

CODIFIED ORDINANCES

OF THE CITY OF

SPRINGFIELD, OHIO

Local legislation current through April 8, 2025

State legislation current through June 26, 2024

DISCLAIMER

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THE CHARTER

OF THE CITY OF SPRINGFIELD, OHIO

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All Amendments through June 2002

Editor's Notations added December 2016

EDITOR'S NOTE: The Springfield Charter was originally adopted on August 26, 1913, and was most recently adopted on November 2, 1965. Dates appearing in parentheses following a section heading indicate that those provisions were subsequently amended, enacted, or repealed on the date given.

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CHARTER OF THE CITY OF SPRINGFIELD, OHIO

We, the people of the City of Springfield, Ohio, in order to obtain the benefits of local self-government, to incorporate more direct and businesslike methods in the transaction of our municipal affairs, and otherwise to promote our common welfare, do adopt the following Charter of our City.

ARTICLE I - INCORPORATION; FORM OF GOVERNMENT; POWERS

SECTION 1. INCORPORATION.

The inhabitants of the City of Springfield, Ohio, within the corporate limits as now established or as hereafter established in the manner provided by law, shall continue to be a body politic and corporate in perpetuity under the name of "The City of Springfield, Ohio."

SECTION 2. FORM OF GOVERNMENT.

The municipal government provided by this Charter shall be known as the "city commission-manager government." Pursuant to its provisions and subject only to the limitations imposed by the state constitution and by this Charter, all powers of the City shall be vested in an elective city commission, hereinafter referred to as "the city commission," which shall enact local legislation, adopt budgets, determine policies, and appoint the city manager, law director and finance director. The city manager shall execute the laws and administer the government of the city. The powers of this municipality shall be exercised in the manner prescribed in this Charter, or to the extent not prescribed herein, then in such manner as the commission may by ordinance determine, and when not prescribed in this Charter or determined by the Commission, such powers shall be exercised in such manner as may now or hereafter be provided by the general laws of the State of Ohio. No member of the city commission shall directly interfere with the conduct of any departments, except at the express direction of the commission.

SECTION 3. POWERS OF THE CITY.

The municipality shall have all the powers, general or special, governmental or proprietary, that may now or hereafter lawfully be possessed or exercised by municipal corporations under the constitution and laws of the State of Ohio.

ARTICLE II - THE CITY COMMISSION

SECTION 4. NUMBER; SELECTION; TERM.

The city commission shall have five (5) members, one of whom shall be the Mayor, who shall be separately nominated and elected as Mayor, elected from the city at-large in the manner provided in Article IV of this Charter, for a term of four (4) years or until their successors have been elected and take office as provided in Section 14 herein.

(Amended 5-7-02, Ord. No. 02-120, Yeas 3,105; Nays 1,265.)

SECTION 5. QUALIFICATIONS.

Each member of the city commission, for at least one year prior to his (her) election shall have been and during his (her) term of office shall continue to be a resident of the city. He (she) shall hold no other municipal employment or elective public office. If a member of the city commission shall cease to possess any of these qualifications or shall be convicted of a crime involving moral turpitude, his (her) office shall immediately become vacant.

(Amended 8-7-01, Ord. No. 01-203, Yeas 1,026; Nays 998.)

SECTION 6. SALARY; BOND; PENALTY FOR ABSENCE.

The annual salary of members of the city commission shall be \$2,500.00 until changed by ordinance, but no such ordinance shall affect the salary of a member of the city commission during the term for which he was elected or appointed at the time of adoption of such ordinance.

Each member of the city commission shall give bond in the sum of \$10,000.00 with a bonding company regularly accredited to do business in the

State of Ohio as surety thereon, to the approval of the finance director; and the premium of each such bond shall be paid by the city.

For each absence from a regular meeting of the commission, in excess of five (5) in any calendar year, there shall be deducted a sum equal to two percent (2%) of the annual salary of such member. Absence from five (5) consecutive regular meetings shall operate to vacate the seat of a member of the city commission unless the absence is excused by the commission by resolution setting forth such excuse and entered upon the journal.

SECTION 7. PRESIDING OFFICER; MAYOR.

The mayor shall be the president of the city commission, shall preside at meetings of the city commission, shall have equal voting privileges as other members of the city commission, shall exercise ceremonial functions on behalf of the city, and shall be recognized as the head of the city government by the governor for purposes of military law. The mayor shall have no regular administrative duties. The mayor shall take command of the police, and govern the city by proclamation during times of public danger or emergency, and the mayor shall be the sole determiner of what constitutes public danger or emergency. The term of the mayor shall be four (4) years.

The city commission shall appoint one of its members, not including the mayor, to be assistant mayor. The mayor shall have a vote on this appointment. The assistant mayor shall act as mayor during the absence or disability of the mayor. Unless otherwise provided in this Charter, the term of office of the assistant mayor shall be two (2) years.

(Amended 5-7-02, Ord. No. 02-120, Yeas 3,105; Nays 1,265.)

SECTION 8. POWERS.

All powers of local self-government of the city and the determination of all matters of policy shall be vested in the city commission.

SECTION 9. APPOINTMENT OF CITY MANAGER.

The city commission shall appoint an officer of the city who shall have the title of city manager and shall have the powers and perform the duties in this Charter provided. He shall be chosen solely on the basis of his executive and administrative qualifications with special reference to his actual experience in, or his knowledge of, accepted practice in respect to the duties of his office as herein set forth. At the time of his appointment, he need not be a resident of the city or state, but during his tenure of office he shall reside within the city.

SECTION 10. REMOVAL OF CITY MANAGER.

The city commission shall appoint the city manager for an indefinite term and may remove him by a majority vote of its members. If the city manager is removed by such vote, the city commission shall cause to be paid him forthwith any unpaid balance of his salary and his salary for the next thirty (30) days following such removal.

SECTION 11. VACANCIES IN THE OFFICES OF MAYOR OR COMMISSION.

Vacancies in the city commission shall be filled within thirty (30) days by vote of the majority of the remaining commission members. Such person so chosen shall serve until the next regular municipal election occurring not less than one hundred (100) days after his selection. At such election, a successor shall be elected to serve for the unexpired term, if any; if not, for a full term.

If more than three (3) vacancies occur at one time, the remaining commissioner, if there is one, and the members of the Civil Service Commission shall, within thirty (30) days of the creation of such vacancy, by majority vote, elect such number of persons as may be necessary to create a city commission of two (2) members. Thereafter, the remaining vacancies shall be filled as set forth in this section.

If such vacancies are not filled within the time specified, the vacancies shall be filled by lot as follows:

At the regular city commission meeting after the expiration of said thirty (30) day period, each remaining commissioner shall place in nomination the name of a person to fill the vacancy; thereupon the city law director shall draw from the said lot a name, and such person shall be the commissioner to fill the vacancy first created.

After the commissioner so selected has been duly qualified and sworn into office, the then commissioners shall fill the remaining vacancies, if any, within fifteen (15) days by vote of the majority of such commissioners.

If the remaining vacancies are not filled within said fifteen (15) day period, they shall be filled by lot as follows:

At the regular city commission meeting after the expiration of said fifteen (15) day period, each remaining commissioner shall place in nomination the name or names of persons equal to the number of existing vacancies; thereupon the city law director shall draw from said lot the name of such nominees equal in number to existing vacancies. The name first drawn shall be the commissioner for the vacancy first created; the second name for the remaining vacancy, if any.

All such selections shall be for the terms set forth in the first paragraph of this Section 11, and all such persons shall be qualified as set forth in Section 5 hereof.

In the event there is a vacancy in the office of mayor, the assistant mayor shall thereafter become the mayor and shall serve in that capacity for the unexpired term of the mayor. The vacancy in the city commission thus created would be filled as set forth previously in this section.

(Amended 5-7-02, Ord. No. 02-120, Yeas, 3,105; Nays 1,265.)

SECTION 12. CREATION OF NEW DEPARTMENTS; CHANGE OF DUTIES.

The city commission by ordinance may create, change and abolish offices, departments or agencies, other than the offices, departments and agencies established by this Charter. The city commission by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

SECTION 13. CITY CLERK.

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

SECTION 14. MEETINGS OF THE CITY COMMISSION.

At eight o'clock p.m. on the second day of January following a regular municipal election, or if such day be Sunday or Monday, on the day following, the city commission shall meet at the usual place for holding the meetings of the legislative body of the city, at which time the newly-elected commissioners shall assume the duties of their office. Thereafter, the city commission shall meet at such times as may be prescribed by its rules, but not less than forty-eight (48) times in any calendar year with no meeting more than two weeks following the immediately preceding meeting.

(Amended 11-8-77, Ord. No. 77-295, Yeas 7,343; Nays 5,951.)

SECTION 15. SPECIAL MEETINGS.

The mayor, any two (2) members of the city commission, or the city manager, may call special meetings of the city commission upon at least twelve (12) hours written notice to each member, served personally or left at his usual place of residence.

SECTION 16. RULES OF PROCEDURE; JOURNAL.

The City Commission shall determine its own rules and order of business. All meetings of the City Commission, except executive sessions, are open to the public. The City Commission shall keep a journal open to the public of all meetings, except executive sessions, of the City Commission. (Amended 5-8-90, Ord. No. 90-148, Yeas 7,468; Nays 2,969.)

SECTION 17. ORDINANCES.

In addition to such acts of the city commission as are required by statute or by this Charter to be by ordinance, every act of the city commission establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be: "Be it ordained by the city commission of The City of Springfield, Ohio."

SECTION 18. ORDINANCE ENACTMENT.

Each ordinance shall be introduced in written or printed form, and shall not contain more than one subject, which shall be clearly stated in the title; but general appropriation ordinances may contain the various subjects and acts for which moneys are to be appropriated.

Before passage, each ordinance shall be read by title only at two meetings of the commission not less than one week apart. Provided, however, that upon request by two commissioners such ordinance shall be read in its entirety. Emergency ordinances need only be read once before passage and such reading shall be by title only. Provided, however, that such an emergency ordinance, upon request by one commissioner, shall be read in its entirety once before passage. (Amended 11-8-77.)

SECTION 19. EMERGENCY MEASURES.

All ordinances and resolutions passed by the City Commission shall be in effect fourteen (14) days from and after the date of their passage, except the City Commission may, by an affirmative vote of four (4) of its members, pass emergency measures to take effect at the time indicated therein.

An emergency measure is an ordinance or resolution for the immediate preservation of the public peace, property, health or safety or providing for the usual daily operation of a municipal department, in which the emergency is set forth and defined in the preamble thereto.

Ordinances appropriating money may be passed as emergency measures, but no measure making a grant, renewal or extension of a franchise or other special privilege, or regulating the rate to be charged for its service by any public utility, except modification or establishment of bus or transit routes shall ever be so passed.

(Amended 11-8-77.)

SECTION 20. RECORD AND PUBLICATION.

After final passage, every ordinance and resolution shall be recorded in a book kept for that purpose, and shall be authenticated by the signatures of the presiding officer and the city clerk.

At least three correct copies of every ordinance of a general or permanent nature, in the form in which it has been passed shall be made available to public inspection in the office of the city clerk and a notice describing such ordinance in brief and general terms and stating that such ordinance is available for personal inspection at the office of the city clerk shall be published once in a newspaper of general circulation in the city within ten (10) days after the final passage of such ordinance.
(Amended 11-8-77.)

ARTICLE III - THE CITY MANAGER

SECTION 21. POWERS AND DUTIES.

