

(4) On a flat roof, the SES is permitted to exceed the respective Zoning District height limit by up to five (5) feet.

(5) Screening shall not be required for roof-mounted or integrated SES.

(d) Ground-Mounted Solar Energy System Standards.

(1) The City of Lancaster allows for the development of commercial or utility-scale solar energy systems where such systems present few land-use conflicts with current and future development patterns. Ground-mounted SES that are the principal use on the development lot or lots are special exceptions in selected Zoning Districts.

(2) Ground-mounted SES shall not be taller than the height requirements for the underlying Zoning District in which they are located.

(3) No ground-mounted SES shall be located within the front yard.

(4) Ground-mounted SES shall meet the required setbacks of the underlying Zoning District in which they are located. Setbacks shall be the same as what is required for accessory buildings in the underlying Zoning District in which they are located.

(5) All ground-mounted SES shall adhere to the bulk and area requirements for the underlying Zoning District in which they are located. Additionally, accessory ground-mounted SESs are subject to the requirements of Section 1147.02 of this code.

(6) Accessory ground-mounted SES shall not be included in total ground floor area calculations.

(7) Power transmission lines, not including lines that connect one panel to another or from the project to the main transmission lines, from ground-mounted SESs must be underground and must be completely shielded against shock hazards.

(8) For primary use SES, parking areas are exempt from the off-street parking regulations but must still meet the required setbacks in the underlying Zoning District and the landscaping requirements.

(9) An owner of a ground-mounted SES site shall follow site management practices that (1) provide diverse native perennial vegetation and foraging habitat beneficial to pollinators, and (2) reduce stormwater runoff and erosion at the solar generation site at a rate of one (1) square foot of plantings for each one (1) square foot of panels.

A. A landscape plan shall be submitted showing the proposed layout and types of plantings for the site. A list of native perennial vegetation may be found in Section 1147.13(g) of this code. Other low-growing meadow/prairie plants and native or flowering perennials may also be approved.

(e) The SES Matrices below identify the types of SES allowed in each District, or if a special exception is required. Certain SES may be prohibited in certain Zoning Districts.

**Solar Energy System (SES) Matrix 1**

| Use District | Agriculture (AG) | Central Business District (CBD) | RE, R-LD, R-MD, RT | RM | Mobile Home Community (MHC) | |
|---|---|---|---|---|---|---|
| **Accessory Use** | | | | | | |
| Integrated SES | P | P | P | P | P | |
| Roof Mounted SES | P | P | P | P | P | |
| Ground Mounted SES | | | | | | |
| Small Scale SES (1-5 ac) | P | SE | P | P | P | |
| Intermediate Scale SES (5-15 ac) | P | – | SE | SE | SE | |
| Large Scale SES (15+ ac) | P | – | SE | SE | SE | |
| **Primary Use** | | | | | | |
| Integrated SES | – | – | – | – | – | |
| Roof Mounted SES | – | – | – | – | – | |
| Ground Mounted SES | | | | | | |
| Small Scale SES (1-5 ac) | SE | – | – | – | – | – |
| Intermediate Scale SES (5-15 ac) | SE | – | – | – | – | – |
| Large Scale SES (15+ ac) | SE | – | – | – | – | – |

**P:** Permitted use. The SES is allowed in this District.

**SE:** Special exception use. Applicant must be granted permission to install an SES in this District.

**Blank (–):** Prohibited. The SES is prohibited in this District or is not applicable.

| Solar Energy System (SES) Matrix 2 | | | | |
|---|---|---|---|---|
| Use District | CG | CN | SI | AM |
| **Accessory Use** | | | | |
| Integrated SES | P | P | P | P |
| Roof Mounted SES | P | P | P | P |
| Ground Mounted SES | | | | |
| Small Scale SES (>1-5 ac) | P | P | P | P |
| Intermediate Scale SES (5-15 ac) | SE | SE | P | P |
| Large Scale SES (15+ ac) | SE | SE | SE | SE |
| **Primary Use** | | | | |
| Integrated SES | - | - | - | - |
| Roof Mounted SES | - | - | - | - |
| Ground Mounted SES | | | | |
| Small Scale SES (1-5 ac) | SE | SE | SE | SE |
| Intermediate Scale SES (5-15 ac) | - | - | SE | - |
| Large Scale SES (15+ ac) | - | - | - | - |
| **P:** Permitted use. The SES is allowed in this District. | | | | |
| **SE:** Special exception use. Applicant must be granted permission to install an SES in this District. | | | | |
| **Blank (-)** Prohibited. The SES is prohibited in this District or is not applicable. | | | | |

(f) Removal and Decommissioning.

(1) The owner, operator, or successors in interest shall remove any ground-mounted SES that ceases to perform its intended function for more than twelve (12) consecutive months, or which has reached the end of its useful life or has been abandoned at the owner or operator's expense.

(2) The former SES site shall be restored to as natural condition as possible within six (6) months of the removal.

(g) Solar Vegetation.

Native Perennial Vegetation for Ground-Mounted Solar

*Flowering Plants*

- Aster
- Bee Balm
- Black-eyed Susan
- Blue-Eyed Grass
- Blue False Indigo
- Butterfly Weed
- Cardinal Flower
- Giant Catmint
- Golden Alexander
- Gray-Headed Coneflower
- Heath Aster
- Jerusalem Artichoke
- Lanceleaf Coreopsis
- Lavender/Anise Hyssop
- Prairie Dock/Rosinweed
- Milkweed
- Mountain Mint
- Nodding Onion
- Obedient Plant
- Ohio Goldenrod
- Ohio Spiderwort
- Prairie Blazing Star
- Purple Coneflower
- Purple Prairie Clover
- Rough Blazing Star
- Shooting star
- Showy Goldenrod
- Sky Blue Aster
- Smooth Aster
- Smooth Penstemon
- Stiff Goldenrod
- White Prairie Clover
- Wild Bergamot
- Wild Geranium
- Wild Quinine

*Grasses & Sedges*

- Blue Grama
- Little Bluestem
- Prairie Dropseed
- Sideoats Grama

(Ord. 15-23. Passed 8-14-23.)

**1147.14 TEMPORARY CONSTRUCTION TRAILERS/OFFICES.**

(a) Temporary Construction Trailers/Offices. Temporary construction trailers/offices may be permitted in any District during the construction of building(s) and site improvements provided the following regulations are met. A Zoning Clearance Permit shall be obtained prior to installing and utilizing the temporary construction trailer/office.

(1) The temporary trailer/office shall be prohibited from being located in the right-of-way and shall be setback a minimum of ten (10) feet from the right-of-way line.

(2) In all Districts, except the AM, the temporary trailer/office shall only be permitted for a period of two (2) years in any calendar year. If additional time is necessary due to a delay in construction, the applicant shall seek an extension from the Board of Zoning Appeals. Due to the intensity of use and length of construction time for sites within the AM District, this time frame does not apply to temporary construction trailers/offices in the AM District. (Ord. 15-23. Passed 8-14-23.)

**1147.15 TEMPORARY TENTS.**

(a) Temporary tents shall be considered as an accessory use in the CN, CB, CBD, SI and AM Districts when retail sales are a principal use as so specified by this chapter. Tents used for festivals, fairs and carnivals for a maximum of fifteen (15) days are exempt from application. The applicant requesting use of such tents shall submit evidence that the following standards will be met.

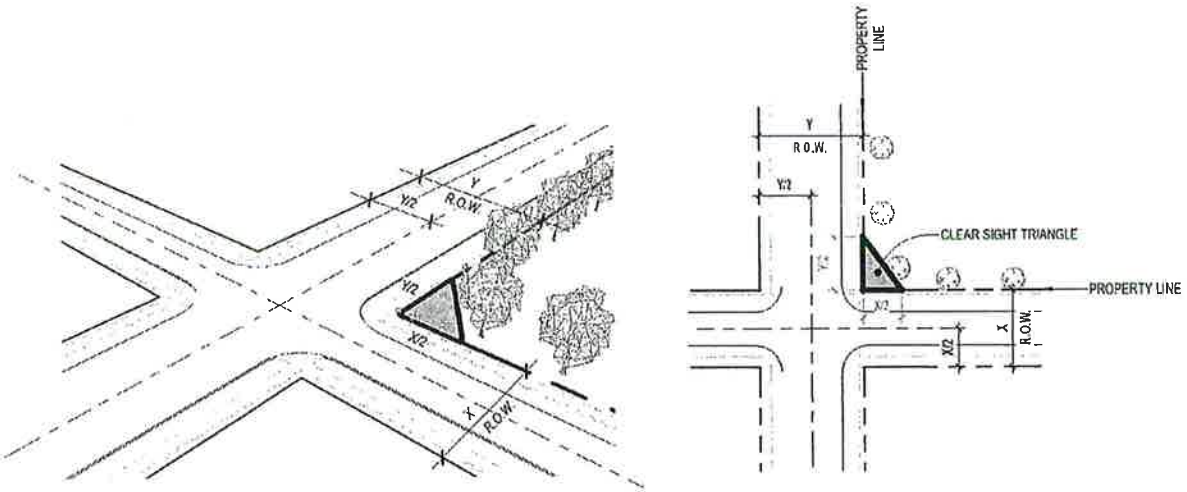
(1) Tent(s) on a lot or contiguous lot in the same ownership shall have an aggregate floor area of not more than seven hundred (700) square feet.
(2) Tent(s) erected shall meet the requirements of the Ohio Building Code.
(3) Tent(s) may not be erected for more than eighty-nine (89) days during any calendar year except when special exception permit is granted by the Board of Zoning Appeals.
(4) Tent(s) shall not cover or restrict access to any required parking space.
(5) Any tent that is two hundred (200) square feet or larger require a fire safety inspection.
(6) Tent(s) permitted under this section shall not be utilized for living purposes. (Ord. 15-23. Passed 8-14-23.)

**1147.16 VISIBILITY AT INTERSECTIONS.**

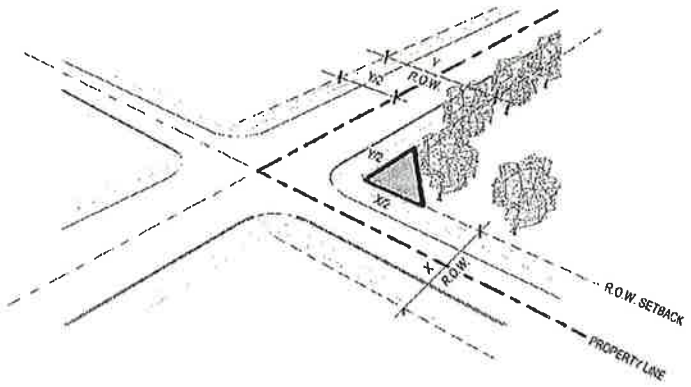
(a) There shall be sight triangle established at every intersection of two (2) public rights-of-way. The sight triangle is the triangular area where two (2) streets intersect, bounded by the edge of the street and a line joining the points on the rights-of-way from their point of intersection for a distance equal to half the width of each street right-of-way. The vision triangle shall be measured along the right-of-way within the boundaries of the property.

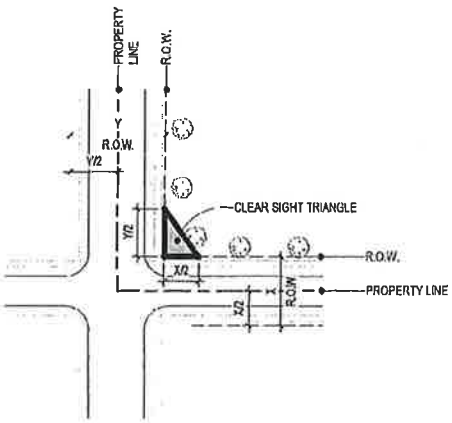
(b) Visibility Maintained. There shall be no visual obstructions within the defined sight triangle. A visual obstruction is any object between the height of no more than three (3) feet measured relative to the elevation to the nearest pavement crown. This is based on a driver eye height of three feet (based on the American Association of State Highway and Transportation Official standards). Overhanging branches or other elevated obstructions shall not be any lower than ten (10) feet measured relative to the elevation of the nearest pavement crown.

Example where right-of-way = lot line



Example where lot line is the centerline of the road:




(Ord. 15-23. Passed 8-14-23.)

## CHAPTER 1149
## Wellhead Protection and Flood Damage Prevention

Editor's note: Wellhead Protection is an overlay of basic Zoning as shown on the Zoning map. It will be applied to only those areas designated as being within proximity of City of Lancaster well fields, where a spill of toxic or potentially dangerous substances could degrade the water supply of the City. The City currently has designated Wellhead Protection Districts and regulations. This Chapter incorporates the existing Wellhead Protection legislation from Chapter 1335 of the Lancaster Codified Ordinances.

Editor's note: Flood Plain Zoning is an overlay of basic Zoning as shown on the Zoning map. It will be applied to only those areas designated by Federal Emergency Management Agency as being subject to flooding. The City currently has Flood Damage Prevention legislation. The Flood Damage Prevention legislation is found in Chapter 1331 of the Lancaster Codified Ordinances. Chapter 1331 is included as part of the Zoning Ordinance in order to show the relationship of flood damage prevention to Zoning and development issues within the City of Lancaster.

## CHAPTER 1151
## CRA-3 Overlay Zone and Historic Lancaster District

(a) The CRA-3 Overlay Zone is an overlay Zoning District in the area of the the third Community Reinvestment Area (CRA). This overlay zone is shown on the Zoning map and mimics the CRA-3 boundary designated on the City of Lancaster CRA maps created by Permanent Resolution 71-19. The permitted and special exception uses, including duplexes and triplexes, as listed in the underlying Zoning District shall control and such uses must comply with the underlying Zoning requirements. The purpose of the Zoning overlay is to identify areas where tax incentives may be applied to assist with promoting workforce housing and increasing the housing options in the city. Within the CRA-3 Overlay Zoning District a developer may apply for and receive exemption from real property tax for the construction of an approved residential development of up to three (3) family dwelling units, also known as a triplex. Tax exemption is subject to Mayoral approval and determined on a case by case basis.

(b) The Historic Lancaster District is an overlay Zoning District in the areas established in Section 1327.03 of the City of Lancaster's Codified Ordinances. This overlay zone is shown on the Zoning Map. The permitted uses, special exceptions and other Zoning requirements as listed in the underlying Zoning District shall apply. Additionally, the requirements of Chapter 1327 shall also apply to all buildings, structures and land within this Zoning overlay District. No certificate of Zoning compliance, variance, or special exception permit for any building, structure, or land within this overlay District shall be issued until such time a certificate of appropriateness has been issued in accordance with Chapter 1327.
(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1153
# Nonconformities


1153.01 Intent.
1153.02 Existing land or buildings.
1153.03 Construction commenced.
1153.04 Lots of record.
1153.05 Non-conforming structures.
1153.06 Non-conforming uses.
1153.07 Discontinuance.
1153.08 Damage and/or destruction of a non-conforming building or use.
1153.09 Maintenance and repair.
1153.10 Non-conforming signs.


## 1153.01 INTENT.

The purpose of this Chapter is to allow for the continuation of uses and structures that were lawfully permitted prior to the enactment of this Code or amendments thereto but do not conform to the currently adopted regulations.
(Ord. 15-23. Passed 8-14-23.)

## 1153.02 EXISTING LAND OR BUILDINGS.

Any use, land or building that lawfully existed on the effective date of this Zoning Ordinance may be continued, even though such use does not conform to the provisions in this current Zoning Ordinance. No non-conforming building, structure, or use shall be moved, extended, enlarged, reconstructed, or structurally altered, except as provided in this Zoning Ordinance. (Ord. 15-23. Passed 8-14-23.)

## 1153.03 CONSTRUCTION COMMENCED.

The construction, change, or remodeling of a use, structure, or building that was legally commenced prior to the effective date of this Zoning Ordinance or amendment thereto but does not conform to these regulations may be continued as long as the following criteria are met:

(a) The property was purchased or otherwise legally acquired prior to the effective date of this Zoning Ordinance or amendment thereto making it non-conforming.

(b) Said work has been completed within two (2) years of the effective date of this Zoning Ordinance or amendment making it non-conforming.
(Ord. 15-23. Passed 8-14-23.)