The city commission shall appoint a city manager, who shall be the administrative head of the municipal government under the direction and supervision of the city commission, and who shall hold office at the pleasure of the city commission, and he shall have power and shall be required to:

- (1) Appoint and, when necessary for the good of the service, remove all officers and employees of the city except as otherwise provided by this Charter and except as he may authorize the head of a department or office to appoint and remove subordinates in such department or office;
- (2) Prepare the budget annually and submit it to the commission and be responsible for its administration after adoption;
- (3) Prepare and submit to the commission as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year;
- (4) Keep the commission advised of the financial condition and future needs of the city and make such recommendations as may seem to him desirable;
- (5) Perform such other duties as may be prescribed by this Charter or required of him by the commission, not inconsistent with this Charter.

SECTION 22. ABSENCE OF CITY MANAGER.

During the temporary absence or disability, the City Manager's duties shall be assumed by an employee of the city designated by the City Manager in the City Manager's journal until such time as the City Commission by resolution otherwise provides.
(Amended 11-8-77.)

SECTION 23. ADMINISTRATIVE DEPARTMENTS.

There shall be a Department of Finance, Department of Law, and such other departments as may be established by ordinance. The work of each department may be distributed among such divisions thereof as may be established by ordinance upon the recommendation of the city manager. Pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the city manager among specific divisions, thereof, the city manager may establish temporary divisions.

ARTICLE IV - ELECTIONS

SECTION 24. TIME OF HOLDING ELECTIONS.

Regular municipal elections shall be held on the first Tuesday after the first Monday in November in the odd numbered years. Primary elections shall be held at the time provided by the general election laws of the state. Any matter which, by the terms of the Charter, may be submitted to the electors of the city at any special election may be submitted at a primary election or at a regular municipal election.

SECTION 25. BALLOTS.

All elections and the voting devices used therefor as provided for in this Charter shall be without party marks or designations. The names of the candidates to be voted upon shall be rotated as to position on the voting devices in accordance with the general laws of the State of Ohio.

SECTION 26. PETITIONS FOR PLACES ON PRIMARY BALLOT.

Candidates for the office of city commissioner and the office of mayor shall be nominated only by a non-partisan primary election. The name of any elector of the city shall be printed upon the primary ballot for the office of city commissioner or the office of mayor if there is filed with the election authorities a petition in accordance with the following provisions, to-wit:

- (a) Such petition shall state the name and place of residence of each person whose name is presented for a place upon the ballot and that such person is a candidate for the office of city commissioner for, or the office of mayor of, The City of Springfield, Ohio. No person may be a candidate for the office of city commissioner and the office of mayor in the same election.
- (b) Such petitions shall be signed by two hundred fifty (250) electors of the municipality.
- (c) Such petitions shall contain a provision that each signer thereto thereby pledges himself to support and vote for the candidate or candidates whose names are therein presented for a place upon the ballot, and each elector signing a petition shall add to his signature his place of residence, with street and number, and date of signing, and may subscribe to one nomination for each of the places to be filled and no more. All signatures shall be made with ink or indelible pencil.
- (d) The signatures of all the petitioners need not be appended to one paper, but to each separate paper there shall be attached an affidavit of the circulator thereof stating the number of signers thereto, that each person signed in his presence on the date mentioned, and that the signature is that of the person whose name it purports to be.
- (e) Such petitions shall not be signed by any elector more than one hundred ten (110) days prior to the day of such primary election and such petition shall be filed with the election authorities not less than ninety (90) days previous to the day of such election.
- (f) The number of signatures which may be filed by any one candidate shall not exceed five hundred (500) in number.

(Amended 5-7-02, Ord. No. 02-120, Yeas 3,105; Nays 1,265.)

SECTION 27. ACCEPTANCE.

Any person whose name has been submitted for candidacy by any such petition shall file his acceptance of such candidacy with the election authorities not later than fifty-five (55) days previous to such election; otherwise, his name shall not appear upon the ballot.

SECTION 28. ELECTION.

The candidates for nomination to the office of city commissioner who shall receive the greatest vote in such primary election shall be placed on the ballot at the next regular municipal election in number not to exceed twice the number of vacancies in the city commission to be filled. The

candidates at the regular municipal election, equal in number to the places to be filled, who shall receive the highest number of votes at such regular municipal election, shall be declared elected. A tie between two or more candidates for the office of city commissioner shall be decided by lot under the direction of the election authorities, as provided by the general election laws of the state.

The candidates for nomination to the office of mayor who shall receive the two greatest number of votes shall be placed on the ballot at the next regular municipal election. The candidate who receives the greater number of votes at such regular municipal election shall be declared elected.

(Amended 5-7-02, Ord. No. 02-120, Yeas 3,105; Nays 1,265.)

SECTION 29. PRIMARY.

Should there be filed with the proper election authorities petitions in accordance with Section 26, and acceptance filed by the persons whose names are submitted for candidacy by any such petitions in accordance with Section 27, in number not to exceed twice the number of vacancies in the commission to be filled in the case of the office of city commissioner or, in the case of the office mayor, only one or two of such petitions, thereupon the non-partisan primary election, provided for in Section 26, shall automatically be dispensed with and such candidates for nomination shall become the nominees and shall be placed on the ballot for the corresponding office at the next regular municipal election.

(Amended 5-7-02, Ord. No. 02-120, Yeas 3,105; Nays 1,265.)

ARTICLE V - TAXATION

SECTION 30. TAXATION OF INCOME.

The city may tax earned income at a rate of two and one-half (2.5) percent; during such time as earned income shall be taxed by the City at an aggregate rate of not less than two and one-half (2.5) percent, not less than twenty (20) percent of any and all revenues derived from a tax on income shall be used only to provide funds for the purpose of financing capital improvements, including debt service charges on notes and bonds issued for capital improvements, of The City of Springfield, Ohio.

Earned income shall mean: (1) Net profits from a business or profession, exclusive of income from intangible personal property, and (2) Payment for work done or services performed, including wages, salaries, commissions and other compensations.

Capital improvements shall mean any property or asset with an estimated useful life of five (5) years or more, including land and interests therein, and reconstructions, enlargements, and extensions thereof having an estimated life of five (5) years or more.

(Amended 11-8-83, Ord. No. 83-395.)

SECTION 31. TAX LIMIT.

The total tax rate which may be levied without a vote of the people for the current operating expenses of The City of Springfield upon the tax list and duplicate of property assessed and listed for taxation according to value for the tax year 1966 and each year thereafter shall not exceed 3.27 mills per dollar of assessed valuation, provided that said 3.27 mills shall be reduced in each year by that number of mills, including fractional parts thereof, which are levied in the respective year by the city within the ten mill limitation imposed by Article XII, Section 2, of the Ohio Constitution, for the purpose of paying interest on and principal of obligations issued without a vote of the people.

The limitation of this section of the Charter shall not operate as a limitation upon the power of the commission to levy taxes upon such other subjects and for such other purposes as may be lawful under the Constitution and laws of the State of Ohio, nor shall this section be deemed to be a limitation upon the power of the commission to incur indebtedness for all lawful purposes within applicable constitutional and statutory limitations.

ARTICLE VI - FINANCE

SECTION 32. THE ESTIMATE.

The fiscal year of the city shall begin on the first day of January. On or before the first day of November of each year, the city manager shall submit to the city commission an estimate of the expenditures and revenues of the city departments for the ensuing year. This estimate shall be compiled from detailed information obtained from the several departments on uniform blanks to be furnished by the city manager. The classification of the estimate of expenditures shall be as nearly uniform as possible for the main functional divisions of all departments, and shall give in parallel columns the following information:

- (a) A detailed estimate of the expense of conducting each department as submitted by the department.
- (b) Expenditures for corresponding items for the last two (2) fiscal years.
- (c) Expenditures for corresponding items for the current fiscal year, including adjustments due to transfers between appropriations plus an estimate of expenditures necessary to complete the current fiscal year.
- (d) Increase or decrease of requests compared with the corresponding appropriations for the current year.
- (e) Such other information as is required by the city commission or that the city manager may deem advisable to submit.
- (f) The recommendation of the city manager as to the amounts to be appropriated with reasons therefor in such detail as the city commission may direct.

Sufficient copies of such estimate shall be prepared and submitted that there may be copies on file in the office of the city clerk for inspection by the public.

SECTION 33. APPROPRIATION ORDINANCE.

Upon receipt of such estimate the city commission shall prepare an appropriation ordinance, but before acting upon such ordinance the city commission shall fix a time and place for holding a public hearing upon the tentative appropriation, and shall publish a public notice of such hearing ten (10) days before the hearing date. During the ensuing year the appropriation ordinance may be revised, amended and additional appropriations made without the necessity of a public notice or hearing.

SECTION 34. TRANSFER OF FUNDS.

Upon request of the city manager, the city commission may transfer any part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation for the current year has proved insufficient, or may authorize a transfer to be made between items appropriated to the same office or department.

SECTION 35. UNENCUMBERED BALANCES.

At the close of each fiscal year the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriations. Any accruing revenue of the city not appropriated as hereinbefore provided and any balances at any time remaining after the purposes of the appropriation shall have been satisfied or abandoned, may from time to time be appropriated by the city commission to such uses as will not conflict with any uses for which specifically such revenues accrued. No money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred, except pursuant to the appropriations made by the city commission, but nothing in this or the preceding section shall be construed to authorize the application of revenue derived from a public utility of the city to any other purpose than that of the utility from which the same was derived.

SECTION 36. PAYMENT OF CLAIMS.

No warrant for the payment of any claim shall be issued by the finance director until such claim shall have been approved by the finance director, the head of the department for which the indebtedness was incurred, the purchasing officer and the city manager, and such officers and their sureties shall be liable to the municipality for all loss or damage sustained by the municipality by reason of the unlawful approval of any such claim. Whenever any claim shall be presented to the finance director, he shall have power to require evidence that the amount claimed is justly due and is in conformity to law and ordinance, and for that purpose he may summon before him any officer, agent or employee, or any department of the municipality, or any other person, and examine him upon oath or affirmation relative thereto. The chief executive officer, whatever his title, and the purchasing agent, if any, for any administrative board or commission shall comply with this section.

SECTION 37. CERTIFICATION OF FUNDS.

No contract or agreement or other obligation involving the expenditure of money in excess of \$100.00 shall be entered into unless the finance director shall first certify to the city commission or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure is in the treasury to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, and a copy of such certificate shall be filed and immediately recorded by the finance director. The sum so certified shall not thereafter be considered unencumbered until the city is discharged from such contract, agreement or obligation. The provisions of this section shall not apply to contracts or proceedings relating to improvements any part of the cost of which is to be paid by special assessments.

(Amended 11-8-77, Ord. No. 77-295, Yeas 7,343; Nays 5,951.)

SECTION 38. MONEY IN THE FUND.

All monies actually in the treasury to the credit of the fund from which they are to be drawn, and all monies applicable to the payment of the obligation or appropriation involved that are anticipated to come into the treasury before the maturity of such contract, agreement or obligation from taxes, assessments, or license fees, or from sales of services, products or by-products of any city undertaking, and moneys to be derived from lawfully authorized bonds sold and in the process of delivery, and all moneys to be derived from grants or loans made by the United States government or the state of Ohio or any department, division, agency, authority or unit thereof to the city, for the purpose of such certificate shall be deemed in the treasury to the credit of the appropriate fund and shall be subject to such certification.

(Amended 11-8-77, Ord. No. 77-295, Yeas 7,343; Nays 5,951.)

SECTION 39. FINANCIAL REPORT.

The city commission may provide by ordinance for monthly or annual financial reports by the city manager or finance director on forms prescribed by the city commission. At the end of each year the city commission shall print an annual report, giving a detailed statement of all receipts, expenditures and liabilities of the city; a detailed comparison of such receipts, expenditures and liabilities with those of the year preceding; and a summary of city commission and administrative operations for the previous twelve (12) months. A copy of this report shall be furnished to any citizens of the city who may apply therefor at the office of the clerk of the city commission.

SECTION 40. ASSESSMENTS.

In levying special assessments to pay any part of the cost of any public work or improvement, the city commission shall not exceed any limitation as to the amount thereof which may be prescribed by the general laws of the state applicable to municipalities and in force at the time it is determined by the city commission that any such work shall be done or improvement made. The city commission may, however, by ordinance, provide different procedures for levying special assessments other than those established by the general laws of the state.

SECTION 41. IMPROVEMENTS BY DIRECT LABOR.

Nothing in the preceding section shall be construed to prohibit the city commission from doing any public work or making any public improvement by the direct employment of the necessary labor and the purchase of the necessary supplies and materials, with separate accounting as to each improvement so made.

SECTION 42. EXPENDITURES REQUIRING CITY COMMISSION AUTHORIZATION.

When an expenditure, other than the compensation of persons employed by the city, exceeds the threshold dollar amount requiring legislative authorization established in Section 735.05 of the Ohio Revised Code, as presently enacted and as it may be amended from time to time by the General Assembly, such expenditures shall first be authorized and directed by ordinance of the city commission, and no contract involving an expenditure in excess of such sum shall be made or awarded except upon the approval of the city commission.

(Amended 11-6-90, Ord. No. 90-429, Yeas 8,768; Nays 8,532.)

SECTION 43. TIME OF MAKING CONTRACTS.

The city commission shall not enter into any contract which is not to go into effect during the term for which all the members of such city commission are elected.

SECTION 44. MODIFICATION OF CONTRACTS.

When it becomes necessary, in the opinion of the city manager in the prosecution of any work or improvement under contract, to make alterations or modifications in such contract, such alterations or modifications, if made, shall be of no effect until the price to be paid for the work or material, or both, under the altered or modified contract, has been agreed upon in writing and signed by the contractor and by the city manager and approved by the city commission.

SECTION 45. MANDATORY BIDDING.

In no instance shall contracts be let for any project, improvement or purchase if bids are taken which exceed the estimate for the project, improvement or purchase contemplated by more than ten percent of the estimate. If bids for parts of the project, improvement or purchase are taken separately, contracts for those parts which do not exceed the estimate by more than ten percent may be let. The city's finance department shall advertise for and solicit formal bids for projects, improvements and purchases when required to do so by Sections 735.05, 735.051, 735.052 and 735.053 of the Ohio Revised Code, as presently enacted and as they may be amended from time to time by the General Assembly. (Amended 11-6-90, Ord. No. 90-429, Yeas 8,768; Nays 8,532.)

SECTION 46. CONTRACTS; WHEN VOID.

All contracts, agreements or other obligations entered into, and all ordinances passed, or resolutions and orders adopted, contrary to the provisions of the preceding sections shall be void.

ARTICLE VII - CIVIL SERVICE

SECTION 47. CIVIL SERVICE COMMISSION.

The city commission shall appoint five (5) electors of the city as civil service commissioners. Members of the civil service commission shall not hold any other public office except that of notary public. Members shall be appointed to serve for a term of three (3) years and until their successors have been appointed and qualified. Any vacancy shall be filled by the city commission for the unexpired term. The city commission may remove any member upon stating in writing the reasons for removal and allowing him an opportunity to be heard in his own defense. The members of the existing civil service commission shall continue in office for their appointed terms.

Except as otherwise provided herein, the civil service commission, and all matters pertaining to civil service of The City of Springfield, Ohio, shall be governed by the general laws of the state presently in effect, or hereafter enacted, which are applicable thereto. The positions of chief of police and fire chief in the city shall be in the unclassified service as that term is defined and with the same effect as is given such term in Section 124.11 of the Ohio Revised Code as presently enacted. The chief of police and fire chief shall be appointed and may be removed by the City Manager, subject to the concurrence by a majority vote of the city commission.

In the case of promotion of any person to a rank above the rank of patrolman in the police division of the city or to a rank above the rank of firefighter in the fire division of the city, other than a promotion or appointment to the position of chief of police or fire chief in the city, such promotion shall be made only after a person has passed a competitive promotional examination. Such examination shall include an evaluation of such factors as education, training, capacity, and knowledge. Examinations shall consist of one or more tests in any combination. Tests shall be written and oral and shall be designed to fairly test the relative capacity of the persons examined to discharge the particular duties of the position for which appointment is sought. Credit for efficiency and seniority in service shall be added to the examination grade.

The number, type and weight to be given such tests in the examination process and the relative weight to be given to efficiency and seniority in service shall be set forth by an ordinance duly adopted by the city commission.
(Amended 11-8-83, Ord. No. 83-395.)

In the case of appointment of any person to the classified position of police officer in the Police Division of the City, the City Manager may appoint persons who have obtained and maintained Basic Ohio Peace Officer Certification and who are employed by another jurisdiction as a police officer, deputy sheriff, or state highway patrol officer to such position without first administering a competitive examination. In lieu of a competitive examination, the City Manager may assess the merit and fitness of any such applicant so qualified by review of his or her record while employed in a law enforcement officer. The selection procedures and selection criteria applicable to such persons appointed without taking a competitive examination shall be as set forth by an ordinance duly adopted by the City Commission.
(Enacted 11-4-97, Ord. No. 97-307, Yeas 6,030; Nays 5,630.)

ARTICLE VIII - INITIATIVE

SECTION 48. PROPOSAL PETITION.

Any proposed ordinance including an ordinance for the repeal or amendment of an ordinance then in effect may be submitted to the city commission by petition signed by at least five percent (5%) of the total number of registered voters in the municipality at the last regular municipal election. All petitions circulated with respect to any proposed ordinance shall be uniform in character, shall contain the proposed ordinance in full, and shall have printed or written thereon the names and addresses of at least five (5) electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purpose hereinafter named.

Each signer of a petition shall sign his name, address and date. The signatures to any such petition need not all be appended to one paper, but to each such paper there shall be attached an affidavit by the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant and on the date indicated.

Before any ordinance so proposed shall be submitted to the City Commission, it shall first be approved as to its form by the city law director, whose duty it shall be to draft such proposed ordinance in proper legal language, and to render such other service to persons desiring to propose such ordinance as shall be necessary to make the same proper for consideration by the City Commission.

SECTION 49. TIME OF FILING.

All papers comprising a petition shall be assembled and filed with the clerk of the city commission as one instrument, within one hundred twenty days from the date of the first signature thereon, and when so filed the clerk shall submit the same to the city commission at its next regular meeting and provision shall be made for public hearings upon the proposed ordinance within ten (10) days from the time said petition was presented to the city commission.

SECTION 50. PETITION FOR ELECTION.

The city commission shall at once proceed to consider such petition and shall take final action thereon within thirty (30) days from the date of submission. If the city commission rejects the proposed ordinance, or passes it in a different form from that set forth in the petition, or fails to act finally upon it within the time stated, the committee of the petitioners by written demand filed with clerk of the city commission not later than twenty (20) days after final action or inaction by the city commission, may require that the proposed ordinance be submitted to a vote of the electors in its original form, if, with or prior to such demand, a petition for such election, signed after the final action for inaction of the city commission is filed with such clerk bearing additional signatures of five percent (5%) of the registered voters of the city at the last election, none of whom were signers of the first petition. Such clerk shall forthwith cause notice of the filing of such demand and petition to be published in some newspaper of general circulation in the City, and shall also within five (5) days certify to the officers having control of elections the proposed ordinances, stating whether or not a special election is demanded in the petitions, the percentage of registered voters at the last municipal election who signed the two petitions in the aggregate, and the date on which he published the notice last mentioned.

SECTION 51. TIME OF HOLDING ELECTION.

If an election is to be held not more than ninety (90) days nor less than thirty (30) days after the publication of such notice by the clerk, such proposed ordinance shall be submitted to a vote of the electors at such election. If no election is to be held within the time aforesaid, the election officers shall provide for submitting the proposed ordinance to the electors at a special election to be held no later than sixty (60) days nor earlier than thirty (30) days after the publication of such notice, if the petition for such ordinance and the petition for such election so demand, and if the signers of the two petitions amount in the aggregate to at least twenty-five percent (25%) of the registered voters in the municipality at the last regular municipal election. At least ten (10) days before any such election the clerk of the city commission shall cause such proposed ordinance to be published.

SECTION 52. ACCEPTED VOTING DEVICE.

The voting devices approved by the general laws of the State of Ohio used when voting upon any such proposed ordinance shall clearly state the title of the ordinance to be voted on, and shall provide for a vote "For" and "Against" the ordinance. If a majority of the electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the city.

SECTION 53. AMENDMENTS AND REPEALS.

No ordinance adopted by an electoral vote can be replaced or amended except by an electoral vote. But an ordinance to repeal or amend any such ordinance may, by resolution of the city commission, be submitted to an electoral vote at any regular election or at any special municipal election called for some other purpose, provided notice of the intention so to do be published by the city commission not more than sixty (60) nor less than thirty (30) days prior to such election, in the manner required for the publication of ordinances. If an amendment is so proposed, such notice shall contain the proposed amendment in full. Such submission shall be in the same manner, and the vote shall have the same effect, as in cases of ordinances submitted to an election by popular petition. Such ordinance to be voted upon shall be published in the manner provided by Section 20 hereof.

ARTICLE IX - REFERENDUM

SECTION 54. PETITION FOR REFERENDUM.

No ordinance passed by the city commission, unless it be an emergency measure or the annual appropriation ordinance, shall go into effect until fourteen (14) days after its final passage. If, at any time within said fourteen (14) days, a petition signed by ten percent (10%) of the total number of registered voters in the municipality at the last regular municipal election be filed with the clerk of the city commission, requesting that any such ordinance be repealed or amended as stated in the petition, it shall not become operative until the steps indicated herein have been taken. Such petition shall have stated therein the names and addresses of at least five (5) electors as a committee to represent the petitioners.

Referendum petitions need not contain the text of the ordinance or ordinances the repeal of which is sought, but shall contain the proposed amendment, if an amendment is demanded, and shall be subject in all other respects to the requirements for petitions submitting proposed ordinances to the City Commission. Voting devices used in referendum elections shall conform in all respects to those provided for in Section 52 of this Charter. (Amended 11-8-77, Ord. No. 77-295, Yeas 7,343; Nays 5,951.)

SECTION 55. PROCEEDINGS THEREUNDER.

The clerk of the city commission shall, at its next meeting, present the petition to the city commission, which shall proceed to reconsider the ordinance. If, within thirty (30) days after the filing of such petition, the ordinance be not repealed or amended as requested, the city commission shall provide for submitting the proposed repeal or amendment to a vote of the electors provided a majority of the committee named in the petition to represent the petitioners shall, by writing filed with the clerk of the city commission within twenty (20) days after the expiration of the said thirty (30) days, so require. In so doing the city commission shall be governed by the provisions of Section 50 hereof respecting the time of submission and the manner of voting on ordinances proposed to the city commission by petition; excepting that the question of calling a special election for such purpose shall be determined by the demand and number of signers of the petition requesting the repeal or amendment of such ordinance, which number shall be twenty-five percent (25%) of the registered voters in the municipality at the last regular municipal election; and excepting further that the city commission may call, and fix the time for, a special election for such purpose, if in its judgment the public interest will be prejudiced by delay.