**1153.04 LOTS OF RECORD.**

(a) A Lot of Record is any lot or parcel of land that was lawfully created by a subdivision plat of record or by a metes and bounds description and recorded in the County Recorder's Office prior to the effective date of this Ordinance.

(b) Any lot of record existing on the initial effective date of this Ordinance may be used for any single family dwelling when such use is permitted in the District, regardless of the width or area of said lot, provided all of the following criteria are met:

(1) Adequate access is provided to the lot as determined by the City Engineer and Fire Chief.

(2) The side setback for any lot of record shall not be less than ten percent (10%) of the width of the lot, and in no case shall a side yard be less than three (3) feet.

(3) The rear setback for any lot of record shall not be less than twenty percent (20%) of the depth of the lot, and in no case shall the rear yard be less than ten (10) feet.

(4) Accessory structures shall comply with all side and rear setback requirements in the applicable District regulations.

(c) In any District where dwellings are not listed as a permitted use, a lot of record may be used for any permitted use in the District in which it is located, provided the following criteria are met:

(1) The side setback shall be a minimum of ten percent (10%) of the lot width.

(2) The rear setback shall be a minimum of twenty percent (20%) of the lot depth.

(3) All other regulations for the District, including but not limited to impervious surface ratio, shall apply as stated in the applicable Zoning District.

(d) Any lot of record that contains a structure that complies with the regulations in this Section shall be considered to be in compliance with these Zoning Regulations.
(Ord. 15-23. Passed 8-14-23.)

**1153.05 NON-CONFORMING STRUCTURES.**

(a) A non-conforming structure is any building or structure lawfully existing on the effective date of these regulations or amendment thereto, which does not conform to the development standards of the District in which it is located.

(b) A non-conforming structure may continue to exist in accordance with the provisions of this Chapter.

(c) A non-conforming structure may be enlarged, maintained, repaired, or structurally altered, provided, the existing non-conformity is not increased or extended and no new non-conformities are created, except however, a front porch may be added to an existing non-conforming structure provided in complies with the average setback as defined in Chapter 1161.

(d) A non-conforming structure shall not be moved in whole or in part for any distance to any other location on the same or any other lot. If such structure is moved, the entire structure shall conform to the regulations of the applicable Zoning District in which it is located. A Zoning Clearance Permit shall be required prior to moving such Structure.

(e) A non-conforming mobile home, as defined in this Code, located in any District, once removed shall not be relocated on such lot, or replaced with another mobile home. (Ord. 15-23. Passed 8-14-23.)

**1153.06 NON-CONFORMING USES.**

(a) A non-conforming use is any use that was lawfully being conducted within any building or on any land on the effective date of these regulations or amendment thereto but is not listed as a permitted use of the District in which it is located.

(b) A non-conforming use may continue to operate in its current location in accordance with the provisions of this Chapter.

(c) The Board of Zoning Appeals may authorize a non-conforming use to be changed to another non-conforming use, provided the proposed use is equally appropriate or more appropriate to the District than the existing non-conforming use. The Board of Zoning Appeals may require appropriate conditions and safeguards in accordance with other provisions of this Zoning Code, which if violated are punishable under Chapter 1155 of this Zoning Code.

(d) Unless otherwise permitted by this Chapter, a non-conforming use shall not be enlarged, extended or expanded.

(e) The Board of Zoning Appeals may permit, on a once-only basis, the expansion of a non-conforming use, provided such expansion does not exceeding twenty-five percent (25%) of the ground floor area of the existing building or buildings devoted to a non-conforming use at the time of enactment of this Zoning Ordinance or at the time of its amendment making a use non-conforming. The Board of Zoning Appeals shall not authorize any enlargement which would:

(1) Result in a violation of the provisions of this Zoning Ordinance with respect to any adjoining premises;

(2) Occupy ground space required for meeting the setback or other requirements of this Zoning Ordinance.

(Ord. 15-23. Passed 8-14-23.)

**1153.07 DISCONTINUANCE.**

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

(a) When the use has been voluntarily discontinued for a period of six (6) months. It is the responsibility of the applicant to prove the non-conforming use has not been discontinued.

(b) When the non-conforming use has been replaced by a conforming use.

(Ord. 15-23. Passed 8-14-23.)

**1153.08 DAMAGE AND/OR DESTRUCTION OF A NON-CONFORMING BUILDING OR USE.**

When a building or structure, the use of which does not conform to the provisions of this Ordinance, is damaged by fire, explosion, public enemy or act of God, it may be restored or rebuilt and continued in such non-conforming use provided that the restoration or rebuilding is commenced within twelve (12) months of the time of damage, that construction is completed within twenty-four (24) months, and that such restoration or rebuilding would not extend or expand the existing use, except as may be permitted in Section 1153.06 above.

If any part of the damaged or destroyed building encroaches or intrudes on an adjacent property, the location of the restored or rebuilt structure is subject to approval by the Board of Zoning Appeals. If the restoration or rebuilding of the structure involves extension or expansion of the use, the provisions of Section 1153.06 shall apply.
(Ord. 15-23. Passed 8-14-23.)

**1153.09 MAINTENANCE AND REPAIR.**

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

(a) When required by law.

(b) To convert to a conforming use.

(c) A building or structure containing residential non-conforming uses may be so altered as to improve interior livability. However, no structural alterations shall be made which exceed the area or height requirements or which would extend into any yard required in the District in which such building is located.
(Ord. 15-23. Passed 8-14-23.)

**1153.10 NON-CONFORMING SIGNS.**

(a) Any sign erected prior to the effective date of this section, constructed in conformance with the ordinances and other applicable laws in effect on the date of its construction, but which by reason of its size, height, location, design, or construction is not in conformance with the regulations of this chapter may be continued as a legal non-conforming sign. Said signs must be located outside of the right-of-way unless otherwise approved by the City Engineer, a right-of-way permit has been issued for said sign and the annual right-of-way fee has been paid.

(b) A legal non-conforming sign shall immediately lose its legal non-conforming designation and shall be immediately brought into compliance with this chapter and a new permit secured if so required, or shall be removed upon any of the following occurrences:

(1) The non-conforming sign is structurally altered, enlarged, relocated or replaced.

(2) The non-conforming sign is determined by the City Planner or designee or the Chief Building Official: to be in a dangerous or defective condition; to fail to conform to health and fire codes; a public nuisance; or abandoned, deteriorated; or in need of repair or replacement.

(3) The non-conforming sign face and/or supportive structure is destroyed or damaged in excess of fifty percent (50%) of the combined replacement value of the sign and supportive structure, by any cause.

(c) No non-conforming sign shall be moved in whole or in part to any other location unless such sign is made to conform to this chapter, unless forced to move the non-conforming sign by the City, state, or federal officials for any reason other than enforcement.

(d) Nothing in this section shall prevent the ordinary repair, maintenance, and non-structural alteration of non-conforming signs. Maintaining the non-conforming sign to the exact legal non-conforming design shall be allowed; however, any proposed changes to a non-conforming sign, except for replacement faces, shall require that the sign be made to conform to the requirements of this chapter. No structural alterations shall be made in, to, or upon such non-conforming sign, except those required by law to make the sign conform to the requirements of this chapter. (Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1155
# Enforcement


**1155.01 Duty of City Planner or designee.**
**1155.02 Zoning clearance permit required.**
**1155.03 Certificate of Zoning Compliance.**
**1155.04 Failure to obtain a zoning clearance permit.**
**1155.05 Complaints regarding violations.**
**1155.06 Entry and inspection of property.**
**1155.07 Zoning clearance permit revocation.**
**1155.08 Stop work order.**
**1155.09 Violation procedures and penalties.**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## 1155.01 DUTY OF CITY PLANNER OR DESIGNEE.

The City of Lancaster Planner or designee shall serve as the Zoning Inspector and shall be responsible for overseeing, interpreting, and implementing this Zoning Ordinance. The City Planner may designate additional staff to assist with these activities. All departments, officials, and employees of the City of Lancaster vested with the duty or authority to issue permits or licenses shall comply with the provisions of this Code and shall issue no permit or licenses for any use, purpose, excavation, construction, structure, building, or sign, unless it complies with this Zoning Ordinance. (Ord. 15-23. Passed 8-14-23.)

## 1155.02 ZONING CLEARANCE PERMIT REQUIRED.

(a) A Zoning Clearance Permit is required prior to:
- (1) Constructing, creating, moving, expanding, converting, or structurally altering any portion of a building or structure. This includes temporary structures.
- (2) Changing the use of a building, structure, or land.
- (3) Occupying or using vacant land.
- (4) Demolishing of any building or structure.

(b) The failure to obtain a Zoning Clearance Permit shall be considered a violation of this Code and shall be punishable in accordance with this Code.

(c) An application for a Zoning Clearance Permit shall be submitted to the City Planner or designee and shall include the following information.

(1) Name, address, phone number and email address of the applicant.
(2) Address and parcel number of the property subject to the application.
(3) Legal description of the property as recorded in the County Recorder's office. If there is not a complete and accurate survey readily available from existing records, the City Planner or designee may require the applicant supply a survey of the property by a Registered Surveyor in the State of Ohio.
(4) Existing and proposed uses.
(5) The Zoning District in which the property is located.
(6) Plans and/or drawings drawn to scale in blackline or blueprint showing:
A. The actual shape and dimensions of the property.
B. The proposed use(s) for each building, structure, or portion of the lot.
C. The location and dimensions of all easements.
D. The dimension of existing and proposed buildings or structures on the property, including their size and height.
E. The distance between the lot lines and the existing and proposed structures.
F. The dimensions and number of existing and proposed parking spaces.
G. Any existing or proposed signage. (not required for single unit dwelling permit)
H. Any existing or proposed landscaping (not required for single unit dwelling permit)
I. Number of proposed dwelling units, if applicable.
J. A copy of any required approvals including but not limited to: any necessary variances or special exception permits.
K. Any other information, including information on neighboring lots, as determined by the City Planner or designee to determine compliance and with and enforcement of this Ordinance.

(d) No Zoning Clearance Permit shall be issued until a fee has been paid in accordance with the schedule of fees as determined by the Mayor.

(e) If a Zoning Clearance Permit application is approved:

(1) The City Planner or designee, shall mark the permit as approved, sign, date and return the approved permit to the applicant.
(2) The applicant shall commence work within one (1) year of the date of Zoning Clearance Permit approval unless an extension is granted by the City Planner or designee. The City Planner or designee may grant a one-time extension of up to one (1) year due to unexpected delays that are not a result of any action of the applicant and provided there are no changes in area conditions, as determined by the City Planner or designee. Otherwise, the permit shall be considered null and void and a new Zoning Clearance Permit must be obtained.

(3) The work described in the permit must be completed and a Certificate of Zoning Compliance must be issued within two (2) years of the date of Zoning Clearance Permit approval. Any work described in the permit that has not been completed within this two (2)-year period or as extended by the City Planner or designee shall not proceed unless and until a new Zoning Clearance Permit is obtained.

(f) If a Zoning Clearance Permit application is denied:

(1) The City Planner or designee shall mark the permit as denied, sign and date it, provide a list of reasons for denying the permit, and return it to the applicant.

(2) The applicant shall have thirty (30) days from the date that the City Planner or designee denied the Zoning Clearance Permit to file an Appeal application to the Board of Zoning Appeals.

(g) The City Planner or designee, may declare an approved Zoning Clearance Permit void, if he/she determines that the permit was issued based upon incorrect information or false statement(s) being provided by the applicant.

(1) In such cases, the City Planner or designee shall send a certified letter to the applicant at the address on the application indicating the reasons the Zoning Clearance Permit is being revoked.

(2) The letter shall state that all work shall cease, and no additional work shall continue unless and until a new permit is obtained.

(3) The applicant shall have thirty (30) days from the date of this letter to appeal the City Planner or designee's decision to the Board of Zoning Appeals.

(Ord. 15-23. Passed 8-14-23.)

**1155.03 CERTIFICATE OF ZONING COMPLIANCE.**

(a) An applicant shall apply for a Certificate of Zoning Compliance after completing the Work described in an approved Zoning Clearance Permit. The application shall be submitted to the City Planner or designee.

(b) No building or structure shall be occupied or utilized in any manner until such time a Certificate of Zoning Compliance has been issued by the City Planner or designee. The Certificate of Zoning Compliance shall state:

(1) The proposed use is in conformance with the approved Zoning Clearance Permit; and

(2) The buildings and/or structures have been constructed in accordance with the approved Zoning Clearance Permit.

(3) If there are any non-conforming uses or structures located on said property, the Certificate of Zoning Compliance shall note the existing non-conforming status on the Certificate of Zoning Compliance.

(c) A Certificate of Zoning Compliance shall not be issued until a signed letter from the applicable water and sewer authority has been provided stating that water and sanitary sewer systems have been installed and approved by said authority.

(d) The City Planner or designee shall maintain a record of all Certificates of Zoning Compliance.

(e) The City Planner or designee is authorized to issue a Temporary Certificate of Zoning Compliance that does not exceed six (6) months provided:

(1) All completed work at the time the Temporary Certificate of Zoning compliance is issued complies with the approved Zoning Clearance Permit.

(2) The reason the unfinished work has not been completed is due to circumstances beyond the applicant's control, such as the weather.

(3) That the temporary occupancy of a building does not impair public health and safety. (Ord. 15-23. Passed 8-14-23.)

**1155.04 FAILURE TO OBTAIN A ZONING CLEARANCE PERMIT.**

Failure to obtain Zoning Clearance Permit prior to the commencement of the construction, alteration, or use for which the permit or certificate is required, shall be a violation of this Zoning Code and punishable under Section 1155.09 of this Ordinance.
(Ord. 15-23. Passed 8-14-23.)

**1155.05 COMPLAINTS REGARDING VIOLATIONS.**

Whenever a violation of this Zoning Code occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the City Planner or designee who shall record properly such complaint, immediately investigate, and take such appropriate action as provided by this Zoning Ordinance.
(Ord. 15-23. Passed 8-14-23.)

**1155.06 ENTRY AND INSPECTION OF PROPERTY.**

The City Planner or designee is authorized to make inspections of properties and structures in order to examine and survey the property for the purpose of enforcing the provisions of this Zoning Code. Prior to seeking entry to any property or structure for such examination or survey, the City Planner or designee shall attempt to obtain the permission of the owner or occupant to inspect. If such permission is denied or cannot be obtained, the City Planner or designee shall request the assistance of the City Police Department when the matter is an immediate hazard to life safety. Nothing in this section limits the ability of the City Planner or designee to work with the Law Director to secure a valid search warrant prior to entry.
(Ord. 15-23. Passed 8-14-23.)

**1155.07 ZONING CLEARANCE PERMIT REVOCATION.**

The City Planner or designee may issue a revocation notice to revoke a permit which was issued contrary to this Zoning Code or based upon false information or misrepresentation in the application. (Ord. 15-23. Passed 8-14-23.)

**1155.08 STOP WORK ORDER.**

The City Planner or designee shall write a stop work order when it is determined that work is being done contrary to this Zoning Ordinance. Said order shall be posted on the property that is in violation. Removing a stop work order from property, except by the order of the City Planner or designee, shall constitute a punishable violation of this Zoning Ordinance. The City Planner or designee shall commence the Violation Procedures in accordance with Section 1155.09.
(Ord. 15-23. Passed 8-14-23.)

**1155.09 VIOLATION PROCEDURES AND PENALTIES.**

(a) Whenever the City Planner or designee determines that there is a violation of any provision of this Zoning Ordinance, a written Notice of Violation shall be issued to the Responsible Party as defined in Chapter 1161. Such notice shall:

(1) Be in writing.
(2) Identify the violation.
(3) Include a statement of the reason or reasons why it is being issued and refer to the sections of this Zoning Ordinance being violated.
(4) Include a statement that the violation shall be corrected within thirty (30) days of the Date of Service of the Notice of Violation (which shall be referred to as the Violation Remedy Date). Failure to correct the violation prior to the Violation Remedy Date shall be cause for a citation to be issued by the City Planner or designee in accordance with Section 1155.09(c).
(5) The Date and Method of Service for the Notice of Violation shall be one of the following:
    A. The date the Notice of Violation is personally delivered to the Responsible Party; or
    B. The date the Notice of Violation is sent by certified mail in the US Post Office to the both the property owner address as listed on the Fairfield County Auditor's Tax List and the address for the property; or
    C. The date the Notice of Violation is posted in a conspicuous place on the property in violation.