If, when submitted to a vote of the electors, such repeal or amendment be approved by a majority of those voting thereon, it shall thereupon go into effect as an ordinance of the city; but, if any such amendment is clearly separable from the remainder of the ordinance and does not materially affect the other provisions of such ordinance, all sections of the ordinance except that sought to be amended and those dependent thereon shall take effect as though no referendum of any portion of the ordinance had been demanded.

SECTION 56. REFERENDUM ON INITIATED ORDINANCES; CONFLICT.

Ordinances submitted to the city commission by initiative petition and passed by the city commission without change, or passed in an amended form and not required to be submitted to a vote of the electors by the committee of the petitioners, shall be subject to the referendum in the same manner as other ordinances. If the provisions of two or more ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall prevail.

SECTION 57. EMERGENCY MEASURES.

Ordinances passed as emergency measures shall be subject to referendum in like manner as other ordinances, except that they shall go into effect at the time indicated in such ordinances. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder; but such measure so repealed shall be deemed sufficient authority for payment in accordance with the ordinance of any expense incurred previous to the referendum vote thereon.

SECTION 58. PRELIMINARY ACTION.

In case a petition be filed requiring that a measure passed by the city commission providing for an expenditure of money, a bond issue, or a public improvement be submitted to a vote of the electors, all steps preliminary to such actual issuance of bonds, or actual execution of a contract for such improvement, may be taken prior to the election.

ARTICLE X - RECALL

SECTION 59. RECALL PETITION.

Any or all members of the city commission may be removed from office by the electors by the following procedure:

A petition for the recall of the commissioner or commissioners designated, signed by at least five hundred (500) of the electors of the city, and containing a statement in not more than two hundred (200) words of the grounds of the recall, shall be filed with the clerk of the city commission, who shall forthwith notify the commissioner or commissioners sought to be removed, and he or they, within five (5) days after such notice, may file with such clerk of the city commission a defensive statement in not exceeding two hundred (200) words. The clerk of the city commission shall at once, upon expiration of said five (5) days, cause sufficient printed or typewritten copies of such petition, without the signatures, to be made, and to each of them he shall attach a printed or typewritten copy of such defensive statement, if one is furnished him within the time provided. The clerk of the city commission shall cause one copy of such petition to be placed on file in the said clerk's office, and provide facilities for the public signing the same, and shall also cause one copy to be placed in each of the several fire engine houses of the City, where the same shall be in the custody of the officer in charge of the house, who shall provide facilities for the public signing the same. The clerk of the city commission shall immediately cause notice to be published in some newspaper of general circulation in the city of the placing of such copies of such petition.

Such copies of such petition shall remain on file in the several places designated for the period of thirty (30) days, during which time any of them may be signed by any registered voter in the municipality, but not by agent or attorney.

SECTION 60. NOTICE.

At the expiration of said period of thirty (30) days, the clerk of the city commission shall assemble all of said copies in his office as one instrument and shall examine the same and ascertain and certify thereon whether the signatures thereto amount to at least fifteen percent (15%) of the registered voters in the municipality at the last regular municipal election of the city. If such signatures do amount to such percent, he shall at once serve notice of that fact upon the commissioner or commissioners designated in the petition, and also deliver to the election authorities a copy of the original petition with his certificate as to the percentage of registered voters who signed the same, and a certificate as to the date of his last mentioned notice to the commissioner or commissioners designated in the petition.

SECTION 61. RECALL ELECTION.

If the commissioner or commissioners, or any of them, designated in the petition file with the clerk of the city commission within five (5) days after the last mentioned notice from the said clerk of the city commission his or their written resignation, the clerk of the city commission shall at once notify the election authorities of that fact; and such resignation shall be irrevocable, and the city commission shall proceed to fill the vacancy. In the absence of any such resignation, the election authorities shall forthwith order and fix a day for holding a recall election for the removal of those not resigning. Any such election shall be held not less than thirty (30) nor more than sixty (60) days after the expiration of the period of five (5) days last mentioned, and at the same time as any other general or special election held within such period; but if no such election be held within such period, the election authorities shall call a special recall election to be held within the period aforesaid.

SECTION 62. VOTING DEVICES.

The voting devices used at such recall election shall conform to the following requirements. With respect to each person whose removal is sought, the question shall be submitted: "Shall (name of person) be removed from the office of city commission by recall?" Adjacent to each such question, there shall be clearly indicated a place for those voting in favor of the recall of the person in question and there shall also be clearly indicated a place for those voting against the recall of the person in question.

SECTION 63. FILLING OF VACANCIES.

In any such election, if a majority of the votes cast on the question of removal of any commissioner are affirmative, the person whose removal is sought shall thereupon be deemed removed from office upon the announcement of the official canvass of that election, and the vacancy caused by such recall shall be filled by the remainder of the city commission according to the provisions of Section 11 of this Charter.

If, however, an election is held for the recall of more than two (2) commissioners, candidates to succeed them for their unexpired terms shall be voted upon at the same election, and shall be nominated without primary election, by petitions signed, dated and verified in the manner required for petitions presenting names of candidates for nomination at a primary election, and similar in form to such petitions, but signed by electors equal in number to at least five percent (5%) of the registered voters in the municipality at the last regular municipal election of the city, and filed with the election authorities at least thirty (30) days prior to such recall election. But no such nominating petition shall be signed or circulated until after the time has expired for signing the copies of the petition for the recall, and any signatures thereon antedating such time shall not be counted.

SECTION 64. COUNTING THE VOTE.

Candidates shall not be nominated to succeed any particular commissioner; but if only one commissioner is removed at such election, the candidate at such election receiving the highest number of votes shall be declared elected to fill the vacancy; and if more than one commissioner is removed at such election, such candidates equal in number to the number of commissioners removed shall be declared elected to fill the vacancies; and among the successful candidates, those receiving the greater number of votes shall be declared elected for the longer terms. Cases of ties, and all other matters not herein specially provided for, shall be determined by the rules governing elections generally.

SECTION 65. EFFECT OF RESIGNATIONS.

No proceedings for the recall of all of the members of the city commission at the same election shall be defeated in whole or in part by the resignation of any or all of them, but upon the resignation of any of them the city commission shall have power to fill the vacancy until a successor is elected, and the proceedings for the recall and the election of successors shall continue and have the same effect as though there had been no resignation.

SECTION 66. MISCELLANEOUS PROVISIONS.

Except as herein otherwise provided, no petition to recall any commissioner shall be filed within six (6) months after he takes office. No person removed by recall shall be eligible to be elected or appointed to the city commission for a period of two (2) years after the date of such recall. The clerk of the city commission shall preserve in his office all papers comprising or connected with a petition for a recall for a period of one (1) year after the same were filed. The method of removal herein provided is in addition to such other methods as are or may be provided by general law.

SECTION 67. OFFENSES RELATING TO PETITIONS.

No person shall falsely impersonate another, or purposely write his name or residence falsely, in the signing of any petition for initiative, referendum, or recall, or forge any name thereto, or sign any such paper with knowledge that he is not a qualified elector of the municipality. No person shall sign, or knowingly permit to be signed, any petition for recall at any place other than one of the places hereinbefore designated for the signing of such petitions. Nor shall any person employ or pay another, or accept employment or payment, for circulating any initiative or referendum petition upon the basis of the number of signatures procured thereto. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined in a sum not to exceed one hundred dollars and the costs of prosecution. The foregoing provisions shall not be held to be exclusive of, but in addition to, all laws of the State prescribing penalties for the same offenses or for other offenses relating to the same matter.

ARTICLE XI - FRANCHISES

SECTION 68. GRANTS LIMITED.

No grant, or renewal thereof, to construct and operate a public utility in the streets and public grounds of the city shall be made by the city commission to any individual, company or corporation in violation of any of the limitations contained in this Charter.

SECTION 69. PERIOD OF GRANTS.

No such grant shall be exclusive, nor shall it be made for a longer period than twenty (20) years. No such grant shall be renewed earlier than two (2) years prior to its expiration unless the city commission shall by vote of at least four (4) of its members first declare by ordinance its intention of considering a renewal thereof. All grants of the right to make extensions of any public utility shall be subject as far as practicable to the terms of the original grant and shall expire therewith.

SECTION 70. ASSIGNMENT.

No such grant shall be leased, assigned or otherwise alienated except with the express consent of the city commission.

SECTION 71. RIGHT OF PURCHASE.

All such grants shall reserve to the city the right to purchase or lease all the property of the utility used in or useful for the operation of the utility, at a price either fixed in the ordinance making the grant, or to be fixed in the manner provided by such ordinance, which price shall in no event include any value for the grant. Nothing, in such ordinance, shall prevent the city from acquiring such property by condemnation proceedings or in any other lawful mode, which rights shall be in addition to those reserved in such ordinance. Upon the acquisition of such property by purchase, condemnation or otherwise, all grants shall at once terminate.

SECTION 72. EXTENSION BY ANNEXATION.

It shall be provided in every such grant that upon the annexation of any territory to the city the portion of any such utility that may be located within such annexed territory and upon the streets, alleys or public grounds thereof, shall thereafter be subject to all the terms of the grant as though it were an extension made thereunder.

SECTION 73. RIGHT OF REGULATION.

All grants shall be subject to the right of the city, whether in terms reserved or not, to control at all times the distribution of space in, over, under or across all streets, alleys or public grounds occupied by public utility fixtures, and, when in the opinion of the city commission the public interest so requires, such fixtures may be caused to be reconstructed, relocated, altered or discontinued; and said city shall at all times have the power to pass all regulatory ordinances affecting such utilities which in the opinion of the city commission are required in the interest of the public health, safety or accommodation.

SECTION 74. FORFEITURES.

If any action shall be instituted or prosecuted directly or indirectly by the grantee of any such grant, or by its stockholders or creditors, to set aside or have declared void any of the terms of any such grant, the whole of such grant may be thereupon forfeited and annulled at the option of the city commission to be expressed by ordinance. All such grants shall make provision for the declaration of a forfeiture by the city commission for the violation by the grantee of any of the terms thereof.

SECTION 75. ACCOUNTS AND REPORTS.

Every person or corporation operating a public utility within the city limits, whether under a grant heretofore or hereafter obtained, shall keep and maintain at some place within the city suitable and complete books of account, showing in detail the assets, financial obligation, gross revenue, net profits and all the operations of such utility which are usually shown by a complete system of bookkeeping.

Each such person or corporation, within sixty (60) days after the end of each of its fiscal years, unless the city commission shall extend the time, shall file with the city commission a report for the preceding fiscal year showing the gross revenue, the net profits, expenses or repairs, betterments and additions, amount paid for salaries, amount paid for interest and discount, other expenses or operation, and such other information, if any, as the city commission from time to time may prescribe. If the city commission shall prescribe the form for such reports, then such reports shall be made in the form from time to time prescribed by such commission.

It shall be the duty of each such person or corporation to furnish the city commission such supplementary or special information about its affairs as the commission may demand; and the commission, or its authorized representative, shall at any and all reasonable times have access to all books, records and papers of each and every such person or corporation, with privilege of taking copies of same or any part thereof.

The duties herein prescribed may be specifically enforced by appropriate legal proceedings; and in addition, each such person or corporation, for failure to comply with the provisions of this section, shall be liable to The city of Springfield, Ohio, in the sum of two hundred fifty dollars per day for each day of such failure, to be recovered in a civil action in the name of the city.

The provisions of this section do not apply to any utility extending in its operations to other communities not properly suburban to The city of Springfield, Ohio; but the city commission by ordinance may make the same, or any part thereof, applicable to the portion of any such utility operated within the limits of the city.

SECTION 76. GRANTS NOT INCLUDED.

Revocable permits for laying spur tracks across or along streets, alleys or public grounds, to connect a railroad with any property in need of switching facilities, shall not be regarded as a grant within the meaning of this Charter, but may be permitted in accordance with such terms and conditions as the city commission may by ordinance prescribe. Such revocable permits shall be in writing and filed with the clerk of the city commission.

SECTION 77. GENERAL PROVISIONS.

Nothing in this Charter contained shall be operated in any way, except as herein specifically stated, to limit the city commission in the exercise of any of its lawful powers respecting public utilities, or to prohibit the city commission from imposing in any such grant such further restrictions and provisions as it may deem to be in the public interest, provided only that the same are not inconsistent with the provisions of this Charter or the constitution of the state.

ARTICLE XII - GENERAL PROVISIONS

SECTION 78. ORDINANCES CONTINUED IN FORCE.

All ordinances and resolutions in force at the time of the taking effect of this Charter, not inconsistent with its provisions, shall continue in full force and effect until amended or repealed.

SECTION 79. CONTINUANCE OF PRESENT OFFICERS.

All persons holding office at the time this Charter is adopted, shall continue in office and in the performance of their duties until provision shall have been otherwise made in accordance with this Charter for the performance or discontinuance of the duties of any such office. When such provision shall have been made the term of any such officer shall expire and the office be deemed abolished. The powers which are conferred and the duties which are imposed upon any officer, board or department of the city under the laws of the state, or under any city ordinance or contract in force at the time of the taking effect of this act shall, if such office or department is abolished by this Charter, be thereafter exercised and discharged by the commission, officer, board or department upon whom are imposed corresponding functions, powers and duties by this Charter or by any ordinance or resolution of the city thereafter enacted.

SECTION 80. CONTINUANCE OF CONTRACTS AND VESTED RIGHTS.

All vested rights of the city shall continue to be vested and shall not in any manner be affected by the adoption of this Charter; nor shall any right or liability, or pending suit or prosecution, either in behalf of or against the city, be in any manner affected by the adoption of this Charter, unless otherwise herein expressly provided to the contrary. All contracts entered into by the city or for its benefit prior to the taking effect of this Charter shall continue in full force and effect. All public work begun prior to the taking effect of this Charter shall be continued and perfected hereunder. Public improvements for which legislative steps shall have been taken under laws in force at the time this Charter takes effect may be carried to completion in accordance with the provisions of such laws.

SECTION 81. INVESTIGATION.

The city commission, or any committee thereof, the city manager and any advisory board appointed by the commission for such purpose, shall have power at any time to cause the affairs of any department or the conduct of any officer or employee to be investigated; and for such purpose shall have power to compel the attendance of witnesses and the production of books, papers and other evidence; and for that purpose may issue subpoenas or attachments which shall be signed by the president or chairman of the body or by the officer making the investigation, and shall be served by any officer authorized by law to serve such process. The authority making such investigation shall also have power to cause the testimony to be given under oath to be administered by some officer authorized by general law to administer oaths; and shall also have power to punish as for contempt any person refusing to testify to any fact within his knowledge, or to produce any books or papers under his control, relating to the matter under investigation.

SECTION 82. OATH OF OFFICE.

All officers before taking office shall take the oath of office prescribed by law; but the oath of office of city commissioner shall be in writing and be filed with the clerk of the city commission and shall contain the assertion that in his candidacy for nomination and election he has not violated any provisions of Section 5 of this Charter.

SECTION 83. AMENDMENT OF CHARTER.

Amendments to this Charter may be submitted to the electors of the city by a two-thirds vote of the city commission, and shall be submitted to such electorate when a petition is filed by ten percent (10%) of the registered voters in the municipality at the last regular municipal election of the city, setting forth any such approved amendments as received by the city commission. The ordinance providing for the submission of any such amendment shall require that it be submitted to the electors of the city at the next regular municipal election if one shall occur not less than sixty (60) nor more than one hundred twenty (120) days after its passage; otherwise, it shall provide for the submission of the amendment at a special election to be called and held within the time aforesaid. Not less than thirty (30) days prior to such election the clerk of the City Commission shall mail a copy of the proposed amendment to each elector whose name appears upon the poll or registration books at the last regular municipal or general election. If such proposed amendment is approved by a majority of the electors voting thereon, it shall become a part of the Charter at the time fixed therein.

SECTION 84. SAVING CLAUSE.

If any section or part of a section of this Charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force, or effect of any other section or part of a section of this Charter, unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held unconstitutional or invalid.

SECTION 85. WHEN CHARTER TAKES EFFECT.

For the purpose of nominating and electing officers and all purposes connected therewith and for the purpose of exercising the powers of the city as provided herein, this Charter shall take effect from the time of its approval by the registered voters in the municipality at the last election of the city. For the purpose of establishing departments, divisions, and officers and distributing the functions thereof, and for all other purposes, it shall take effect on the first day of January, 1966.

SECTION 86. GENERAL DISQUALIFICATIONS.

No member of the city commission, the city manager or any other officer or employee of the city, shall directly or indirectly be interested in any contract, job, work or service with or for the city; nor in the profits or emoluments thereof, nor in the expenditure of any money on the part of the city other than his fixed compensation; and any contract with the city in which any such officer or employee is, or becomes, interested may be declared void by the city commission.

No member of the city commission, the city manager or other officer or employee of the city shall knowingly accept any gift, frank, free ticket, pass, reduced price or reduced rate of service from any person, firm or corporation operating a public utility or engaged in business of a public nature within the city, or from any person known to him to have or to be endeavoring to secure a contract with the city. But the provisions of this section shall not apply to the transportation of policemen or firemen in uniform or wearing their official badges, when the same is, or may be, provided by ordinance.

SECTION 87. POLITICAL ACTIVITY.

Neither the city manager nor any other person in the employ of the city, except elected officials, shall take any active part in securing, or contribute any money toward, the nomination or election of any candidate or candidates for the office of city commissioner or mayor, except to answer such questions as may be put to them and as they may desire to answer.

(Amended 5-7-02, Ord. No. 02-120, Yeas 3,105; Nays 1,265.)

SECTION 88. PENALTIES.

The provisions of the last two preceding sections shall not be considered exclusive, but as an addition to any other provision of the general laws of the state applicable to the case; and a violation of any provisions of either of such sections shall subject the offender to removal from his office or employment, and to punishment by a fine of not exceeding one hundred dollars.

SECTION 89. MEETINGS.

All meetings, except executive sessions, of the City Commission and other boards, commissions, and committees of the City are open to the public. The City Commission and other boards, commissions, and committees of the City shall comply with Ohio Revised Code Section 121.22 as presently in effect, or hereafter enacted.

(Amended 5-8-90, Ord. No. 90-148, Yeas 7,468; Nays 2,969.)

SECTION 90. RESTRICTION OF CITY COMMISSION'S URBAN RENEWAL POWERS.

(EDITOR'S NOTE: This section was repealed by the voters May 4, 1971.)

SECTION 91. RESTRICTION OF CITY COMMISSION'S FAIR HOUSING POWERS.

The city commission of The City of Springfield shall not enact any ordinance regulating the sale, renting, leasing, subleasing, listing, advertisement, transfer, assignment or financing of real property (other than the furnishing of facilities and lodging in establishments of public accommodation) referable to consideration of race, color, religion, national origin or ancestry unless such measure first shall have been submitted to and approved by the electors of The City of Springfield, Ohio. The procedure for the submission of such plan to the electorate shall be the same as those provided in Sections 50, 51 and 52 of the Charter of The City of Springfield for the submission to the electorate of an initiated ordinance. Any such ordinance in effect at the time of adoption of this section automatically shall cease to be effective until approved by the electors as provided above.

(Enacted 11-7-67.)

SECTION 92. POLICE AND FIRE DIVISIONS.

The city commission shall have the sole duty and right to classify, reorganize and abolish positions, by ordinance, in the Police and Fire Divisions and such duty and right shall not be delegated to any City official or department. On the date of enactment of this section, all positions and ranks in the Police and Fire Divisions shall be as classified on January 1, 1970, and any change therein shall be made only as set forth in this section. In providing for the classification of the personnel of the Police and Fire Divisions, the City Commission shall not abolish any position until a vacancy shall have occurred therein.

(Enacted 11-3-70, Ord. No. 70-117, Yeas 9,709; Nays 8,526.)

SECTION 93. FIRE DIVISION; FIRE PROTECTION AND EMERGENCY SERVICES MANPOWER.

There is established within the government of The City of Springfield a Fire Division. The Fire Division shall protect the lives and property of the people in case of fire and shall perform emergency medical and/or rescue services in The City of Springfield, and shall be the sole and exclusive, publicly-funded enterprise providing these services.

The said Fire Division shall consist of:

1. No fewer than 127 firemedics and/or firemedics/paramedics, including a Fire Chief of the Fire Division;
2. In addition to the above described 127 firemedics and/or firemedics/paramedics, such additional officers and employees as are established by ordinance and law.

Each firemedic and/or firemedic/paramedic in the Fire Division shall be a paid, full-time employee of the city of Springfield who is assigned to that position for no fewer than forty (40) hours per week who is pursuing or who has successfully completed a firefighter training program approved and established pursuant to Ohio law.

The City Manager shall fill firemedic and/or firemedic/paramedic vacancies no later than twenty-one (21) days after a vacancy in said position occurs.

The foregoing provision shall become effective and a part of the Charter of The City of Springfield on the thirtieth (30th) day after approval by a majority of the electors voting thereon.

(Amended 11-6-90, Ord. No. 90-473, Yeas 11,810; Nays 6,108.)

SECTION 94. FEES AND ASSESSMENTS.

No fees or assessments can be made by the City Commission for the operation, collection or disposal of residential refuse. No fees or assessments can be made by the City Commission for the operation or maintenance of street lights.

All fees and assessments related to residential refuse or street lights must be presented by the City Commission to the electorate in a general election.

(Enacted 5-5-87, Ord. No. 87-118.)

SECTION 95. POLICE DIVISION; SPECIAL ASSESSMENT FOR ADDITIONAL PERSONNEL.

There shall be levied an additional tax for the benefit of The City of Springfield, Ohio, at a rate of three (3) mills for each one dollar (\$1.00) of valuation, which amounts to thirty cents (\$0.30) for each one hundred dollars (\$100.00) of valuation, which shall be for the specific purpose of hiring, training, maintaining and supporting twenty-four (24) additional sworn, full-time police officers within the Springfield Police Division.

The Levy shall remain in effect for a period of five (5) years upon the approval by a majority of the electors voting thereon and shall be renewable in five (5) year increments by a majority of the electors voting thereon, and shall commence in tax year 1990, first half.

The City shall have accomplished the hiring of these additional police officers specified herein no later than December 31st, 1992. After December 31st, 1992, and for the duration of this assessment, the Springfield Police Division shall consist of no fewer than one hundred and twenty-four (124) full-time sworn police officers, and a minimum of six (6) such officers shall be assigned to the narcotics unit. Only a person who is pursuing, or who has successfully completed, an appropriate police officer training program approved and established pursuant to state law, shall hold one of the one hundred and twenty-four (124) police officer positions stated herein.