Service of this notice shall be deemed complete on the date the City Planner or designee certifies that the Notice of Violation was delivered via one of the above methods.

(b) Re-Inspection and Citation Notification. Within three (3) business days after the Violation Remedy Date, the City Planner or designee shall re-inspect the property in question. If, upon re-inspection following the issuance of a notice of violation, the condition has not been corrected by the Responsible Party a Citation shall be issued in accordance with Section 1155.09(c). Such Citation Notification shall:

(1) Be served by one of the methods specified in Section 1155.09(a)(5).
(2) Be in writing.
(3) Identify the violation. State the amount of the penalty being assessed in accordance with Section 1155.09(c).
(4) Shall direct the Responsible Party to remedy the violations within seven (7) days of the date of the Citation Notification and failure to do so will result in additional citations in escalating amounts specified in Section 1155.09(c). The Citation Notification shall also inform the Responsible Party that a civil complaint or criminal summons may be filed if the code violation is not remedied in accordance with the Lancaster Codified Ordinances.

(c) Citations for Violation. The following citations shall apply to violations:

The first citation for a violation shall constitute a minor misdemeanor and the penalty shall be one hundred fifty dollars ($150.00).

The second citation for a violation shall constitute a fourth-degree misdemeanor and the penalty shall be two hundred fifty dollars ($250.00).

The third citation for a violation shall constitute a third-degree misdemeanor and the penalty shall be five hundred dollars ($500.00).

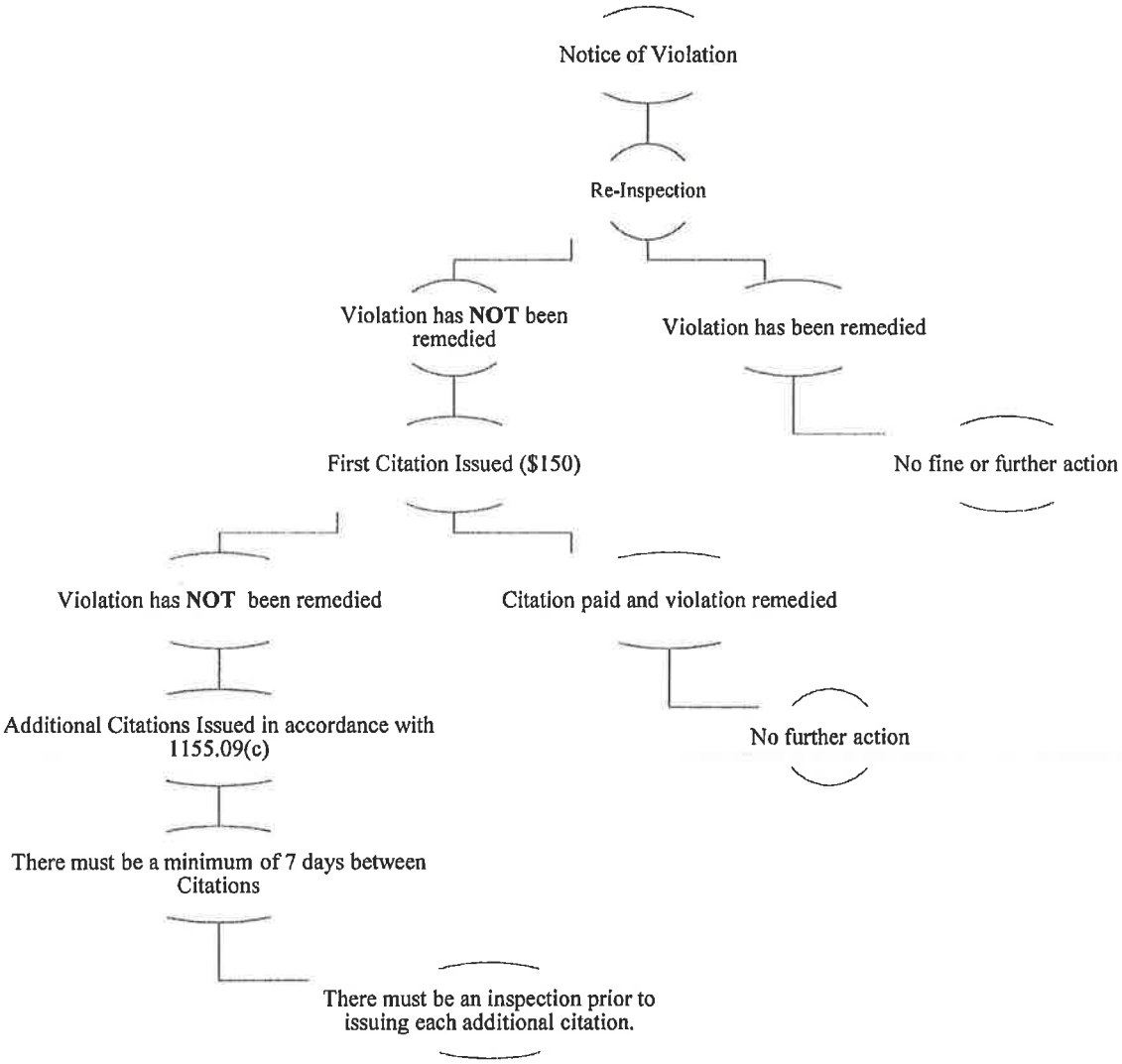
The fourth citation for a violation shall constitute a second-degree misdemeanor and the penalty shall be seven hundred fifty dollars ($750.00).

Each additional citation shall constitute a first-degree misdemeanor and the penalty shall be one thousand dollars ($1,000.00).

There shall be a minimum of seven (7) days between the dates of each citation for the same violation. The City Planner or designee shall be required to re-inspect the property and document the continued violation prior to issuing additional citations for the same violation. Each additional Notice of Violation shall follow the requirements of Section 1155.09(a).

All unpaid citations shall be cumulative and shall subject the violator to a possible civil penalty to be recovered in a civil action in the nature of the debt.

Nothing in this Zoning Ordinance shall be deemed to abolish, impair or prevent other additional remedies as provided by law, including but not limited to civil procedures. In the event of a violation of any provision or requirement of this Zoning Ordinance, or in the case of an imminent threat of such a violation, the City Planner or designee, the Law Director, or the owner of any neighboring property who would be especially damaged by such violation, may, in addition to other recourses provided by law, institute mandamus, injunction, abatement, or other appropriate actions to prevent, remove, abate, enjoin, or terminate such violation.




Flowchart is for general guidance only - Code language in this document controls.
(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1157
# Board of Zoning Appeals


1157.01 Establishment of the Board of Zoning Appeals.
1157.02 Powers of the Board.
1157.03 Proceedings of the Board.
1157.04 Conflict of interest.
1157.05 Application and procedures variances.
1157.06 Application for special exceptions.
1157.07 Appeals from an administrative official.
1157.08 Fees.
1157.09 Interpretation.
1157.10 Appeals to the Common Pleas Court.
1157.11 Compensation.


## 1157.01 ESTABLISHMENT OF THE BOARD OF ZONING APPEALS.

(a) In accordance with Section 713.11, a Board of Zoning Appeals of the City of Lancaster is hereby established with the powers and duties set forth by this Ordinance. The Board of Zoning Appeals shall consist of five (5) members, who shall be nominated by the Mayor and confirmed by the City Council, and shall serve for a term of three years. Initial appointments will be as follows: two (2) members serving for three (3) years; two (2) members serving for two (2) years; and one (1) member serving for one year. Thereafter all full-term appointments shall be for three (3) years.

(b) Vacancies shall be filled for an unexpired term of any member in the manner set forth for appointments to a full term. A Board member may be removed for cause, by the appointing authority after notice, written charges, and public hearing. The Board shall organize, elect its chairman, and appoint a secretary and adopt rules necessary to the conduct of its affairs. (Ord. 15-23. Passed 8-14-23.)

## 1157.02 POWERS OF THE BOARD.

The Board of Zoning Appeals shall have the following duties and responsibilities:

(a) Hear appeals, upon application of an aggrieved person, of the City Planner or designee's issuance or denial of a Zoning Clearance Permit, interpretation of this Ordinance, or other administrative action taken by the City Planner or designee, in accordance with this Ordinance.

(b) Hear and take action on any application filed for a variance or from the regulations in this Ordinance.
(c) Hear and take action on any application filed for a special exception permit in accordance with this Ordinance.
(d) Hear and take action on requests regarding the continuance, expansion or extension of non-conforming uses in accordance with the provisions of this Ordinance.
(e) Authorize the operation of a similar use in accordance with the provisions of this Ordinance.
(f) Make interpretations of the Zoning map and text.
(g) Such other official actions authorized by this Ordinance or Ohio Revised Code that are not herein specified.
(Ord. 15-23. Passed 8-14-23.)

**1157.03 PROCEEDINGS OF THE BOARD.**

Meetings shall be held monthly at the call of the Chairman, and at such other times as the Board may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and compel attendance of witnesses. A quorum shall consist of three members of the Board. A minimum of three affirmative votes shall be required to pass a measure. All meetings and voting of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. In all matters, the Board shall decide at the conclusion of the hearing on the application for relief. The notice, filing, and substantive requirements of the Board shall be set forth in the following sections concerning the Board's exercise of a particular power.
(Ord. 15-23. Passed 8-14-23.)

**1157.04 CONFLICT OF INTEREST.**

In the event a member of the Board of Zoning Appeals finds himself or herself in a "conflict of interest" with regard to any matter coming before the Board, said member shall at the beginning of the proceeding declare that a conflict exists and refrain from participating in the hearing and in voting on the issue. If a member of the Board does not declare a conflict, and the petitioner or other Board members perceive that a conflict exists, they may request that the Board member be excluded from the hearing process. If the Board member declines to step down, the matter will be heard by the Board prior to undertaking the scheduled hearing, and the Board by majority vote will determine whether a conflict exists. If the Board finds a conflict to exist, the Board member in conflict will be prohibited from participating in the hearing and voting on the petition. (Ord. 15-23. Passed 8-14-23.)

**1157.05 APPLICATION AND PROCEDURES VARIANCES.**

(a) The Board of Zoning Appeals, upon application, and after hearing and subject to the procedural and substantive standards set forth herein, may grant variances from the terms of this Code. Variances are distinguished as either "use" variances or "area" variances. A "use" variance is an application for a deviation from the permitted uses in a Zoning District as opposed to a variance from a Zoning restriction on setbacks, bulk, height, etc. An "area" variance is an application for a deviation from the Zoning restrictions on setbacks, bulk, height, etc. in a Zoning District.

(b) An application an appeal or variance shall include the following information:

(1) Seven (7) copies and one (1) digital pdf copy of an application form provided by the City that includes:

A. The name, address, phone number and email address of the applicant and property owner(s).

B. The address and parcel number of the property in question.

C. The Section of the Code from which the variance being sought or the action that is being appealed.

D. The existing Zoning District in which this property is located.

(2) A copy of the denied Zoning Clearance Permit or a copy of such other action taken under this Ordinance that is being appealed.

(3) If the applicant is not the owner of the property, a signed letter from the property owner shall be submitted authorizing the applicant to serve as their agent for the application.

(4) A legal description of the subject property.

(5) A plot plan drawn to an appropriate scale, as determined by the City Planner or designee, showing at a minimum the following information:

A. The entire lot(s) subject to the application request.

B. All adjacent rights-of-way.

C. The location and height of all existing and proposed buildings and structures with a notation of the setbacks of each from all property lines and rights-of-way.

D. All parking lots, driveway or other vehicular use areas.

E. All existing and proposed signs.

F. Proposed landscaping.

G. Distances to any residential District if less than one thousand (1,000) feet from the lot(s).

H. The existing use of the lots on all adjacent lands.

I. Building elevations, if determined necessary by the City Planner or designee to better understand potential impacts on adjacent properties.

(6) The names and addresses of all property owners within one hundred (100) feet of the subject property as appearing on the County Auditor's current tax list.

(7) A narrative statement explaining the following:

A. A description of the existing and proposed uses

B. The nature and magnitude of the variance request.

C. A response as to how the proposed variance satisfies each of the decision criteria listed in Section 1157.05(g).

(8) The applicable fee as listed in the separate fee schedule adopted by City Council.

(c) Public Hearing. The Board of Zoning Appeals shall hold a public hearing within thirty (30) days after the receipt of a completed application for a variance or appeal. The Board may recess such hearings from time to time, and if the time and place of the continued hearing is publicly announced at the time of adjournment, no further public notice shall be required. Any person with interest may appear and testify at the public hearing in person or by attorney.

(d) Notice of the public hearing shall be placed in one (1) or more newspapers of general circulation in the City at least ten (10) days before the day of said hearing. The notice shall set forth the date, time and place of the public hearing, and the nature of the proposed appeal or variance.

(e) At least ten (10) days before the public hearing, notices shall also be sent by first class mail to all parties of interest. Parties of interest shall include at a minimum, owners of property within one hundred (100) feet from, contiguous to, and directly across the street from the property being considered. The notice shall contain the same information as required for the notice published in the newspaper as specified in Section 1157.05(d). Failure of delivery of such notice shall not invalidate the findings of the Board.

(f) Criteria for Approving a Use Variance. The Board of Zoning Appeals may grant a use variance only upon a finding by clear and convincing evidence of an "unnecessary hardship". The factors to be considered and weighed by the Board in determining whether and unnecessary hardship exists include, but are not limited to, the following:

(1) Whether the requested use variance stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or District;
(2) Whether the claimed hardship was created by actions of the applicant;
(3) Whether granting the variance will adversely affect the rights of adjacent property owners;
(4) Whether granting the variance will adversely affect the public health, safety or general welfare;
(5) Whether the variance will be consistent with the general spirit and intent of the Zoning Code;
(6) Whether the variance sought is the minimum which will afford relief to the applicant; and
(7) Whether there is an economically viable use of the property which is permitted in the Zoning District

(g) Criteria for Approving an Area Variance. The Board of Zoning Appeals may grant an area variance upon a finding by clear and convincing evidence of "practical difficulty" in meeting Code requirements. The factors to be considered and weighed by the Board in determining whether a property owner has encountered practical difficulties include, but are not limited to, the following:

(1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
(2) Whether the variance is substantial;
(3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
(4) Whether the variance would adversely affect the delivery of governmental services, for example, water, sewer, garbage, etc.;
(5) Whether the property owner purchased the property with knowledge of the Zoning restriction;
(6) Whether the property owner's practical difficulty can be eliminated through some method other than a variance, and;
(7) Whether the spirit and intent behind the Zoning requirement can be observed and substantial justice can be done by granting a variance.

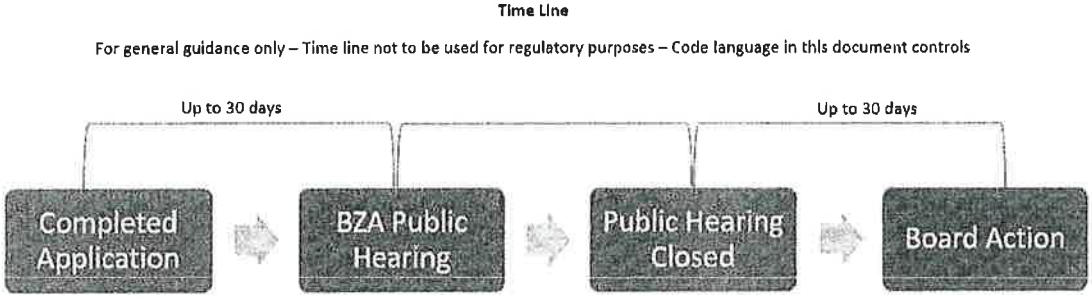
(h) Burden of Proof. The burden of proof is on the applicant to present reliable, probative, and substantial testimony and evidence that supports the request for a variance.

(i) Action by Board. Within thirty (30) days of the conclusion of the public hearing, the Board of Zoning Appeals shall either: approve, approve with supplementary conditions, or disapprove the request for a variance. The Board of Zoning Appeals must provide consideration of the requirements listed in Sections 1157.05(f) or 1157.05(g) as applicable when making its decision. Its decision shall be accompanied by written findings of fact specifying the reasons for the decision reached. If the application is approved or approved with supplementary conditions, the Board of Zoning Appeals shall make a finding that the reasons set forth in the application justifying the granting of the variance that will make possible a reasonable use of the land, building, or structure.

(j) Supplemental Conditions. The Board of Zoning Appeals may prescribe any conditions and safeguards that it deems necessary to ensure that the objectives of the regulations or provisions to which the variance applies will be met. Any violation of such conditions and safeguards, when they have been made a part of the terms under which the Variance has been granted, shall be deemed a punishable violation under this Zoning Code.

(k) Time Limitation on Variances. A variance that has been granted, but which has not been utilized within twenty-four (24) months from date of mailing the order granting the variance shall thereafter be void, provided that the Board has not extended the time for utilization. For the purpose of this provision, utilization shall mean actual use or the issuance of a building permit, when applicable, provided construction is diligently carried to completion.

(l) Reapplication. No application for a variance that is substantially similar to an application that has been disapproved or granted, wholly or in part, shall be submitted for one year after the decision of the Board of Zoning Appeals. The City Planner or designee shall consider factors such as the nature or size of a proposal, changes in the development of traffic pattern in the area, or newly discovered evidence pertinent to a decision on a previous application.




(Ord. 15-23. Passed 8-14-23.)

**1157.06 APPLICATION FOR SPECIAL EXCEPTION.**

(a) Any person who owns or has interest in a lot subject to the special exception requirements, may file an application to use such property for special exceptions provided for by this Ordinance in the District in which the property is situated. Seven (7) copies and one (1) digital pdf of an application for a special exception shall be filed with the City Planner or designee, who shall forward a copy to the members of the Board of Zoning Appeals. The application shall contain the following information:

(1) All of the information required for a Zoning Clearance Permit pursuant to Section 1155.03.

(2) A plan of the proposed site for the special exception use showing the location of all buildings, parking and loading areas, traffic circulation, open spaces, landscaping, trash disposal and service areas, utilities, signs, setbacks, and other information that the Board may require to determine if the proposed special exception meets the intent and requirements of this Ordinance.

(3) A narrative statement evaluating the effects on the adjoining property, and a discussion of the general compatibility with adjacent and other properties in the District.

(4) The names and addresses of all property owners within one hundred (100) feet, contiguous to and directly across the street from the property, as appearing on the County Auditor's current tax list.

(5) The applicable review fee as listed in the separate fee schedule adopted by City Council.

(6) Such other information regarding the property, proposed use, or surrounding areas as may be pertinent to the deliberations of the Board of Zoning Appeals.

(b) Board of Zoning Appeals Action. The Board of Zoning Appeals shall hold a public hearing and provide notification of such hearing using the same procedure and notification requirements as Section 1157.05 (c) and (d). The Board shall take action within thirty (30) days from date of the hearing, unless the applicant and the Board mutually agree to waive this requirement. In order for a special exception to be granted, it must be determined by at least three (3) members that said special exception is in harmony with the spirit and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Provided that the Board in granting the special exception shall have the authority to prescribe appropriate conditions and safeguards, may limit the grant of the special exception to a specified period of time, and may require such evidence and guarantee or bond as it may deem necessary to enforce compliance with the conditions attached.

(c) Time Limitation on Special Exceptions. A special exception which has not been utilized within twenty-four (24) months from date of the order granting same shall thereafter be void, provided that the Board has not extended the time for utilization. For the purposes of this provision, utilization shall mean actual use or the issuance of a building permit, when applicable, provided construction is diligently carried to completion.

(d) If the application is approved with supplementary conditions, the Board of Zoning Appeals shall direct the City Planner or designee to issue a Zoning Clearance Permit listing the specific conditions listed by the Board of Zoning Appeals for approval.

(e) If no action is taken by the Board of Zoning Appeals within the timeframe specified in this Section, the application shall be considered approved.
(Ord. 15-23. Passed 8-14-23.)

**1157.07 APPEALS FROM AN ADMINISTRATIVE OFFICIAL.**

(a) General. An appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer, department, board or bureaus of the city affected, where it is alleged, there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Code.

(b) Notice of Appeal. An appeal be made by filing an Application for Appeal within thirty (30) days from action by the City Planner or designee or by any other officer, department, board acting under the authority of this Zoning Ordinance. The application for an appeal shall include the same information for a variance application in Section 1157.05(b). Upon the receipt of the Application for Appeal, the City Planner or designee, shall forthwith transmit to the Clerk of the Board of Zoning Appeals, certified copies of all the papers constituting the record of said matter. Upon receipt of the record, the Clerk of the Board of Zoning Appeals shall set the matter for public hearing within thirty (30) days of the filing of the filing of the application for an appeal. Notice of said hearing shall follow the same requirements in Section 1157.05(d).

(c) Board of Zoning Appeals Action. At the conclusion of the public hearing the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of an administrative official enforcing this Code.

(d) Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board of Zoning Appeals, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such a case, proceedings shall not be stayed other than by a restraining order granted by the Board on due and sufficient cause shown.
(Ord. 15-23. Passed 8-14-23.)

**1157.08 FEES**

An application for an appeal from an administrative official enforcing this Code, or any variance or special exception shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by resolution of City Council of the City of Lancaster. Additionally, the applicant shall pay a fee to cover the costs of publishing notice. Same comment as above.
(Ord. 15-23. Passed 8-14-23.)

**1157.09 INTERPRETATION.**

(a) The Board shall interpret the text of this Code or the Official Zoning Map upon an appeal from a determination of an administrative official after compliance with the procedural standards of Section 1157.10(a).

(b) Where a question arises as to the Zoning District classification of a particular use, the Board of Zoning Appeals, upon written request of an administrative official may find and determine the classification of the use in question and may, prior to such determination, order the giving of notice and hold a public hearing. Such public hearing shall be held within thirty (30) days of the date of request from the administrative official. At the conclusion of the public hearing, the Board shall rule upon the question. Costs of publication shall be borne by the City. (Ord. 15-23. Passed 8-14-23.)

### 1157.10 APPEALS TO THE COMMON PLEAS COURT.

(a) Procedure. An appeal from any action, decision, ruling, judgment, or order of the Board of Zoning Appeals may be taken by any person or persons aggrieved, or any taxpayer or any officer, department, board or bureau of the City to the Common Pleas Court of Fairfield County by filing with the City Clerk and with the Clerk of the Board within thirty (30) days from the date of such action, a notice of appeal, which notice shall specify the grounds of such appeal. No bond or deposit for costs shall be required for such appeal. Upon filing of the notice of appeal, the Board shall forthwith transmit to the Court Clerk of the County, the original or certified copies of all the papers constituting the record in the case, together with the order, decision or ruling of the Board. Said case shall be heard and tried de novo in the Common Pleas Court of Fairfield County, Ohio. An appeal shall be from the action of the Common Pleas Court as in all other civil actions. Costs shall not be allowed against the Board unless it shall appear to the Court that it acted with gross negligence or in bad faith, or with malice in making the decision appealed from.

(b) Stay of Proceedings. An appeal to the Common Pleas Court stays all proceedings in furtherance of the action appealed from unless the Chairman of the Board certifies to the Court Clerk, after notice of appeal shall have been filed, that by reason of facts stated in the certificate, a stay would cause imminent peril of life or property. In such case, proceedings shall not be stayed other than by a restraining order granted by the Common Pleas Court.
(Ord. 15-23. Passed 8-14-23.)

### 1157.11 COMPENSATION.

Compensation for members of the Board of Zoning Appeals shall be established by separate ordinance adopted by Council and may be amended from time to time.
(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1159
# Amendments

1159.01 General.
1159.02 Zoning text and Map amendments.

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## 1159.01 GENERAL.

The regulations, restrictions, prohibitions and limitations imposed, and the Districts created may from time to time be amended, supplemented, changed, modified or repealed by ordinance, but no change shall be made until the Planning Commission, after notice and public hearing, files with the Clerk of City Council a report and recommendation on the proposed change. In addition to the procedural provisions hereinafter set out, the Planning Commission shall adopt procedural rules for the conduct of Zoning public hearings.
(Ord. 15-23. Passed 8-14-23.)

## 1159.02 ZONING TEXT AND MAP AMENDMENTS.

(a) Map and Text Amendments to this Ordinance may be initiated by any of the following methods:

(1) By referral of a proposed amendment to the Planning Commission from City Council.
(2) By adoption of a motion of the Planning Commission
(3) By the filing of a completed application by at least one (1) owner or lessee of property, or their designated agent, within the area proposed to be affected by the amendment.

Each year the City of Lancaster Planning Commission shall adopt a Zoning Amendment Schedule, which shall include monthly submittal deadlines for Zoning amendment applications. The submittal deadline immediately following a motion, by the Planning Commission or City Council, or upon the submission of a completed application, as determined by the City Planner or designee, shall be considered the "submittal date" of said application.

(b) When a property owner files a Zoning amendment application, three (3) copies and one (1) electronic copy of said application must be submitted, and it shall include the following information:

(1) A completed application on a form provided by the City that includes the name, address, phone number and email address of the applicant.

(2) A description of the proposed changes:

A. Proposed text changes, which shall include the existing text of the section(s) of the code to be revised. Proposed additions shall be shown in bold text and proposed deletions shown with a strikethrough.

B. Proposed map changes shall include:

1. A legal description, prepared, signed and stamped by a surveyor registered in the State of Ohio, of the Tract to be rezoned including all parcels within said Tract. An existing legal description on file with the County Recorder's office may be utilized to meet this requirement.

2. A map showing the Tract and surrounding properties within two hundred (200) feet of that shows property lines of the Tract and surrounding parcels.

3. A list of property owners(s) within two hundred (200) feet, contiguous to, and directly across the street from the Tract to be rezoned and their addresses as they appear on the County Auditor's current tax list. This requirement may be waived when the Tract proposed to be rezoned includes more than ten (10) parcels.

(3) Present use and District.

(4) Proposed use and District.

(5) Traffic study - when the uses permitted within a proposed Zoning amendment can generate one hundred (100) or more a.m. or p.m. peak hour trips and/or more than five (500) hundred or more daily vehicle trips or when otherwise required by the Service Director. A traffic impact study, when required, shall be signed and sealed by a Professional Engineer. Vehicle Trips per day shall be determined by utilizing the ITE Trip Generator Book (8th Edition or most current edition).

(6) A narrative statement explaining how the proposed changes will impact the adjacent neighborhood and the City as a whole.

(7) Any other information required by the City Planner or designee to determine compliance with and enforcement of this Ordinance.

(8) The applicable fee, as determined by separate Ordinance adopted and periodically updated from time to time by City Council.

(c) Application/Review Process.

(1) Within thirty (30) days of the Submittal Date, as defined in Section 1159.02(a), the Planning Commission shall schedule and hold a public hearing on the proposed amendment.

(2) The Planning Commission shall give notice of public hearing on any proposed Zoning changes as follows:

A. At least a twenty (20) day notice of the date, time, and place of the hearing by publication in a newspaper of general circulation in the City of Lancaster. Said notice shall include a map of the area to be affected which indicates street names or numbers, streams, or other significant landmarks in said area.

B, By posting of the affected property at least twenty (20) days before the date of the hearing. The notice shall state;
1. The date, time, and place of public hearing; and
2. Who will conduct the public hearing; and
3. The present and desired Zoning classifications; and
4. The proposed use of the property; and
5. Other information that may be necessary to provide adequate and timely public notice.

C. By mailing written notice to all owners of real property included in the proposed change and all owners contiguous to and directly across the street from the property included in the proposed change at least twenty (20) days prior to the hearing [when the proposed rezoning contains less than ten (10) parcels]. The notice shall contain:
1. The legal description of the property and the street address or approximate location in the City of Lancaster; and
2. The present Zoning of the property and the Zoning sought by the applicant; and
3. The date, time and place of the public hearing.

(3) Planning Commission Action on Zoning Map Amendments. Within thirty (30) days of the closing of the Planning Commission's public hearing, the Planning Commission shall vote to:
A. Recommend to the City Council that the application be approved as submitted, or as amended, or be approved subject to modification or;
B. Recommend to the City Council that the application be denied.

(4) Transmittal to Council. Within fifteen (15) days of the Planning Commission's action to recommend approval or approval subject to modifications, the City Planner or designee shall transmit the application, with the report and recommendation of the Planning Commission, to the City Council.

(5) Any application recommended for denial by the Planning Commission, shall not be further considered, unless the applicant within (fifteen)15 days from the date of the Planning. Commission action, files a written request with the Clerk of City Council for a hearing by the City Council. The request for hearing shall be accompanied by the payment of a fee pursuant to the adopted fee schedule. Upon notice of such request, the Planning Commission shall forthwith transmit the application and its report and recommendations to the Clerk of City Council.

(6) In the event the Planning Commission arrives at a tie vote, the City Planner or designee shall transmit the application, with a report and notation of the tie vote, to the Clerk of City Council within fifteen (15) days from the date of Planning Commission action.

(7) City Council Action on Zoning Map Amendments. The City Council shall hold a hearing on each application transmitted from the Planning Commission and on any proposed Zoning Map amendment initiated pursuant to Section 1159.02(c). The City Council shall approve the application as submitted, or as amended, or approve the application subject to modification, or deny the application. Prior to the hearing on the proposed rezoning ordinance before the City Council, the applicant shall remit to the office of the Clerk of City Council a publication fee, said fee to be in accordance with the schedule of fees adopted by resolution of the City Council of the City of Lancaster. Council shall also provide a thirty (30) day notice of its public hearing. The notice requirements shall be the same as Section 1159.02(c)(2).
(Ord. 15-23. Passed 8-14-23.)

# CHAPTER 1161
# Definitions

**1161.01 Definitions.**

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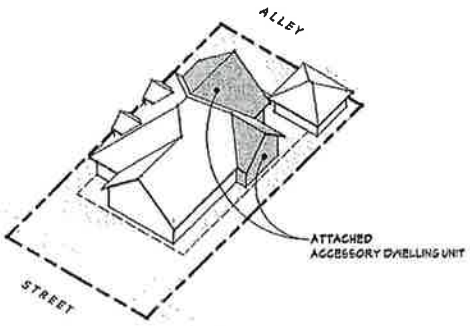
**1161.01 DEFINITIONS.**

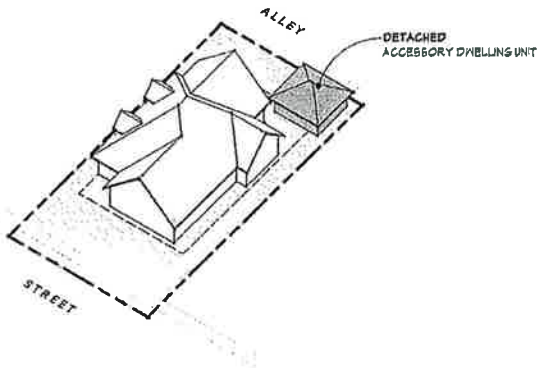
For the purpose of this Ordinance, certain terms are herein defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "shall" is mandatory; the word "used" shall include the words "arranged," "designed," "constructed," "altered," "converted" or "intended to be used," and a "person" shall mean, in addition to any individual, a firm, corporation, association, or any legal entity which may own and/or use land or Buildings.

**ACCESSORY DWELLING UNIT (ADU)** - A smaller, secondary dwelling unit on the same lot or within a primary dwelling unit. An ADU is an independent dwelling unit that provides for the basic requirements of shelter, heating, cooking, and sanitation.

**ADU, Accessory Suite:** An ADU that is adjacent and connected to or located completely within the primary dwelling unit, including but not limited to the basement, attic, attached garages, or an addition to primary structure.

**ADU, Detached:** An ADU located in a structure that is detached from primary dwelling unit, including but not limited to a detached garage or a newly constructed structure.