All monies generated by this assessment and received by the city of Springfield shall be placed in a separate interest-bearing fund, and any and all interest accrued remain in such fund. Any monies withdrawn from this fund by The City of Springfield shall be used only for the specific purposes stated herein, namely: hiring, training, maintaining, and supporting twenty-four (24) additional sworn full-time police officers within the Springfield Police Division.

The foregoing provision shall become effective and a part of the Charter of The City of Springfield on the thirtieth (30th) day after approval by a majority of the electors voting thereon.

(Enacted 5-8-90, Ord. No. 90-131, Yeas 6,264; Nays 4,791.)

SECTION 96. POLICE DIVISION; SPECIAL ASSESSMENT FOR ADDITIONAL PERSONNEL.

There shall be levied a renewal tax for the benefit of The City of Springfield, Ohio, at a rate of three (3) mills for each one dollar (\$1.00) of valuation, which amounts to thirty cents (\$0.30) for each one hundred dollars (\$100.00) of valuation, which shall be for the specific purpose of hiring, training, maintaining, and supporting at least twenty-four (24) sworn, full-time police officers within the Springfield Police Division.

The levy shall remain in effect for a period of six (6) years upon the approval by a majority of the electors voting thereon, and shall be renewable in six-year increments by a majority of the electors voting thereon, and shall commence in tax year 1995, first half.

For the duration of this assessment, the Springfield Police Division shall consist of no fewer than one hundred and twenty-four (124) full-time sworn police officers, and a minimum of six (6) such officers shall be assigned to the Narcotics Unit. Only a person who is pursuing, or has successfully completed, an appropriate police officer training program approved and established pursuant to State law, shall hold one of the one hundred and twenty-four (124) police officer positions stated herein.

All monies generated by this assessment and received by The City of Springfield shall be placed in a separate interest-bearing fund, and any and all interest accrued remain in such fund. Any monies withdrawn from this fund by The City of Springfield shall be used only for the specific purposes stated herein, namely: hiring, training, maintaining, and supporting twenty-four (24) sworn, full-time police officers within the Springfield Police Division. No moneys withdrawn from this fund by The City of Springfield may be used to pay for the salaries or benefits of the first one-hundred (100) sworn, full-time police officers within the Springfield Police Division, unless such position has become necessary to support officers hired pursuant to the May, 1990, police levy, or this levy.

The foregoing provision shall become effective and a part of the Charter of The City of Springfield, Ohio, on the thirtieth (30th) day after approval by a majority of the electors voting thereon.

(Enacted 5-2-95, Ord. No. 95-70, Yeas 4,605; Nays 1,708.)

SECTION 97. POLICE DIVISION; SPECIAL ASSESSMENT FOR ADDITIONAL PERSONNEL.

There shall be levied a renewal tax for the benefit of The City of Springfield, Ohio, at a rate of three (3) mills for each one dollar (\$1.00) of valuation, which amounts to thirty cents (\$0.30) for each one hundred dollars (\$100.00) of valuation, which shall be for the specific purpose of hiring, training, maintaining, and supporting at least twenty-four (24) sworn, full-time police officers within the Springfield Police Division.

The levy shall remain in effect until such time as it is amended or repealed pursuant to Section 83 of the Charter upon the approval of a majority of the electors voting thereon, and shall commence in tax year 2001, first half.

For the duration of this assessment, the Springfield Police Division shall consist of no fewer than one hundred and twenty-four (124) full-time sworn police officers, and a minimum of six (6) such officers shall be assigned to the Narcotics Unit. Only a person who is pursuing, or has successfully completed, an appropriate police officer training program approved and established pursuant to State law, shall hold one of the one hundred and twenty-four (124) police officer positions stated herein.

All monies generated by this assessment and received by The City of Springfield shall be placed in a separate interest-bearing fund, and any and all interest accrued remain in such fund. Any monies withdrawn from this fund by The City of Springfield shall be used only for the specific purposes stated herein, namely: hiring, training, maintaining, and supporting twenty-four (24) sworn, full-time police officers within the Springfield Police Division. No moneys withdrawn from this fund by The City of Springfield may be used to pay for the salaries or benefits of the first one-hundred (100) sworn, full-time police officers within the Springfield Police Division, unless such position has become necessary to support officers hired pursuant to the May 1990 police levy, the May 1995 police levy, or this levy.

The foregoing provision shall become effective and a part of the Charter of The City of Springfield, Ohio, on the thirtieth (30th) day after approval by a majority of the electors voting thereon.

(Enacted 5-8-01, Ord. No. 01-50, Yeas 2,851; Nays 1,204.)

CODIFIED ORDINANCES OF SPRINGFIELD

PART ONE--ADMINISTRATIVE CODE

TITLE ONE--General Provisions

- Chap. 101. Codified Ordinances.
- Chap. 107. Territorial Jurisdiction.
- Chap. 109. Open Meetings.

TITLE THREE--Legislative

- Chap. 111. City Commission.
- Chap. 113. Clerk of the City Commission.
- Chap. 115. Public Emergency.

TITLE FIVE--Administrative

- Chap. 121. City Manager.
- Chap. 123. Department of Law.
- Chap. 125. Department of Finance.
- Chap. 127. Department of Central Services.
- Chap. 128. Department of Information Technology.
- Chap. 129. Department of Community Development.
- Chap. 130. Department of Engineering. (Repealed)
- Chap. 133. Department of Parks, Recreation, and Facilities.
- Chap. 135. Department of Human Resources.
- Chap. 137. Department of Public Health.
- Chap. 139. Department of Public Safety.
- Chap. 140. Institutional Special Police Officers.
- Chap. 141. Service Department.
- Chap. 145. Municipal Contracts.
- Chap. 147. Municipal Finances.
- Chap. 149. Municipal Property.
- Chap. 151. Issue and Sale of Bonds and Notes.
- Chap. 153. Disadvantaged and Minority Business Enterprises.
- Chap. 155. City Contracts and Affirmative Action.

TITLE SEVEN--Boards and Commissions

- Chap. 157. Planning Board.
- Chap. 163. Civil Service Commission.
- Chap. 165. Airport Advisory Board.
- Chap. 167. Mediation Board.
- Chap. 169. Wrestling Commission.
- Chap. 170. Community Police Advisory Team.

- Chap. 171. Human Relations Board and Regulations.
- Chap. 172. Community Advisory Review Board.
- Chap. 173. Fair Housing Board and Regulations.
- Chap. 174. ADA Transportation Advisory Committee.

TITLE NINE--Employment Provisions

- Chap. 175. Employee Classification Compensation Plan.
- Chap. 185. Fringe Benefits.
- Chap. 187. Fidelity Bonds.
- Chap. 188. Police Division.
- Chap. 189. Promotional Examinations for Police and Fire Divisions.

TITLE ELEVEN--Judicial

- Chap. 191. Municipal Court.

TITLE THIRTEEN--Taxation

- Chap. 195. Tax on Earned Income.
- Chap. 196. Municipal Income Tax on Earned Income.
- Chap. 197. Hotel Excise Tax.
- Chap. 199. Motor Vehicle License Tax.

CODIFIED ORDINANCES OF SPRINGFIELD

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

- Chap. 101. Codified Ordinances.
- Chap. 107. Territorial Jurisdiction.
- Chap. 109. Open Meetings.

CHAPTER 101

Codified Ordinances

- 101.01 Designation; citation; headings.**
- 101.02 General definitions.**
- 101.03 Rules of construction.**
- 101.04 Revivor; effect of amendment or repeal.**
- 101.05 Construction of section references.**
- 101.06 Conflicting provisions.**
- 101.07 Determination of legislative intent.**
- 101.08 Severability.**
- 101.09 General penalty.**

CROSS REFERENCES

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

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Springfield, Ohio, 1991 for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances.

(ORC 1.01)

(b) All references to codes, titles, chapters and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 101.01".

(c) The numbering format for the Codified Ordinances shall commence with a whole number for Chapters, decimal numbers for sections, lower case letters for subsections and so on in conformity with the format used for the Ohio Revised Code.

101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless another definition is provided or the context otherwise requires:

- (a) "And" may be read "or", and "or" may be read "and", if the sense requires it.

(ORC 1.02(F))

- (b) "Another" when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.

(ORC 1.02(B))

- (c) "Bond" includes an undertaking and "undertaking" includes a bond. (ORC 1.02(D), (E))

- (d) "Commission" means the legislative authority of the City of Springfield, Ohio.

- (e) "County" means Clark County, Ohio.

- (f) "Keeper" or "proprietor" includes all persons, whether acting by themselves or as a servant, agent or employee.

- (g) "Land" or "real estate" includes rights and easements of an incorporeal nature.

(ORC 701.01(F))

- (h) "Municipality" or "City" means the City of Springfield, Ohio.

- (i) "Oath" includes affirmation and "swear" includes affirm.

(ORC 1.59(B))

- (j) "Owner", when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.

- (k) "Parachurch organization" is a non-profit entity organized for a religious purpose, engaged in activity consistent with and in furtherance of that purpose that holds itself out to the public as religious or faith-based and is not engaged primarily in commercial activity.

- (l) "Person" includes an individual, corporation, business trust, estate, trust, partnership and association.
(ORC 1.59(C))
- (m) "Premises", as applied to property, includes land and buildings.
- (n) "Property" means real and personal property.
(ORC 1.59(E))
"Personal property" includes all property except real.
"Real property" includes lands, tenements, and hereditaments.
- (o) "Public authority" includes boards of education; the Municipal, County, State or Federal government, its officers or an agency thereof; or any duly authorized public official.
- (p) "Public place" includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.
- (q) "Registered mail" includes certified mail and "certified mail" includes registered mail.
(ORC 1.02(G))
- (r) "Rule" includes regulation. (ORC 1.59(F))
- (s) "Sidewalk" means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.
- (t) "Sexual orientation" means a person's actual or perceived heterosexuality, bisexuality, homosexuality or gender identity, by orientation or practice by and between consenting adults.
- (u) "This State" or "the State" means the State of Ohio.
(ORC 1.59(G))
- (v) "Street" includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.
- (w) "Tenant" or "occupant", as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.
- (x) "Whoever" includes all persons, natural and artificial; partners; principals, agents and employees; and all officials, public or private.
(ORC 1.02(A))
- (y) "Written" or "in writing" includes any representation of words, letters, symbols or figures. This provision does not affect any law relating to signatures.
(ORC 1.59(J))
(Ord. 18-24. Passed 1-30-18.)

101.03 RULES OF CONSTRUCTION.

(a) Common and Technical Usage. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.
(ORC 1.42)

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

- (1) The singular includes the plural, and the plural includes the singular.
 - (2) Words of one gender include the other genders.
 - (3) Words in the present tense include the future.
- (ORC 1.43)

(c) Calendar; Computation of Time.

(1) Definitions.

- A. "Week" means seven consecutive days.
- B. "Year" means twelve consecutive months.

(ORC 1.44)

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

(ORC 1.45)

(3) The time within which an act is required by law to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday.

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

(ORC 1.14)

(4) When legislation is to take effect or become operative from and after a day named, no part of that day shall be included.

(ORC 1.15)

(5) In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

(d) Authority. When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(e) Joint Authority. All words purporting to give joint authority to three or more municipal officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority or inconsistent with State statute or Charter provisions.