**ACCESSORY STRUCTURE OR USE** - A use or structure subordinate to the principal use of a building on the lot or tract and serving a purpose customarily incidental to the use of the principal building. Accessory structures are located on the same lot as the primary structure and are not designed for human occupancy as a dwelling or commercial use. Examples of accessory structures are detached private garages, storage or garden sheds, pool houses, metal storage buildings, hot tubs and other similar type buildings. This definition does not include gardens, patios, uncovered porches, and decks. Private swimming pools are regulated by Section 1147.10.

Community gardens are considered primary uses and shall not be considered an accessory structure or use. Any sheds, storage containers or other similar structures associated with a community garden shall be considered an accessory structure.

**ADVANCED MANUFACTURING** - A use that involves computer technology, robotics, or other innovation to improve a product or process.

**AGRICULTURE** - The use of land for growing crops in the open, dairying, pasturage, horticulture, floriculture and necessary accessory uses, including structures necessary for carrying out farming operations and the residence of the person who owns or operates the farm and family thereof, provided such agricultural use shall not include:

(a) Maintenance and operation of commercial greenhouses or hydroponic farms.
(b) Wholesale or retail sales as an accessory use, unless specifically permitted in a specific Zoning District.
(c) Feeding, grazing, or sheltering of animals in pens or confined areas within two hundred (200) feet of any residential use.
(d) The storage or feeding of garbage to animals or operation or maintenance of a commercial stockyard or feed lot.
(e) Raising fur-bearing animals as a principal use.

**AIRPORT** - A complex of runways and buildings for the takeoff, landing, and maintenance of civil aircraft that is approved and/or properly licensed by the Federal Aviation Authority or applicable agency.

**ALLEY** - A secondary access way that is a public right-of-way dedicated to public use for travel or transportation and affording vehicular access to abutting property.

**ALTERATION** (in Historic District) - See Chapter 1327

**ANIMAL SERVICES FACILITIES** - any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases, and where the animals are not boarded or kept overnight except as necessary in the medical treatment of the animal. Animal care facilities may also include animal grooming establishments.

**APPEAL** - A request by an aggrieved party for a review of any adverse decision by an official, board or commission.

**ARCHEOLOGY** - means the scienti?c study of material remains (such as tools, pottery, jewelry, stone walls, and monuments) of past human life and activities.

**AREA OF SPECIAL FLOOD HAZARD**- the land in the Flood plain adopted by the City, including that identified by the Federal Emergency Management Agency (FEMA), which is subject to a one (1) percent or greater chance of Flooding in any given year.

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

**AUTOMOBILE-ORIENTED USES** - a use where a service is rendered or a sales transaction is made while the patron is typically not required to exit his/her vehicle, or a facility that includes services rendered directly on, to, or for vehicles. Auto-oriented commercial facilities include, but are not limited to drive-thru restaurants, drive-in restaurants, automated teller machines (ATMs), drive-thru banks, drive-in movie theaters, car washes (all types), gas stations (including convenience market), facilities specializing in oil changes, car repair, other similar auto service facilities, and stand-alone parking lots. The sale of vehicles (new and used) in addition to any facility that provides a fixed parcel pickup location is not included within this definition.

**AUTOMOBILE OIL CHANGING FACILITY** - A facility where oil is removed from a vehicle and new oil is placed into the vehicle without any repair services to the vehicle being provided.

**AUTOMOBILE REPAIR** - Any building or portion of a building used for the servicing and minor repair of automobile including but not limited to shall include the installation of exhaust systems, repair of the electrical system, transmission repair, brake repair, radiator repair, and tire repair.

**AWNING** - A hood or cover that projects from the wall of a building and which can be retracted, folded or collapsed against the face of the supporting Building.

**BANK** - A financial institution licensed to receive deposits and make loans. Such use may also include financial services including but not limited to wealth management, currency exchange, and safe deposit boxes.

**BASE FLOOD** - the Flood having a one percent(1%) chance of being equaled or exceeded in any given year. The base Flood may also be referred to as the one hundred (100) year Flood.

**BASEMENT** - The portion of a building where the floor is not less than two (2) feet below and the ceiling is not more than four (4) feet, six (6) inches above the average Grade.

**BED AND BREAKFAST** - A residential use consisting of one dwelling unit with no more than eight (8) rooms or suites that are rented to the public for overnight or weekly accommodation for a fee. Only the breakfast meal may be prepared for the guests by the proprietor and no other meals are provided by the proprietor. The rented rooms do not contain cooking facilities and do not constitute separate dwelling units.

**BEVERAGE SALES, ALCOHOLIC** - A facility that is primarily devoted to the serving of alcoholic beverages. Food can be served but is incidental to the sale of beverages.

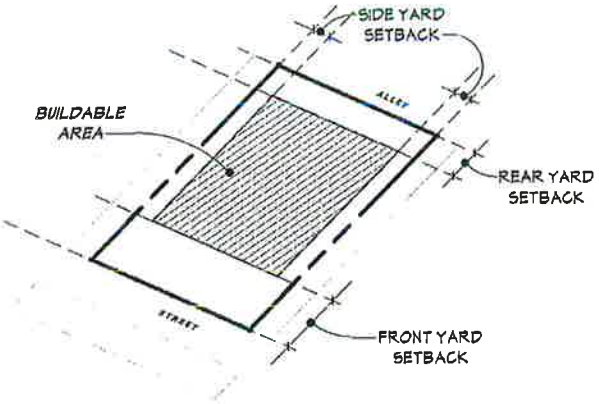
**BEVERAGE SALES, MICROBREWERY** - A limited production brewery, typically producing specialty beers and selling them on-site or for local distribution.

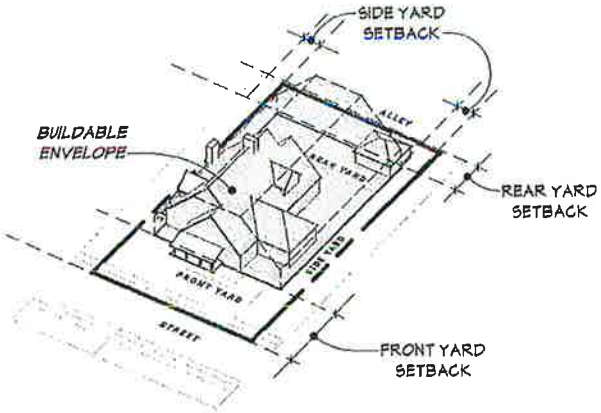
**BILLBOARD** - See Sign, Freestanding - Billboard

**BIO-TECHNOLOGY** - A facility designed to manipulate living organisms or their components to produce useful, common commercial products such as but not limited to pest resistant crops, new bacterial strains, and novel pharmaceuticals. This type of use is typically fully enclosed by four solid walls and a roof.

**BODY ART ESTABLISHMENT** - A building or portion of a building in which a practitioner performs body piercing, tattooing, branding, or application of permanent cosmetics.

**BUILDABLE AREA** - The area of a lot, exclusive of the required front, side, and rear setbacks, where a building can be constructed.




**BUILDING** - A combination of materials to form a construction that is safe and stable and adapted to permanent or continuous occupancy for public, institutional, residential, business, or industrial purposes.

**BUILDING LINE** - A line parallel to the right-of-way line and at a distance there from equal to the required depth of the front setback (as determined by the applicable Zoning District), and extending across the full width of the lot.

**BUSINESS** - Any profit-making activity which renders services primarily to other commercial, institutional, or industrial enterprises, or which services and repairs appliances and machines used in other businesses.

**BUSINESS, RETAIL** - a Use primarily engaged in the selling of merchandise including but not limited to clothes, food, furniture, guns, household goods, gifts, specialty items, and other similar goods, and the rendering of services that is incidental to the sale of the goods.

**BUSINESS, LARGE RETAIL**- a Retail or Wholesale business that is up to twenty thousand (20,000) square feet or larger.

**BUSINESS, MEDIUM RETAIL** - a Retail or Wholesale business that is up to twenty thousand (20,000) square feet in area.

**BUSINESS, SMALL RETAIL** - a Retail or Wholesale business that is less than five thousand (5,000) square feet in area and typically services nearby neighborhoods.

**BUSINESS, WHOLESALE** - A use that generally sells commodities in large quantities or by the piece to the general public, business members, retailers, or other wholesale establishments.

**CEMETERY** - Land used for or intended to be used for the burial of human or animal remains and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries, if operated in connection with and within the boundaries of the cemetery.

**CERTIFICATE OF ZONING COMPLIANCE** - A certificate issued by the Zoning Administrator confirming that the requirements of this Ordinance have been met and the building can be occupied.

**CO - LOCATION** - The use of a telecommunication tower by more than one (1) telecommunications provider.

**COMMENCEMENT OF WORK** - The time at which physical improvements begin to be made to a property or structure so that it may be utilized for its intended purpose stated in the Zoning permit.

**COMMERCIAL RECREATIONAL FACILITY, LARGE** - a facility that is full enclosed by four solid walls and a roof for the provision of athletic and amusement facilities involving the active participation of the user - public in a sports related activity and includes but is not limited to racquet courts, billiards, bowling alleys, ax throwing, miniature golf courses and arcades. Large Commercial Recreational Facilities are greater than five thousand (5,000) square feet.

**COMMERCIAL RECREATIONAL FACILITY, OUTDOOR**- a facility that is not fully enclosed by four solid walls for the provision of athletic and amusement facilities involving the active participation of the user - public in a sports related activity and includes but is not limited to fields for soccer fields, football, baseball, lacrosse or other related sports, racquet courts, billiards, bowling alleys, ax throwing, miniature golf courses and arcades.

**SMALL, OUTDOOR RECREATIONAL FACILITY** - Less than five thousand (5,000) square feet.

**LARGE, OUTDOOR RECREATIONAL FACILITY** - Five thousand (5,000) square feet or larger.

**COMMERCIAL RECREATIONAL FACILITY, SMALL**- a facility that is fully enclosed by four solid walls and a roof for the provision of athletic and amusement facilities involving the active participation of the user - public in a sports related activity and includes but is not limited to racquet courts, billiards, bowling alleys, ax throwing, miniature golf courses and arcades. Small Commercial Recreational Facilities are smaller than five thousand (5,000) square feet.

**COMMUNICATION FACILITIES** - A lot or an area of a lot that includes a telecommunication tower, radio tower, or other similar communication tools including any associated appurtenances.

**COMMUNITY GARDEN** - An area for cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family generally organized and managed by a public or not-for-profit organization.

**COMMUNITY SERVICES** - Institutional uses that include but are not limited to community centers, museums, galleries, libraries, and other similar facilities.

**CONTRACTOR OFFICE** - facility or area for the storage of materials, equipment, and commercial vehicles utilized by building and construction contractors, craftsmen and tradesmen, and may include accessory offices related to such activities.

**DATA PROCESSING CENTER** - A facility that houses computer systems and associated data and is focused on the mass storage of data.

**DAY-CARE CENTERS** - Any place in which child day care or publicly funded child day care is provided for thirteen (13) or more children at one time or any place that is not the permanent residence of the licensee or administrator. In counting children for purposes of this code, any children under six (6) years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted.

**DAY-CARE HOME, FAMILY LARGE** - a permanent residence of the administrator in which childcare or publicly funded childcare is provided for seven (7) to twelve (12) children at one (1) time or a permanent residence of the administrator in which childcare is provided for four (4) to twelve (12) children at one time if four (4) or more children at one time are under two (2) years of age. In counting children for the purposes of this division, any children under six (6) years of age who are related to a licensee, administrator, or employee and who are on the premises of the Type A home shall be counted. "Type A Family Day-Care Home" and "Type A home" do not include any child day camp (ORC Section 5104.01(RR)). This definition does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is the home of the siblings. This definition shall not be construed to include child day camps.

**DAY-CARE HOME, FAMILY SMALL** - a permanent residence of the provider in which child care is provided for one (1) to six (6) children at one time and in which no more than three (3) children under two (2) years of age at one time. In counting children for the purposes of this division, any children under six (6) years of age who are related to the provider and who are on the premises of the Type B home shall be counted. "Type B Family Day-Care Home" and "Type B home" do not include any child day camp (ORC Section 5104.01(SS)). This definition does not include a residence in which the needs of children are administered to, if all of the children whose needs are being administered to are siblings of the same immediate family and the residence is home of the siblings. This definition shall not be construed to include child day camps.

**DENSITY, NET** - The number of dwelling units permitted to be developed on a net acre of land. A net acre of land is the total acreage minus any wetlands, water bodies, public parks, open spaces, roads or other public rights-of-way.

**DEVELOPMENT** - any man-made change to improved or unimproved real estate, including but not limited to Buildings or other structures, mining, dredging, filling, grading, paving excavation or drilling operations or storage of equipment or materials located within the area of special Flood hazard.

**DISTRICT** - Any section of the City in which the Zoning regulations are uniform.

**DRIVEWAY (ACCESS POINT)** - A private drive giving access from a public way to a detached one (1) unit dwelling on abutting ground or to a group of multifamily, commercial, or industrial buildings, which is not dedicated to the City for the maintenance of which shall not be responsible.

**DWELLING, CONTAINER** - A residential unit built from one (1) or more standard shipping container(s) which meets the requirements of the Planning and Zoning Code of the City of Lancaster, Ohio, and the current Ohio building codes.

**DWELLING, DUPLEX** - A building designed for two (2) dwelling units where each dwelling shares one common wall and the remaining sides of the building are surrounded by open areas or street lines.

**DWELLING, MULTI-UNIT**- A building designed or used primarily as a residence with four (4) or more dwellings units.

**DWELLING, ONE BEDROOM UNIT** - A dwelling unit that is contained within a Multi-Unit Dwelling or Mixed Use Building as defined herein that contains only one bedroom.

**DWELLING, STUDIO** - A dwelling unit that is contained within a Multi-Unit Dwelling or Mixed Use Building as defined herein that combines a number of different types of rooms, such as living room, bedroom and kitchen, into a single room.

**DWELLING, THREE BEDROOM UNIT** - A dwelling unit that is contained within a Multi-Unit Dwelling or Mixed Use Building as defined herein that contains three bedrooms.

**DWELLING, TWO BEDROOM UNIT** - A dwelling unit that is contained within a Multi-Unit Dwelling or Mixed Use Building as defined herein that contains two (2) bedrooms.

**DWELLING, ONE UNIT** - A building designed exclusively for one detached dwelling unit that is situated on a parcel with no other principal structures and having a Front, Side, and Rear Yard.

**DWELLING, TOWNHOME** - A building designed exclusively for four (4) or more dwelling units that are structurally attached to one another, side by side, above one another, or in a quad formation, and erected as a single building.

**DWELLING, TRI-PLEX** - A building containing three (3) dwelling units, designed for occupancy by not more than three (3) families.

**DWELLING UNIT** - Any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating, which is designed or used for residential purposes. This definition does not include a cabin, hotel, or motel.

**DWELLING UNIT, ACCESSORY** - See Accessory Dwelling Unit

**EARLY CHILDHOOD LEARNING CENTER** - An education establishment that provides learning space to children prior to beginning their compulsory education. This facility may also provide for the extended care of infants and young children.

**ELDERLY/RETIREMENT HOUSING** - A residential complex containing multifamily dwellings designed for and principally occupied by senior citizens. Such facilities may include a congregate meals program in a common dining area but exclude institutional care such as medical or nursing care and are distinguished from life care retirement centers as elsewhere defined.

**EMERGENCY AND PROTECTIVE SHELTER** - A facility which provides room and board for the protection, counseling, and pre-placement screening for abused, displaced, or transient children or adults.

**ENCROACHMENT** - the intrusion on another person's property or public right-of-way, intentional or unintentional.

**ENVIRONMENTAL CHANGE** - means the construction, alteration, demolition, or removal of any property subject to the provisions of the Historic Overlay District.

**EQUIPMENT REPAIR, LARGE** - A facility that is fully enclosed by four (4) solid walls and a roof that is used for the repair of contactor's equipment, heavy machinery, repair equipment, motor vehicles or trucks.

**EQUIPMENT REPAIR, SMALL** - A facility that is fully enclosed by four (4) solid walls and a roof that is used to repair small tools and equipment such as lawn mowers, small tractors, and other small equipment.

**FAÇADE** - the face of a building, especially the principal front that looks onto a street or open space.

**FEATHERED FLAG** - a vertical, portable and temporary sign that contains a harpoon style pole or staff driven into the ground for support or supported by means of an individual stand.

**FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)** - the agency with the overall responsibility for administering the National Flood Insurance Program.

**FENCE** - Any structure composed of wood, metal, stone, plastic or other natural or permanent material erected in such a manner and positioned as to enclose or partially enclose any portion of a lot.

**FENCE, OPEN** - Any fence that has sixty percent (62%) or more of its vertical surface area open to light or air. An example of this type of fence is a Kentucky three (3) Board Fence.

**FENCE, PARTIALLY OPEN** - Any fence that has at least fifty percent (50%) of its vertical surface area open to light or air. An example of this type of fence is a picket fence.

**FENCE, PICKET** - A partially open fence made of upright poles or slats where the space between the poles/slats is greater than the width of the poles/slats.

**FENCE, SOLID** - Any fence that is designed to inhibit public view and provide seclusion, when viewed at right angles, and having more than fifty percent (50%) of its vertical surface area closed to light and air.

**FENCE, WROUGHT IRON** - A fence constructed of metal, including aluminum, iron or steel, pipe, tubes or bar stock and having some type of decorative features or design. Wrought iron fences shall not have pointed ends exposed but may have finials with blunt ends.

**FLEX-OFFICE LABORATORIES** - a space for a combination of office and laboratory uses that has build out capabilities to meet individual needs.

**FLEX-OFFICE - RETAIL** - a space with store fronts with small rear warehousing that has build out capabilities to meet individual needs.

**FLEX-OFFICE WAREHOUSES** - a space for a combination of office and warehouse uses that has build out capabilities to meet individual needs.

**FLOOD OR FLOODING** - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or
(2) The unusual and rapid accumulation or runoff of surface waters from any source.

**FLOODWAY FRINGE** - The portion of the regulatory floodplain outside the floodway.

**FLOOD INSURANCE -RATE MAP (FIRM)** - an official map on which the Federal Emergency Management Agency has delineated both the areas of special Flood hazards and the risk premium zones applicable to the floodplain administrator.

**FLOOD INSURANCE STUDY (FIS)** - the official report provided by the Federal Emergency Management Agency that includes Flood profiles, Floodway boundaries, and the water surface elevation of the base Flood.

**FLOOD PROTECTION ELEVATION** - the elevation not less than one- and one-half feet above the base Flood elevation to which uses regulated by the Special Flood Hazard Regulations are required to be elevated or Flood proofed to compensate for the many unknown factors that could contribute to Flood elevations greater than that calculated for a base Flood. In areas where no base Flood elevations exist from any authoritative source, the Flood protection elevation can be historical Flood elevations, of base Flood elevations determined and/or approved by the Floodplain administrator.

**FLOODPLAIN ENCROACHMENT** - any Floodplain development that could obstruct Flood flows, such as fill, a bridge, or other development.

**FLOODWAY** - the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base Flood discharge. A Floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base Flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community. The Floodway is an extremely hazardous area and is usually characterized by any of the following: Moderate to high velocity Flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.

**FLOOR AREA** - The sum of the gross horizontal areas of the one or several floors of a building, measured from the exterior faces of the exterior walls or from the centerline of common walls separating two (2) buildings. Floor area for the purpose of these regulations will not include basement, elevator and stair bulkheads, attic space, terraces, breezeways, open porches, and uncovered steps.

**FLOOR AREA, LIVABLE** - The portion of floor area of a dwelling unit that is constructed, completed, and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, entertainment, common space, areas for personal hygiene, or combination thereof. Unheated rooms, unfinished garages, basements, or rooms used exclusively for utilities or storage shall not be considered as livable floor area. In no case shall an area less than 6 feet in height be considered livable floor area.

**FOOD CART** - a small, wheeled vehicle typically pushed by hand, bicycle or propelled in some similar muscular manner to move it from place to place in order to offer already prepared or prepackaged food or ice cream for sale to the public. Any vehicle that is capable of preparing food within it shall not be included in the definition of a food cart.

**FOOD TENT** - an open-aired, temporary structure with four (4) legs and a canvas top used to prepare and sell food at special events where large groups of people are situated in a park, parade, fraternal organization, or other similar venue.

**FOOD TRUCK** - A vehicle from which food for human consumption is sold and dispensed. Said food can be prepackaged or prepared within the vehicle. Such vehicle may be self-propelled or towed by another vehicle and must be licensed in the state of Ohio.

**FOOT CANDLE** - A unit of incident light (on a surface) stated in lumens per square foot and measurable with an illuminance meter (light meter). One (1) foot-candle equals one (1) lumen per square foot.

**FREESTANDING SIGN** - See Sign, Freestanding

**FRONTAGE** - The portion of a lot that directly abuts a public street or street right - of - way and provides primary access to the property. If a lot has two (2) or more segments that abut a public street or street right - of - way that are not continuous or abuts two (2) or more separate and distinct rights-of-way, the segments shall not be totaled together when calculating lot frontage. Rather each side of the lot abutting a public right-of-way shall be considered to the front of a lot and both must comply with the minimum frontage and front setback requirements (see Part 2 - Section C). Property lines that abut limited access roads shall not be construed to be included within any calculation of lot frontage.

**FUNERAL SERVICES FACILITIES** - A Building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming, and the performance of other services used in the preparation of the dead for burial; (b) the storage of caskets, funeral urns, and other related funeral supplies; and I the storage of funeral vehicles. Funeral services facilities exclude crematoriums.

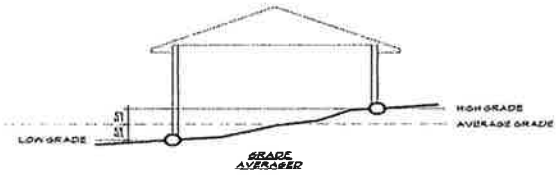
**GARAGE, PRIVATE** - An accessory building or an accessory portion of the main building enclosed on all sides and designed or used for the shelter or storage of passenger vehicles and located on the same lot as the dwelling for which it is accessory.

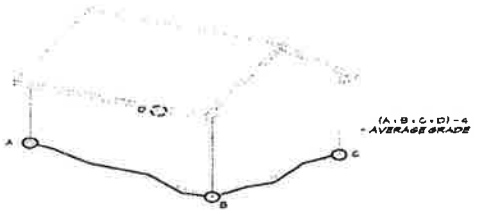
**GARAGE, PUBLIC** - A building or portion of a building in which more than two motor vehicles are or are intended to be housed under arrangements made with patrons for renting or leasing such space and accommodation in which no repair work is carried on.

**GOVERNMENTAL SERVICES** - Any service provided by a governmental agency including but not limited to road and maintenance services and related infrastructure, water and wastewater facilities, fire and safety protection services, and other administrative services associated with a governmental agency.

**GRADE** - The elevation of the ground at any given point.

**GRADE, FINISHED** - The elevation of the finished surface of the ground adjoining the base of all exterior walls of a building or the elevation of the finished surface of the ground at the base of a structure, exclusive of any artificial embankment at the base of such building or structure. If the ground is not entirely level, the finished grade shall be determined by averaging the grade of the ground at each corner of the building or structure.



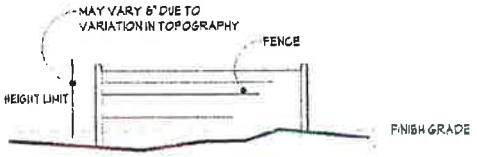




**GROUND MOUNTED SIGN** - See Sign, Freestanding - Grounded Mounted

**HEALTH CARE FACILITIES** - General and specialized hospitals and associated clinics, rehabilitation centers, senior and assisting living, nursing homes, or other similar facilities providing health related services and involving the overnight or long term stay of patients.

**HEIGHT, BUILDING** - The vertical distance between the finished grade of the building and the highest point of the roof.

**HEIGHT, FENCE** - The vertical distance between the highest point of the fence and the finished grade.



FENCE HEIGHT

**HEIGHT, SIGN** - see Chapter 1145.

**HOME DAY-CARE FAMILY, LARGE - SEE DAY-CARE HOME, FAMILY LARGE**

**HOME DAY-CARE FAMILY, SMALL - SEE DAY-CARE HOME, FAMILY SMALL**

**HOME OCCUPATION** - An accessory use which is an activity, profession, occupation, service, craft or revenue - enhancing hobby conducted by a person on the same premises as his principal place of residence which is clearly subordinate and incidental to the use of the premises for residential purposes. Home occupations may include, but are not limited to, home offices for insurance agents, financial planners, real estate agents, consultants, lawyers, architects, engineers, accountants, or other similar professional services, sewing, tailoring, teaching of music, dance lessons, or tutoring, or other similar uses that do not change the character of the residential neighborhood. Family Day Care Homes, Types A and B shall not be considered to be home occupations and shall be treated as permitted and special exception as listed in the applicable Zoning District.

**HOTEL** - An establishment consisting of a group of attached or detached living or sleeping units with bathroom and closet space, located on a single lot, and designed for use by transient automobile travelers. A hotel furnishes customary services such as maid service and laundering of linens, telephone, secretarial or desk service and the use of furniture. Ingress and egress to and from all rooms is made through an inside lobby.

**HOTEL, BOUTIQUE** - A small hotel with less than fifty (50) rooms that is located in a pedestrian oriented business area. These hotels typically have a strong artisan sense and focus on the design of the building and rooms.

**INDUSTRIALIZED UNIT** - A building unit or assembly of closed construction fabrication in an off-site facility, which is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use, including units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity but does not include a permanently sited manufactured home or mobile home as defined in this Ordinance.

**INSTITUTIONAL USES** - Those uses organized, established, used or intended to be used for the promotion of public, civic, educational, charitable, cultural or social or philanthropic activity and include but are not limited to art galleries, art studios, libraries, etc.

**JUNK YARDS AND SCRAP METAL PROCESSING FACILITIES** - An establishment or place of business that is maintained or operated for the purpose of storing, keeping, buying, selling or exchanging old or scrap copper, brass, rope, rags, trash, waste, batteries, paper, rubber, iron, steel, or other old or scrap materials and where such business or operation is not completely conducted within an enclosed building.

**KENNEL**- any enclosure, premises, building, structure, lot, area of one ownership where six (6) or more dogs, cats, or other animals are kept. These facilities also consist of services open to the public that includes, but are not limited to boarding, training, and sale of animals.

**LANDMARK** - means any property identi?ed and listed individually, and protected under the terms of this ordinance, but not located within a Historical Overlay District.

**LANDSCAPE/HARDSCAPE BUSINESS** - A place where employees are housed and/or vehicles, machinery, and materials such as trees, shrubs, flowers or other living vegetation, as well as irrigation systems, stone, brick pavers or other non-living components of a landscape design are stored. Typically, workers are dispatched from this site and said materials are transported to another location for installation.

**LANDSCAPING** - The improvements of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects.

**LEGAL DESCRIPTION** - The geographical description of real estate that identifies the precise location, boundaries and any easements for the purpose of a legal transaction, such as a transfer of ownership. A legal description can include either a metes and bounds description or a subdivision plat.

**LIFE CARE RETIREMENT CENTER** - A residential facility containing dwellings designed for and principally occupied by senior citizens in a planned retirement community which includes a residential complex, an activity or community center, and a medical or nursing facility which is licensed by the State of Ohio as an Intermediate Care Facility or a Skilled Nursing Center.

**LOADING SPACE, OFF - STREET** - An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley, or other appropriate means of access.

**LOGISTICS** - A large building where material, products, or other manufactured goods are acquired, stored, and transported to their final destination. There is no production, processing, assembling, or packaging of products or materials in these buildings.

**LOT** - A division of land separated from other divisions for purposes of sale, lease, or separate use, described on a recorded subdivision plat, recorded map or by metes and bounds.

**LOT, CORNER** - A lot situated at the intersection of two (2) streets, or which fronts a street on two or more sides forming an interior angle of less than one hundred thirty-five (135) degrees. (Also see LOT LINE, FRONT)

**LOT, COVERAGE** - The total area of those portions of a lot that are covered by a building or structures, paved areas, and other impervious surfaces.

**LOT, INTERIOR** - A lot that abuts no more than one street and that fronts a street on not more than one side.

**LOT LINE** - A line bounding or demarcating a plot of land or ground. May also be referred to as a Property Line.

**LOT LINE, REAR** - The lot line that is opposite the front lot line and farthest from it.

**LOT LINE, SIDE** - The lot line running from the front lot line to the rear lot line. This line is also the line dividing two (2) interior lots.

**LOT, MINIMUM AREA** - The area of a lot computed exclusive of any portion of the right-of-way or any public thoroughfare.

**LOT OF RECORD** - Any lot or parcel of land that was lawfully created by a subdivision plat of record or by a metes and bounds description and recorded in the County Recorder's Office prior to the effective date of this Resolution.

**LOT WIDTH** - The width of a lot at the building line measured at right angles to its depth.

**LUMBER YARD** - A building where bulk supplies of lumber and other building materials are stored, offered, or kept for retail sale and may include storage inside of the building. Any components of this use that include the outdoor storage of said materials shall all within the definition of an outdoor service facility.

**MACHINE SHOP** - A facility performing cutting, grinding, turning, honing, milling, deburring, lapping, electrochemical machining, etching, or other similar operations.

**MAKER SPACE, LARGE** - A facility that is five thousand (5,000) square feet or larger and serves as shared co-working space for independent craftsmen to produce woodwork, furniture, pottery, glass or other related items. The facility can also have shared office space.

**MAKER SPACE, SMALL** - A facility that does not exceed five thousand (5,000) square feet that is utilized for the preparation, display, and sale of individually crafted artwork, jewelry, furniture, sculpture, pottery, glass or other related items. No odor, fumes or excess noise may be produced at the facility.

**MANEUVERING AISLE** - A paved area in an off-street parking lot or loading area which provides access to parking, stacking, or loading spaces, exclusive of driveways and is used for and/or is necessary for turning, backing, or driving forward a motor vehicle into such parking space. This area is not used as space for the parking or storage of motor vehicles or for loading or unloading.

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

**MANUFACTURED HOME COMMUNITY** - Any tract of land upon which three (3) or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and include any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park. A tract of land which is subdivided, and the individual lots are not for rent or rented but are for sale or sold for the purpose of installation of manufactured homes on the lots is not a manufactured home park, even though three (3) or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority. Manufactured home park does not include any tract of land used solely for the storage or display for sale of manufactured homes.

**MANUFACTURED HOME, PERMANENTLY SITED** - A manufactured home, as defined herein, that meets all of the following criteria:

(1) The structure is affixed to a permanent foundation such as masonry or concrete and is connected to appropriate facilities.

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

(3) The structure has a minimum 3:12 roof pitch, conventional residential siding, and a six (6) inch minimum eave overhang, including appropriate guttering.

(4) The structure was manufactured after January 1, 1995.

(5) The structure is not located within a manufactured home park.

(6) Otherwise complies with the Manufactured Housing Construction and Safety Standards Act of 1974 and has a label or tag permanently affixed to it, certifying compliance with all applicable federal construction and safety standards.

**MANUFACTURING** - Any industry that makes products from raw materials by the use of manual labor or machinery. This definition also includes the compounding, processing, assembling and packaging of goods.

**MEDICAL MARIJUANA** - As defined in ORC Section 3769.01(A), effective September 8, 2016.

**MINING AND MINERAL PROCESSING** - The extraction and/or processing of sand, stone, gravel, or topsoil.

**MIXED USE BUILDING** - A building that contains retail, office or entertainment uses on the ground floor and residential units on the upper floors.

**MOBILE HOME** - A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or a flatbed or other trailer, and arriving at the site where it is occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, locations on jacks or other temporary or permanent foundations, connections to utilities and the like. A Permanently Sited Manufactured Home and travel trailers are not considered to be a mobile home.

**MONOPOLE** - A support structure constructed of a single, self-supporting hollow metal tube securely anchored to a foundation.

**MOTEL** - An establishment consisting of a group of attached or detached living or sleeping units with bathroom and closet space, located on a single lot, and designed for use by transient automobile travelers. A motel furnishes customary services such as maid service and laundering of linens, telephone, secretarial or desk service and the use of furniture.