(f) Exceptions. The rules of construction shall not apply to any law which shall contain any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

- (a) The repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving clause therein.
(ORC 1.57)
- (b) An ordinance which is re-enacted or amended is intended to be a continuation of the prior ordinance and not a new enactment, so far as it is the same as the prior ordinance.
(ORC 1.54)
- (c) The re-enactment, amendment or repeal of an ordinance does not, except as provided in subsection (d) hereof:
- (1) Affect the prior operation of the ordinance or any prior action taken thereunder;
 - (2) Affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded or incurred thereunder;
 - (3) Affect any violation thereof or penalty, forfeiture or punishment incurred in respect thereto, prior to the amendment or repeal;
 - (4) Affect any investigation, proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment; and the investigation, proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment imposed, as if the ordinance had not been repealed or amended.
- (d) If the penalty, forfeiture or punishment for any offense is reduced by a re-enactment or amendment of an ordinance, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the ordinance as amended.
(ORC 1.58)

101.05 CONSTRUCTION OF SECTION REFERENCES.

- (a) A reference to any portion of the Codified Ordinances applies to all re-enactments or amendments thereof.
(ORC 1.55)
- (b) If a section refers to a series of numbers or letters, the first and the last numbers or letters are included.
(ORC 1.56)
- (c) Wherever in a penalty section reference is made to a violation of a series of sections or of subsections of a section, such reference shall be construed to mean a violation of any section or subsection included in such reference.
- References in the Codified Ordinances to action taken or authorized under designated sections of the Codified Ordinances include, in every case, action taken or authorized under the applicable legislative provision which is superseded by the Codified Ordinances.
(ORC 1.23)

101.06 CONFLICTING PROVISIONS.

- (a) If there is a conflict between figures and words in expressing a number, the words govern.
(ORC 1.46)
- (b) If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.
(ORC 1.51)
- (c) (1) If ordinances enacted at different meetings of Council are irreconcilable, the ordinance latest in date of enactment prevails.
(2) If amendments to the same ordinance are enacted at different meetings of Council, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation.
(ORC 1.52)

101.07 DETERMINATION OF LEGISLATIVE INTENT.

- (a) In enacting an ordinance, it is presumed that:
- (1) Compliance with the constitutions of the State and of the United States is intended;
 - (2) The entire ordinance is intended to be effective;
 - (3) A just and reasonable result is intended;
 - (4) A result feasible of execution is intended.
- (ORC 1.47)
- (b) An ordinance is presumed to be prospective in its operation unless expressly made retrospective.
(ORC 1.48)
- (c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:
- (1) The object sought to be attained;
 - (2) The circumstances under which the ordinance was enacted;
 - (3) The legislative history;
 - (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
 - (5) The consequences of a particular construction;
 - (6) The administrative construction of the ordinance.
- (ORC 1.49)

101.08 SEVERABILITY.

If any provision of a section of the Codified Ordinances or the application thereof to any person or circumstance is held invalid, the invalidity does

not affect the other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.
(ORC 1.50)

101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be punished by a fine not exceeding one hundred dollars (\$100.00). A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

CHAPTER 107

Territorial Jurisdiction

107.01 Police and sanitary regulations outside City.

CROSS REFERENCES

Police jurisdiction outside City - see Ohio R.C. 715.50

Operation of airfields - see Ohio R.C. 717.01(V)

Fire protection outside City limits - see S.U. & P.S. Ch. 955

107.01 POLICE AND SANITARY REGULATIONS OUTSIDE CITY.

Provisions and requirements of all ordinances and resolutions of the City, whether now in effect or hereafter enacted or adopted relating to, or involving the exercise of, or providing for the enforcement of, or prescribing penalties for the violation of police and sanitary regulations and powers of the City within its corporate limits shall be and the same hereby are extended, to the extent that the same are or may be applicable to the protection thereof, to all lands owned and used by the City, whether the same are situated within or without the corporate limits of the City.
(Ord. 69-182. Passed 10-20-69.)

CHAPTER 109

Open Meetings

109.01 Meetings to be open; compliance with State law.

109.02 Notice of meetings.

CROSS REFERENCES

State law provisions - see Ohio R.C. 121.22

City Commission meetings - see ADM. 111.01

109.01 MEETINGS TO BE OPEN; COMPLIANCE WITH STATE LAW.

All meetings, except executive sessions, of the City Commission and other boards, commissions and committees of the City are open to the public. The City Commission and other boards, commissions and committees of the City shall comply with Ohio R.C. 121.22 as presently in effect, or hereafter enacted.
(Ord. 90-158. Passed 3-13-90.)

109.02 NOTICE OF MEETINGS.

The City Clerk shall cause notice of meetings held by public bodies created under the City's municipal powers as follows:

(a) Notice of the time and place of regularly scheduled meetings for each such public body shall be:

- (1) Published once in a newspaper of general circulation within the community within seven (7) days after the public body has established a schedule, or amendment thereto, of its regularly scheduled meetings.
 - (2) Published by mail to those persons making a written request to the City Clerk to be notified in advance of meetings and providing the City with a self-addressed envelope with sufficient postage thereon to mail such notification.
- (b) At least twenty-four (24) hours advance notice of the time, place, and purpose of special meetings of a public body shall be given as follows:
- (1) Published on the bulletin boards located on floors 2, 3, and 4 of City Hall.
 - (2) Published by giving telephone notice to news media agencies that have requested notification of special meetings.
- (c) Notwithstanding the provisions of paragraph (b), in the event a special meeting is called to deal with an emergency requiring immediate official action, where it is not possible to give twenty-four (24) hours advance notice of the meeting, the City Clerk shall give notice described in paragraph (b) as quickly as practicable.
- (d) The City Clerk is authorized to delegate the duty to give notice in accordance with the requirements of this section to the person appointed as secretary by a public body.

(Ord. 00-46, Passed 2-15-00; Ord. 12-339, Passed 12-4-12.)

TITLE THREE - Legislative

Chap. 111. City Commission.

Chap. 113. Clerk of the City Commission.

Chap. 115. Public Emergency.

CHAPTER 111

City Commission

111.01 Meetings.

111.02 Procedure for lease, sale or conveyance of City owned property.

111.03 Salary of City Commission members; Compensation Board.

111.04 Member of City employee's family defined.

CROSS REFERENCES

The City Commission--see CHTR. Sec. 4 et seq.
Meetings--see CHTR. Sec. 14
Ordinances--see CHTR. Sec. 17 et seq.
Disqualifications--see CHTR. Sec. 86
Powers of municipal councils--see Ohio R.C. 731.05 et seq.; 731.43
Clerk of City Commission--see ADM. Ch. 113

111.01 MEETINGS.

The City Hall Forum is the usual place for holding regular meetings of the City Commission.

The meeting following a regular municipal election for newly elected Commissioners to assume the duties of their office shall be held as required Section 14 of the Charter. Other meetings shall be held in accordance with an annual calendar which the City Commission shall adopt by motion. Said motion shall specifically identify any meeting not held on a Tuesday, the Commission's regular day for meeting, or any meeting not commencing at 7 p.m., the Commission's regular time for convening its meetings. The calendar of meetings shall be made available to the public.

The City Commission's calendar of meetings shall comply with the further requirement of Section 14 of the Charter, to assure that the City Commission meets not less than 48 times within any calendar year and with no meeting being more than two weeks following the immediately preceding meeting.

The Commission may determine, by motion, to change the location, time, or date for any meeting on its calendar of meetings, provided notice of the time, date, and place of such meeting is given in accordance with applicable law.
(Ord. 91-291, passed 7-16-91; Ord. 13-14, passed 1-22-13.)

111.02 PROCEDURE FOR LEASE, SALE OR CONVEYANCE OF CITY OWNED PROPERTY.

The City Commission may, by ordinance, authorize the lease, sale or conveyance of any real or personal property owned by the City, when such property is not needed for any municipal purpose, and may prescribe the terms and conditions of any such lease, sale or conveyance. Such lease, sale, or conveyance may be authorized with or without provision for advertisement or competitive bidding at the discretion of the City Commission.
(Ord. 69-142. Passed 8-25-69.)

111.03 SALARY OF CITY COMMISSION MEMBERS; COMPENSATION BOARD.

(a) The Mayor of the City shall receive an annual salary effective January 1, 2019, of \$14,688. The Assistant Mayor of the City shall receive an annual salary effective January 1, 2019, of \$11,634. The remaining members of the City Commission shall receive an annual salary effective January 1, 2019, of \$11,019.

(Ord. 07-318. Passed 10-30-07; Ord. 11-296. Passed 10-25-11; Ord. 18-284. Passed 11-5-18.)

(b) The Mayor with consent of the City Commission shall appoint five electors of the City to a Compensation Board which is hereby established. Three members of the Board shall serve for an initial term of two years commencing July 1, 1990, or until their successors are appointed, and two members of the Board shall serve for an initial term of four years commencing July 1, 1990, or until their successors are appointed. Thereafter, members of the Board shall serve for a term of four years, or until their successors are appointed. A member of a City employee's family, as defined in Section 111.04, shall not be eligible for service.
(Ord. 12-110. Passed 4-10-12.)

(c) The Compensation Board shall from time to time elect a chairperson from its membership. No person shall serve as a member of the Board for more than two consecutive terms. No person shall continue to serve as a member of the Board who fails to maintain the qualifications of an elector of the City. A person appointed to fill a vacancy to the Board shall serve for the unexpired term of the vacancy.

(d) One member of the Compensation Board shall represent the labor community, one member shall represent the business community and three members shall represent the community-at-large. On or before November 30, 1990, and at least quadrennially thereafter, the Board shall meet to consider the salary and compensation of the Mayor, the Assistant Mayor, and members of the City Commission.

(e) No later than October 1 of each year thereafter that the Compensation Board meets, the Board shall prepare a report to the City Commission setting forth its recommendations of compensation for the Mayor, Assistant Mayor and members of the City Commission. The City Commission shall, within thirty days of receiving the Board's report, either approve it by ordinance or, in the event a majority of the City Commission is not in favor thereof, reject it. The proposal may not be amended or modified.
(Ord. 99-314. Passed 10-5-99.)

111.04 MEMBER OF CITY EMPLOYEE'S FAMILY DEFINED.

The definition of *member of a City employee's family* includes, but is not limited to: parents and stepparents, grandparents, spouse, children and stepchildren (whether dependent or not), grandchildren, and siblings, regardless of where they live. Any other individual related to a City Commissioner or a City employee, by blood or marriage is a *member of the City employee's family* if he or she lives in the same household with the City Commissioner or City employee.

(Ord. 12-110. Passed 4-10-12.)

CHAPTER 113

Clerk of the City Commission

113.01 Establishment and duties.

113.02 Other employees.

113.03 Codification of ordinances.

CROSS REFERENCES

Charter provisions - see CHTR. Sec. 13
Duties concerning proclamations - see ADM. 115.02

113.01 ESTABLISHMENT AND DUTIES.

There shall be a Clerk of the City Commission who shall:

- (a) Keep a regular and correct journal of the proceedings of the City Commission; have the custody of all laws and ordinances of the City, carefully record the same in the proper books for that purpose; and see that all ordinances, resolutions, notices, and other matters requiring publication are properly and correctly published, as provided by law. Such Clerk shall also serve as Clerk of all municipal boards to which he may be appointed but shall receive no additional compensation therefor.
 - (b) The Clerk shall perform such other duties as are or may hereafter be required by law, ordinance, or order of the City Commission.
- (Ord. 59-102. Passed 6-15-59.)