**MOTOR VEHICLE** - A passenger vehicle, truck, tractor, tractor - trailer, trailer, boat recreation vehicle, semi-trailer, or any other vehicle propelled or drawn by mechanical power.

**MUNICIPAL SERVICES** - Any building, area and appurtenances owned and operated by a city for the purposes of providing water, wastewater or transportation services.

**MURAL** - See Sign, Wall Display, Mural

**NON - CONFORMING STRUCTURE** - Any building or structure lawfully existing on the effective date of these regulations or amendment thereto, which does not conform to the development standards of the District in which it is located.

**NON - CONFORMING USE** - Any use that was lawfully being conducted within any building or on any land on the effective date of these regulations or amendment thereto but is not listed as a permitted use of the District in which it is located.

**NURSING HOME** - A residential health care facility, licensed by the State of Ohio, which provides institutional lodging, nursing care, personal care and supervision to aged, chronically ill, physically infirm. or convalescent patients who are not related to the owner or administrator of the facility.

**OFFICE, ADMINISTRATIVE, BUSINESS, MEDICAL OR PROFESSION, LARGE** - A building that is five thousand (5,000) gross square feet or larger in area and includes a set of rooms or tenant spaces used for commercial, professional, medical, or bureaucratic work.

**OFFICE, ADMINISTRATIVE, BUSINESS, MEDICAL OR PROFESSION, SMALL** - A building that is less than five thousand (5,000) gross square feet in area and includes a set of rooms or tenant spaces used for commercial, professional, medical, or bureaucratic work.

**OFF-STREET PARKING GARAGE** - A public or private structure that is principally utilized for the parking or storage of motor vehicles to meet the minimum parking requirements in this Zoning code.

**OPEN SPACE** - That part of a zoned property, including courts or yards, which are open and unobstructed from its lowest level to the sky, accessible to all tenants upon the Zoning property.

**OUTDOOR RECREATION FACILITY**- an area that is not fully enclosed by walls and a roof which includes, but are not limited to uses such as athletic fields, parks, (excluding neighborhood parks) court sports, tracks, swimming pools, golf related activities, and similar outdoor recreation uses.

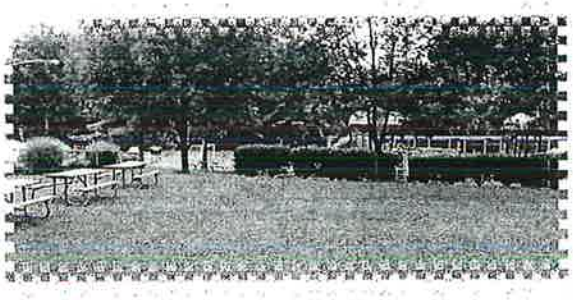
**OUTDOOR SEASONAL BUSINESS** - A use that is conducted on a temporary basis and is outside of a fully enclosed building. Such uses shall include, but are not limited to, holiday tree sales, pumpkin sales, sidewalk sales, etc.

**OUTDOOR SERVICE FACILITY** - An area that is not fully enclosed by solid walls and a roof and where services are rendered or goods are permanently displayed, sold or stored. For the purposes of this Ordinance, outdoor service facilities include, but are not limited to, restaurant patios, outdoor storage areas, and garden stores. This definition shall not include any use classified as an outdoor seasonal business as defined herein.

**OWNER** - Owner of record according to records contained in the County Recorder's Offices.

**PARK, COMMUNITY OR REGIONAL** - A park that is twenty (20) acres or larger and designed to service a larger region beyond a specific neighborhood and may include playground apparatus and other space for active recreational purposes, along with some areas for passive use.

**PARK, NEIGHBORHOOD** - A park that is up to twenty (20) acres in size, serving an area one to two miles in diameter and serving a population of less than five thousand (5,000) persons. Neighborhood parks are typically designed to service a specific neighborhood area and may include playground apparatus and other space for active recreational purposes, along with some areas for passive use.



**PARKING AREA** - An open area other than a street or other public way that is used for the parking of motor vehicles.

**PARKING SPACE, OFF-STREET** - Any parking space located wholly off any street, alley, or sidewalk, either in an enclosed building or on an open lot and where each parking space conforms to the standards as specified in this Ordinance.

**PENNANT** - A flag or banner longer in the fly than in the hoist, usually tapering to a point.

**PERMANENT SUPPORTIVE HOUSING** - Community-based, long-term housing and supportive services, as appropriate, for homeless individuals with disabilities.

**PERSONAL SERVICES** - Uses that primarily provide services to a person or provide for the care and maintenance of personal goods. Such Uses include, but are not limited to, beauty shops, barber shops, salons, shoe repair shops, tailoring services, or garment repair services. This includes laundry or dry cleaning drop off/pick up services, but the process of dry cleaning is not included in this definition.

**PLACES OF ASSEMBLY, LARGE** - any facility or business where three hundred (300) or more individuals gather to participate or observe programs or services or assemble for social purposes. This includes public halls, theatres, churches, worship facilities, and other similar meeting facilities.

**PLACES OF ASSEMBLY, SMALL** - any facility or business where less than three hundred (300) individuals gather to participate or observe programs or services or assemble for social purposes. This includes public halls, theatres, churches, worship facilities, and other similar meeting facilities.

**PLANTS, ASPHALT** - A stationary source that manufactures asphalt concrete by heating and drying aggregate and mixing asphalt cements. This includes any combination of dryers, systems for screening, handling, storing, and weighing dried aggregate, systems for loading, transferring, and storing mineral filler, systems for mixing, transferring, and storing asphalt concrete, and emission control systems within a stational source.

**PLANTS, CONCRETE** - The production of concrete that uses a manufacturing process involving the mixing of a number of aggregates, sand, water, cement and/or other components. This use also includes the stockpiling of bulk materials required for the process and storage of the required equipment used in the operation.

**PORTABLE HOME STORAGE UNIT** - Any assembly of materials which is designed, constructed, or reconstructed to make it portable and capable of movement from one site to another and designed to be Used without a permanent foundation. Such Structures are typically utilized for temporarily storing household goods or other such materials on a residential property.

**PRACTICAL DIFFICULTY** - A standard utilized to determine whether an area variance should be granted. It is based on number of criteria that are weighed against one another to determine if granting the variance will provide a reasonable use of the land without altering the essential character of the area.

**PRESERVE OR PRESERVATION** - The process, including maintenance, of treating an existing building to arrest or slow future deterioration, stabilize the structure and provide structural safety without changing or adversely a?ecting the character or appearance of the structure.

**PRIVATE LANDING STRIP** - A long flat piece of land from which private aircraft can take off and land that is properly licensed by the Federal Aviation Authority or applicable agency. It can be constructed of either grass or pavement.

**PRIVATE SWIMMING POOL** - Any pool or open tank not located within a completely enclosed building and containing water to a depth, at any point greater than one and one-half (1 ½) feet. A private spa or hot tub with a lockable cover shall not be considered as a "swimming pool."

**PROPERTY LINE** - A line bounding or demarcating a plot of land or ground. May also be referred to as a Lot Line.

**PUBLIC PROTECTION FACILITY** - A facility operated by a public agency for the purposes of public safety including but not limited to fire stations, police stations, public safety dispatch facilities, civil defense, storm shelters, and other similar uses.

**PYLON SIGN** - See Sign, Freestanding - Pylon

**RECONSTRUCTION** - The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

**REHABILITATION** - The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

**RESEARCH AND DEVELOPMENT** - A use where individuals are employed to search for knowledge and test processes that might be used to create new technologies, products, services, or systems.

**RESIDENTIAL FACILITY** - A publicly or privately operated home or facility that is further categorized as

**RESIDENTIAL FACILITY CLASS 1**- A facility that provides accommodations, supervision, personal care services, and mental health services for one or more unrelated adults within mental illness or one or more unrelated children with adolescents with severe emotional disturbances.

**RESIDENTIAL FACILITY CLASS 2** - A facility that provides accommodations, supervision, and personal care services to any of the following:

- One (1) or two (2) unrelated persons with mental illness
- One (1) or two (2) unrelated adults who are receiving payments under the residential state supplement program.
- Three (3) to sixteen (16) unrelated adults.

Residential facilities exclude hospitals, facilities licensed under ORC 5123.19, an institution subject to certification under ORC 5103.03, hospice care programs, nursing homes, residential care facilities, homes for the aging, a facility operating an opioid treatment program, a terminal care facility for the homeless, a facility approved exclusively for the placement and care of the veterans per Section 104(a) of the Veterans Health Care Amendments of 1983, or the residence of a relative or guardian of a person with mental illness.

**RESIDENTIAL FACILITY, LARGE** - Any facility licensed as a Class 2 Residential Facility per ORC 5119.34 and provides accommodations and personal care services to six (6) to sixteen (16) unrelated persons. (See ORC 5119.341)

**RESIDENTIAL FACILITY, SMALL** - Any facility licensed as a Class 2 Residential Facility per ORC 5119.34 and provides accommodations and personal care services to one (1) to five (5) unrelated persons. (See ORC 5119.341)

**RESIDENTIAL - OFFICE, ADMINISTRATION, BUSINESS, AND MEDICAL** - A small office for administrative, business, or medical services as defined in this section but located within a structure that was existing at the time of the effective date of this code.

**RESIDENTIAL - RETAIL** - A small business retail as defined in this section but located within a structure that was existing at the time of the effective date of this code.

**RESIDENTIAL TREATMENT FACILITY** - A Residential Facility - Class 1 (ORC 5119.34) providing diagnostic or therapeutic services, counseling, or treatment and long-term room and board in a highly structured environment for its residents for alcoholism, drug abuse, or behavioral and/or mental disorders.

**RESPONSIBLE PARTY** - The owner of the property as determined by the County Auditor's Tax List, the agent of the property owner authorized to be responsible for the premises, or the occupant of the property.

**RESTAURANT** - An establishment which offers food and/or drinks to the public, guests, or employees. The food may be prepared and consumed either on or off site.

**RIGHT-OF-WAY LINE** - The boundary of the strip of land occupied or intended to be occupied by a road, street, or alley and associated sidewalk or multi-use path.

**ROLL-OFF CONTAINER** - any non-Compactor storage and collection equipment or device with a capacity of more than eight (8) cubic yards, which is normally loaded onto a motor vehicle and transported to a disposal facility for dumping.

**SATELLITE DISH ANTENNA, LARGE** - Any antenna greater than one meter in diameter that is designed to receive or transmit signals, either directly or indirectly, to or from satellites. This definition does not include any antenna used for AM/FM radio, amateur ("ham") radio, Citizen's Band ("CB") radio, Digital Audio Radio Services ("DARS") or short-wave listeners.

**SATELLITE DISH ANTENNA, SMALL** - Any antenna that is one meter or less in diameter and is designed to receive direct broadcast satellite service, including direct-to-home satellite service, or to receive or transmit fixed wireless signals via satellite. It further means any antenna that is one meter or less in diameter or diagonal measurement and is designed to receive video programming services via MMDS (wireless cable) or to receive or transmit fixed wireless signals other than via satellite.

**SCHOOL, HIGH SCHOOL** - A public or private institution providing secondary education prior to students starting college or obtaining a job. It typically includes grades nine (9) through twelve (12).

**SCHOOL, POST-SECONDARY** - A public or private institution providing educational or training services to individuals who have completed high school.

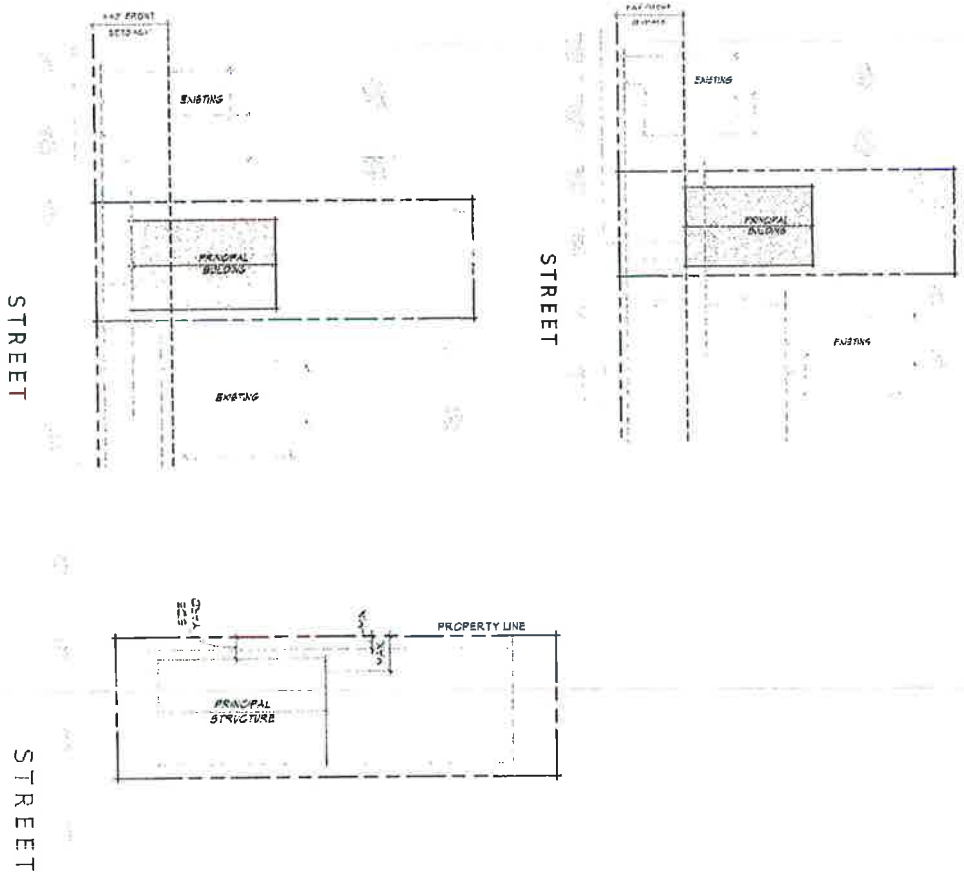
**SCHOOL, PRIMARY, INTERMEDIATE, OR MIDDLE** - A public or private institution providing educational services to children in kindergarten through the eighth (8th) grade.

**SCHOOL, TECHNICAL** - A secondary or post-secondary school that provides designed training to students for a specific job or skilled trade.

**SELF SERVICE STORAGE FACILITY** - An individual compartment or stall used for the storage of customer's goods or wares.

**SETBACK** - A required distance between a lot line and a principal structure established by the Zoning District in which the principal structure is located.

**SETBACK, AVERAGE FRONT**- The distance between a front lot line and principal building that is established by averaging the front setbacks of two existing structures on adjacent lots. In no case shall an average front setback exceed any applicable maximum setback requirement.




**SETBACK, MAXIMUM** - The largest distance permitted between a lot line and a principal structure. The City Planner or designee shall not administratively approve the location of a principal structure that is more than this required distance.

**SETBACK, MINIMUM** - The smallest distance permitted between a lot line and a principal structure established by the Zoning District in which the principal structure is located. The City Planner or designee may not administratively approve the location of a principal structure that is less than this required distance but may administratively approve the location of a principal structure that is more than this required distance. In such cases, the area between the required minimum setback and the principal structure is considered to be "yard" space as defined in this code.

**SHORT TERM RENTAL**: Renting a home, or a space in a home, with five (5) guestrooms or less that is reserved/rented wholly or partly for compensatory fee for less than thirty (30) consecutive days.

**SIGN** - 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. Signs erected by the local, state, or federal government for the purposes of discharging in any normal governmental function, such as traffic control or safety, are likewise excluded from the regulations of this Article. This definition includes all signs visible from any public right - of - way or adjacent property, including interior signs oriented towards the exterior façade of any Building or structure that includes any name, number, symbol, identification, description, display, illustration, object, graphic, sign structure, or part thereof, which directs attention to any object, product, place, activity, person, institution, organization, or business.

**SIGN, ANIMATED** - Any sign that uses movement or change of artificial and natural lighting or noise to depict action or create a special effect or scene.

**SIGN, COMPREHENSIVE PACKAGE** - A plan that includes both drawings and text showing the number, design, appearance, location, and elevation of all existing and proposed signs on a parcel.

**SIGN, ENTRY FEATURE** - A sign intended to provide the identity a residential development or commercial development with more than one lot or tenant.

**SIGN, FLASHING** - A sign or graphic which in any manner, as a whole or in part, physically changes in light intensity or gives the appearance of such change.

**SIGN, FREESTANDING** - A sign erected on a pole, poles, pillars, or posts (pylon sign) or any monument type sign (sign with a base) which is wholly independent of any building or support. Types of free-standing signs include:

SIGN, FREESTANDING - BILLBOARD - A type of free-standing sign that is mechanically produced or computer-generated prints or images, including but not limited to digitally printed vinyl and/or 3-D printed elements, that are typically attached or affixed to a pole or other type of free-standing support. Said signs are greater than one hundred twenty-five (125) square feet.

SIGN, FREESTANDING - GROUND MOUNTED - A type of free-standing sign that is supported by a monument style base and does not include any poles, pillars, or posts.

SIGN, FREESTANDING - PYLON - A type of free-standing sign that is supported by pole(s), pillars, posts or other free-standing support and is less than one hundred twenty-five (125) square feet.

**SIGN, GAS INFLATABLE** - Any device which is capable of being expanded by any gas and is typically tethered or otherwise anchored to the ground or structure and used on a permanent or temporary basis to attract attention to a product, event or business.

**SIGN, PERMANENT** - A sign intended to be erected, displayed or used, or in fact which is used for time period in excess of thirty (30) days within any one hundred eighty (180) day period.

**SIGN, PROJECTING** - A sign which extends outward perpendicular to the building face.

**SIGN, ROOF** - Any sign erected upon or completely over the roof of any building.

**SIGN, TEMPORARY** - A display, banner, or other advertising device constructed of cloth, canvas, fabric, wood, or other temporary material, with or without a structural frame, including but not limited to portable signs, development signs, community event signs, garage sale signs, real estate signs, sandwich type signs, sidewalk or curb signs, and balloon or other air or gas filled figures.

**SIGN, TRAILER** - A sign that is constructed on a chassis intended for the mounting of wheels, thereby permitting the sign to be moved forward.

**SIGN, WALL DISPLAY** - A sign attached to a building face, with the exposed face thereof in a plane parallel to the plane of the wall. Wall signs include, messages, graphics and other designs painted along with any letters or numerals mounted directly on buildings or awnings. Types of Wall Display Signs include:

SIGN, WALL DISPLAY - MURAL, GHOST - A type of wall display that has a primary purpose of displaying a historical advertisement painted directly on the exterior of a structure.

SIGN, WALL DISPLAY - MURAL, ORIGINAL ART - A type of wall display that has a primary purpose of displaying an original work of visual art produced by hand that is tiled or painted directly upon directly to an exterior wall of a structure. Original Art Mural does not include:

(a) Mechanically produced or computer-generated prints or images, including but not limited to digitally printed vinyl; or
(b) Murals containing electronical or mechanical components; or
(c) Changing mural images

SIGN, WALL DISPLAY - MURAL, VINTAGE ART - A type of wall display that has a primary purpose of displaying an original work of visual art produced by hand that was tiled, painted directly upon or affixed directly to an exterior wall of a structure prior to the date of adoption of this Ordinance.

SIGN, WALL DISPLAY - WALL - A type of wall display that comprises less than ten percent (10%) of the wall area to which it is mounted or affixed to said wall.

SIGN, WALL DISPLAY - WALLSCAPE - A type of wall display that comprises ten percent (10%) or more of the wall area to which it is attached and is mechanically produced or computer generate prints or images, including but not limited to digitally printed vinyl and/or 3-D printed elements, which are typically attached to the side of a building.

**SIGN, WAY FINDING** - Any sign which provides direction or guidance to help navigate a person to a specific location of an institution, organization or business, or property.

**SIGN, WINDOW** - 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.

**SOLAR, ARRAY** - A mechanically integrated assembly of modules or panels with a support structure and foundation, tracker and other components as required to form a direct-current power producing unit.

**SOLAR ENERGY** - Radiant energy (direct, diffused, or reflected) received from the sun at wavelengths suitable for conversion into thermal, mechanical, chemical, or electrical energy.

**SOLAR ENERGY SYSTEM (SES)** - An energy system that consists of one or more solar collection devices, solar energy-related equipment, and other associated infrastructure with the primary intention of generating electricity, storing electricity, or otherwise converting solar energy to a different form of energy. Solar energy systems may generate energy in excess of the energy requirements of a property if it is to be sold back to a public utility in accordance with the law.

SOLAR ENERGY SYSTEM, INTEGRATED - An SES where solar materials are incorporated into building materials, such that the two are reasonably indistinguishable, or where solar materials are used in place of traditional building components, such that the SES is structurally an integral part of a house, building, or other structure. An Integrated SES may be incorporated into, among other things, a building facade, skylight, shingles, canopy, light, or parking meter.

SOLAR ENERGY SYSTEM, GROUND-MOUNTED - An SES where an array is mounted on a rack or pole that is ballasted on, or is attached to, the ground.

Small-Scale Ground-Mounted Solar Energy System (Small Scale SES) - A ground mounted SES with a footprint of between one (1) and five (5) acres.

Intermediate-Scale Ground-Mounted Solar Energy System (Intermediate Scale SES) - A ground mounted SES with a footprint of between five (5) and fifteen (15) acres.

Large Scale Ground Mounted Solar Energy System (Large Scale SES) - A ground mounted SES with a footprint of more than fifteen (15) acres.

SOLAR ENERGY SYSTEM, ROOF MOUNTED - An SES mounted to the roof of a building or structure. Roof-mount systems are accessory to the primary use of a property.

**SPECIAL EXCEPTION** - A desirable use within a Zoning District that may more intensely affect the surrounding area than would a permitted use in said District. Such uses may require supplementary conditions and safeguards to ensure they blend with the surrounding area.

**START OF CONSTRUCTION** - the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the state of excavation. 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 as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

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

**STREET**- A paved public vehicular right-of-way which provides access to abutting properties from the front.

**STRUCTURAL ALTERATIONS** - Any change in the supporting members of a Building, such as bearing walls or partitions, columns, beams or girders, or any increase in the area or cubical contents of a building.

**STRUCTURE** - Anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground, including outdoor advertising signs, (billboards), and farmers' street-side stands. This does not include decorative features such as gazebos or community gardens.

**STRUCTURE, PRIMARY** - The structure associated with the principal use of the property. If more than one (1) structure is associated with the principal use of the property, the one (1) with the highest value shall be considered the primary structure.

**SUBSTANTIAL IMPROVEMENT/ALTERATION** - any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or the first other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places, or a State Inventory of Historic Places provided the alteration will not preclude the structure's designation as a historic structure.

**SUBSTANTIALLY COMPLETE** - The stage in which the work, described in the Zoning Clearance Permit, is finished to a point that the applicant/owner can occupy or utilize the land or building for its intended purpose.

**SWIMMING POOL, COMMERCIAL** - A body of water in an artificial or natural receptacle or another container, whether located indoors or outdoors, used, or intended to be used for public, semi-public, or private swimming by adults and/or children whether or not any charge or fee is imposed, operated by an owner, lessee, operator, licensee, or concessionaires, exclusive of a family pool as defined herein, and shall include all structures, appurtenances, equipment, appliances, and other facilities appurtenant to and intended for the operation and maintenance of a swimming pool, and also, all swimming pools operated and maintained in conjunction with or by clubs, motels, hotels, apartments and condominiums, and community associations.

**SWIMMING POOL, PRIVATE** - Any pool or open tank not located within a completely enclosed building and containing water to a depth, at any point greater than one and one-half (1 ½) feet. A private spa or hot tub with a lockable cover shall not be considered as a "swimming pool" subject to the provisions of this section.

**TELECOMMUNICATION TOWER** - A structure situated on a site used to support antennas and radio or cellular communications equipment. Antennas used by amateur radio operators are excluded from this definition.

**TELECOMMUNICATION TOWER, ATTACHED** - Any structure that will be attached to a building or other structure that meets the criteria for a telecommunication tower, as defined herein.

**TELECOMMUNICATIONS TOWER, FREE STANDING** - Any free-standing structure that meets the criteria for a telecommunication tower, as defined herein.

**TEMPORARY STRUCTURE, CONSTRUCTION TRAILER/OFFICE** - Any structure that is not permanent and is located on a construction site for purposes of storing materials and tools or for offices for construction management.

**TEMPORARY TENT** - A temporary structure composed of a covering made of a pliable membrane or fabric, supported by such mechanical means as poles, metal frames, ropes or cables and anchored in such a manner to reduce uplift.

**TINY HOME** --A one-unit dwelling not more than six hundred (600) square feet in floor area including loft floor area that is site built or prefabricated and may or may not be permanently anchored to a foundation. Such homes shall be provided with permanent utility connections. A tiny house is not designed to be a manufactured home, recreational vehicle, shipping container, trailer, or other similar object.

**TRANSITIONAL LIVING CENTER** - A facility that provides short-term room and board in a supervised living environment utilizing counseling and rehabilitation services for persons with a history of juvenile delinquency, behavioral disorders, alcoholism, or drug abuse.

**TREE, LARGE** - any tree species which normally attains a full-grown height above six (60) feet.

**TREE, MEDIUM** - any tree species which normally attains a full-grown height between thirty (30) to sixty (60) feet.

**TREE, SMALL** - any tree species which normally attains a full-grown height of under thirty (30) feet.

**TRUCK AND TRAVEL CENTER** - A commercial facility which provides refueling, parking, and often ready-made food for motorists and truck drivers. These facilities sometimes also include showers for truck drivers.

**UNNECESSARY HARDSHIP** - A standard utilized to determine whether a use variance should be granted. It is based on the deprivation of an owner's right to the beneficial use of property that is caused by the strict enforcement of this Ordinance. It must involve unique characteristics of the property itself and does not include economic difficulties of the owner/applicant.

**USE** - The purpose for which a Building or land may be arranged, designed, or intended to be occupied or maintained.

**VARIANCE** - A modification of the strict terms of this Ordinance due to the strict enforcement of these regulations resulting in a practical difficulty or Unnecessary Hardship and where such modification will not be contrary to the public interest.

**VARIANCE, AREA** - A type of variance that is from a regulation based on the dimensions or physical requirements of applicable Zoning regulations such as setbacks, height, or other similar requirement. This type of variance is typically reviewed using a Practical Difficulty standard.

**VARIANCE, USE** - A type of variance to allow a use that is otherwise prohibited within the District. This type of variance is typically reviewed using an Unnecessary Hardship standard.

**VEHICLE, CHARGING STATION** - The design and construction of a parking space with Electric Vehicle Supply Equipment that supplies electric energy for the recharging of electric vehicles.

**VEHICLE, RECREATIONAL** - Any motorized or non-motorized vehicle that is used for recreational purposes including, but not limited to all-terrain vehicles, dune buggies, motor bikes, recreational vehicle trailers, snowmobiles, trail bikes, and various watercraft including canoes, kayaks, boats, and jet skis.

**VEHICULAR SALES, EQUIPMENT** - An open area or building used for the display, sale or rental of farm, construction, or other similar machinery.

**VEHICULAR SALES, MOTORCYCLES** - An open area or building used for the display, sale or rental of new or used motorcycles and where only incidental repair work is done.

**VEHICULAR SALES, NEW AND USED CARS** - An open area other than a street, used for the display, sale or rental of new or used motor vehicles in operable condition and where only incidental repair work is done.

**VEHICULAR SALES, RECREATIONAL** - An open area or building used for the display, sale or rental of new or used recreational vehicles and where only incidental repair work is done.

**WALL, DECORATIVE** - An architecturally designed wall that is intended to prohibit public view and provide seclusion, has more than 50 percent of its vertical surface area closed to light and air, and is not designed for purposes of retaining soil.

**WALL DISPLAY** - See Sign, Wall Display

**WALL, RETAINING** - An engineered wall that is designed and intended to support soil laterally so that it can be retained at different levels on the two sides.

**WALLSCAPE** - See Sign, Wall Display - Wallscape

**WALL SIGN** - See Sign, Wall Display - Wall Sign

**WIND ENERGY CONVERSION SYSTEM** - An energy system consisting of a wind turbine, a tower, and associated control or conversion electronics.

**WINDOW SIGN** - See Sign, Window

**YARD** - An open space on a lot with a building that is unoccupied and unobstructed by any portion of a principal structure. Fences and other accessory structures may be permitted within a yard as regulated in this code.

FRONT YARD - The horizontal distance between the right-of-way line and the nearest foundation or structural appurtenance of the principal structure.

REAR YARD - The horizontal distance between the rear lot line and the nearest foundation or structural appurtenance of the principal structure.

SIDE YARD - The horizontal distance between the side lot line and the nearest foundation or structural appurtenance of the principal Building.

**CITY PLANNER OR DESIGNEE** - The authorized representatives appointed by the City to issue Zoning Clearance Permits and perform other duties as specified in this Ordinance.

**ZONING MAP** - A map of the City of Lancaster that legally denotes the boundaries of the Zoning Districts as they apply to the properties within the City. The official Zoning map shall be kept on file in the administrative offices.

**ZONING CLEARANCE PERMIT** - A document issued by the Zoning administrator authorizing the construction or alteration of a building, structure, or use consistent with this Ordinance. (Ord. 25-13. Passed 8-14-23.)

## APPENDIX B

To amend the Zoning attached to Ordinance No. 1866, passed on the 18th., day of Nov. 1939, and as subsequently amended as herein provided.

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

SECTION 1: That the Zoning Map attached to Ordinance No. 1866 passed November 18, 1939, and as subsequently amended by and the same is hereby revised by changing the zoning of the following described territory, to-wit:

Beginning at the Northwest corner of Forest Rose Ave., and Fifth Ave.; thence North along the West line of Forest Rose Ave., to the alley North of North Street; thence west in the alley North of North Street to the alley west of Forest Rose Ave.; thence North in the alley West of Forest Rose Ave. to the South-East corner of Lot No. 14 of Dickson's Subdivision; thence West along the South line of Lots 14 and 15 of Dickson's Subdivision to the East line of Front Street; thence Northwestwardly along the East line of Front Street to the alley South of Fair Ave.; thence East in the alley South of Fair Avenue to the Southeast corner of Lot No. 11 of Mumaugh's Addition; thence North along the East line of Lot No. 11 of Mumaugh's Addition to Fair Ave.; thence west in Fair Ave., to the alley east of Front Street; thence North in the alley east of Front Street to Reber Avenue; thence in Reber Ave. to a point 260' East of Center line of Front Street as surveyed by the State Highway Department for State Highway No. 49; thence parallel to and 260' northeast of said highway center line to Schryver Ave.; thence in Schryver Avenue and Wildwood Avenue to the Northeast corner of Lot No. 34 of Avondale Addition; thence west along the North line of the Avondale Addition to the West Corporation line; thence South along the west corporation line to a point 260' feet South of and perpendicular to the center line of the State Highway Department Survey; thence Southeastwardly parallel to and 260' distance from the center line of said Highway Survey to the Bolenbaugh land; thence Southwestwardly along the Bolenbaugh land to Hocking River; thence Eastwardly along Hocking River to Sixth Ave.; thence East in Sixth Ave., to Front Street; thence South in Front Street to Fifth Avenue; thence East in Fifth Avenue to the place of beginning.

That the territory above described be changed from Class Residential "A" and Class Residential "B" to Class "C" Commercial.

SECTION 2: That the "Set Back" of "Front Building Line" of all property abutting on Front Street from Union Street Northwestwardly to the Northwest Corporation line be fixed at 60 feet from the Center line of the Proposed State Highway.

SECTION 3: That the City Engineer be and is hereby authorized and directed to make said change on the said Original Zoning Map of said City.

SECTION 4: That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

# APPENDIX C

## WIRELESS TELECOMMUNICATIONS

Wireless Communications as it relates to antenna and antenna support structures is referenced throughout the zoning code. Because the City has recently adopted specific legislation with regard to wireless telecommunications no effort was made to directly incorporate specific language into the Zoning Code. The City currently has designated Wireless Communications rules and regulations. This Appendix incorporates the existing Wireless Communications legislation from Chapter 1339 of the Lancaster Codified Ordinances.