113.02 OTHER EMPLOYEES.

There shall be such assistant and deputy clerks, or other employees, as the City Commission may from time to time appoint and employ.

(Ord. 59-102. Passed 6-15-59.)

113.03 CODIFICATION OF ORDINANCES.

(a) When an amendment is made to the Codified Ordinances of the City and is filed with the Clerk of the City Commission, such Clerk shall examine the same and if the numbering of the sections and paragraphs in such amendment is not in conformity with the codified ordinance numbering system pursuant to Section 101.01(c), the Clerk shall give the sections and paragraphs in the amendment their proper sectional number. Such number given by the City Clerk shall be the official code number of the section and any subparagraphs. Numbers assigned shall be published in supplements to the Codified Ordinances of Springfield, Ohio, volumes, which will be made available to the public at cost, as determined by the City's Finance Director. Sections of the Codified Ordinances shall be cited and referred to by such official numbers.

(Ord. 91-396. Passed 10-1-91.)

(b) When an amendment is made to the Codified Ordinances of the City and is filed with the Clerk of the City Commission, such Clerk shall examine the same and if the amendment changes the title of a public official mentioned in the Codified Ordinances, the Clerk shall search the text of the entire Codified Ordinances and change the titles of public officials therein contained to conform to the new titles given to such public official in the said amendment made to the Codified Ordinances. Subdivisions of the Codified Ordinances containing titles of public officials which have been changed by the Clerk pursuant to this Section 113.03(b) shall be published in supplements to the Codified Ordinances of Springfield, Ohio, volumes, which will be made available to the public at cost, as determined by the City's Finance Director.

(Ord. 05-106. Passed 4-12-05.)

CHAPTER 115

Public Emergency

- 115.01 Proclamations; issuance and content.**
- 115.02 Publication by Clerk.**
- 115.03 Violation a misdemeanor.**
- 115.04 Report to Commission.**
- 115.99 Penalty.**

CROSS REFERENCES

Proclamations - see CHTR. Sec. 7
Riot - see GEN. OFF. 509.01
Failure to disperse - see GEN. OFF. 509.02

115.01 PROCLAMATIONS; ISSUANCE AND CONTENT.

Whenever, pursuant to Section 7 of the City Charter, the Mayor issues a proclamation declaring a state of public danger and emergency to exist in the City, such proclamation shall state the presence of such danger and emergency; the causes therefor, if known; the period during which such proclamation shall be in force and effect; the rules, regulations and directives to be followed by persons in the City; and the specific prohibitions of action, if any, by persons in the City during the period of such proclamation.

(Ord. 53-136. Passed 8-3-53.)

115.02 PUBLICATION BY CLERK.

It shall be the duty of the Clerk of the City Commission to cause such proclamation to be published, in full, in a newspaper of general circulation in the City within ten days after the issuance thereof.

(Ord. 53-136. Passed 8-3-53.)

115.03 VIOLATION A MISDEMEANOR.

No person, firm, or corporation shall violate any specific rule, regulation, directive or prohibition of any proclamation issued by the Mayor pursuant to Section 7 of the City Charter and Section 115.01.

(Ord. 53-136. Passed 8-3-53.)

115.04 REPORT TO COMMISSION.

It shall be the duty of the Mayor to make a report of such proclamation to the City Commission at the first regular meeting of the City Commission held after the issuance thereof. Such report shall be placed upon the journal record of the City Commission.

(Ord. 53-136. Passed 8-3-53.)

115.99 PENALTY.

Whoever violates Section 115.03 is guilty of a misdemeanor of the second degree.

TITLE FIVE--Administrative

Chap. 121. City Manager.
Chap. 123. Department of Law.
Chap. 125. Department of Finance.
Chap. 127. Department of Central Services.
Chap. 129. Department of Community Development.
Chap. 130. Department of Engineering. (Repealed)
Chap. 133. Department of Parks and Recreation.
Chap. 135. Department of Human Resources.
Chap. 137. Department of Public Health.
Chap. 139. Department of Public Safety.
Chap. 140. Institutional Special Police Officers.
Chap. 141. Service Department.
Chap. 145. Municipal Contracts.
Chap. 147. Municipal Finances.
Chap. 149. Municipal Property.
Chap. 151. Issue and Sale of Bonds and Notes.
Chap. 153. Disadvantaged and Minority Business Enterprises.
Chap. 155. City Contractors and Affirmative Action.

CHAPTER 121

City Manager

- 121.01 Administrative head; duties.**
- 121.02 Office established.**
- 121.03 Collective bargaining grievances.**
- 121.04 Cablevision; local government channel.**
- 121.05 Economic development benefit application fee.**
- 121.06 Brownfield site priority list.**
- 121.07 Annexation of City property.**

CROSS REFERENCES

Appointment--see CHTR. Sec. 9
Removal--see CHTR. Sec. 10
Powers and duties--see CHTR. Sec. 21
Absence--see CHTR. Sec. 22
Political activity - see CHTR. Sec. 87

121.01 ADMINISTRATIVE HEAD; DUTIES.

(a) The City Manager is the administrative head of the City. The City Manager shall manage the City and perform such other duties as required by City Charter or ordinance.

(b) The City Manager and Assistant City Manager are authorized to determine, based upon an appraisal obtained on behalf of the City, just compensation, fair market value, and fair market value estimates for the purpose of making a proposal on behalf of the City for the acquisition of interests in real property needed for municipal purposes. No proposal made by a City Manager or Assistant City Manager shall become contractually binding on the City until the City Commission has adopted an ordinance authorizing the expenditure pertaining to such proposal when such authorization is mandated by the Charter of The City of Springfield, Ohio.
(Ord. 04-190. Passed 6-15-04.)

121.02 OFFICE ESTABLISHED.

The office of the City Manager is established by the City Charter. The office consists of the City Manager and such other officers and employees as are appointed. The office shall assist the City Manager to manage the City and perform such other duties as required by City Charter or ordinance.
(Ord. 88-319. Passed 5-31-88.)

121.03 COLLECTIVE BARGAINING GRIEVANCES.

The City Manager is authorized to settle a grievance between the City and a collective bargaining unit recognized by the City, or any employee or group of employees represented by such collective bargaining unit, in an amount not to exceed one thousand dollars (\$1,000). In settling any such grievance, the City Manager, or his authorized designee, shall comply with the terms of the collective bargaining agreement in effect between the City and the collective bargaining unit at the time such grievance is first submitted in writing to the City. The City Manager may settle pursuant to this section multiple grievances involving the same dispute or controversy or a single grievance involving multiple claimants provided that the total amount paid in settlement does not exceed one thousand dollars (\$1,000).
(Ord. 89-408. Passed 7-18-89.)

121.04 CABLEVISION; LOCAL GOVERNMENT CHANNEL.

The City Manager is authorized to enter into agreements, on behalf of the City, to obtain programming to be aired on any local government access channel made available by cablevision franchisees in the City. Such agreements shall provide for programming which publishes accurate information on local municipal government affairs, on matters which would promote the public peace, health, safety, welfare and attractiveness of the community and on matters which would promote responsible citizenship in the community. Such agreements shall not obligate the City to the expenditure of funds and shall be terminable by the City unilaterally upon no more than thirty (30) days notice.
(Ord. 91-36. Passed 1-29-91.)

121.05 ECONOMIC DEVELOPMENT BENEFIT APPLICATION FEES.

Unless otherwise prohibited by law, the City Manager may establish application fees of up to \$250 per application for economic development benefit applications filed with the City. The City Manager shall establish a list of economic development benefit applications and associated fees in the City Manager's Journal.

(Ord. 95-228. Passed 6-27-95.)

121.06 TAX BASE REVITALIZATION INCENTIVE SITE PRIORITY LIST.

The City Manager shall establish a Tax Base Revitalization Incentive Site Priority List which shall be a list of Tax Base Revitalization Incentive Sites in the City or on property owned by the City which have one or more of the following characteristics:

- (a) The site is a likely candidate for remediation of environmental contamination under Chapter 3746 of the Ohio Revised Code,
- (b) The site is likely to become a site for new employment in the City as a result of economic development assistance from the City government,
- (c) The site owner or lessee has entered into contractually binding commitments to obtain sufficient funding to significantly expand, renovate, or redevelop the site, or
- (d) The site has closed within the previous twelve months and was the place of employment for twenty or more employees during the twelve months prior to closing.

When the City Manager adds or deletes a site or sites from the Tax Base Revitalization Incentive Site Priority List, he shall provide a copy of the new Tax Base Revitalization Incentive Site Priority List to the members of the City Commission at their next meeting after the new Tax Base Revitalization Incentive Site Priority List is established. The Tax Base Revitalization Incentive Site Priority List will be used to determine eligibility for certain development incentives authorized by the City's Codified Ordinances and by other ordinances adopted by the City Commission from time to time and for prioritizing the investment of City staff time and other City resources in fostering the economic development of Tax Base Revitalization Incentive Sites. The term "Tax Base Revitalization Incentive Site" means an abandoned, idled, or under-utilized commercial or industrial site where expansion, renovation, or redevelopment is unlikely due to real or suspected environmental contamination or due to deteriorated public infrastructure serving the site or the blight conditions in the vicinity of the site.

(Ord. 98-43. Passed 2-24-98.)

121.07 ANNEXATION OF CITY PROPERTY.

It is the policy of the City that all City-owned property be included within the corporate boundary of the City as the opportunity arises to annex such property to the City. The City Manager is authorized to sign, on behalf of the City, any annexation petition requesting annexation of City-owned property to the City and appointing an annexation agent to act on behalf of the City in prosecuting such annexation. The City Manager may delay initiating an annexation and may decline to sign an annexation petition, which the City Manager has not been specifically directed to sign by ordinance, if the City Manager determines that delaying annexation of City-owned property for a time would better further the purpose of the City's policy or would facilitate successful prosecution of annexation petitions of other property owners likely to request annexation of their property to the City in the future.

(Ord. 96-344. Passed 10-1-96.)

CHAPTER 123

Department of Law

123.01 Law Director; duties.

123.02 Department established.

123.03 Civil Law Division.

123.04 Criminal Law Division.

CROSS REFERENCES

Established - see CHTR. Sec. 23

Statutory duties - see Ohio R.C. 733.51 et seq.

Conflict of interest - see Ohio R.C. 120.39

123.01 LAW DIRECTOR; DUTIES.

The Law Director is the City's attorney and counselor at law. The Law Director shall provide legal representation and advice to the City and perform such other duties as required by City Charter or ordinance.

(Ord. 88-319. Passed 5-31-88.)

123.02 DEPARTMENT ESTABLISHED.

The Department of Law is established by City Charter. The Department consists of the Law Director and such other attorneys and employees as are appointed. The Department shall assist the Law Director to represent and advise the City in all civil, criminal and administrative law matters; prosecute criminal cases in the Clark County Municipal Court; and perform such other duties as required by City Charter or ordinance.

(Ord. 88-319. Passed 5-31-88.)

123.03 CIVIL LAW DIVISION.

A Civil Law Division of the Department of Law is hereby established. The Civil Law Division shall represent and advise the City in all civil and administrative law matters.

(Ord. 88-319. Passed 5-31-88.)

123.04 CRIMINAL LAW DIVISION.

A Criminal Law Division of the Department of Law is hereby established. The Criminal Law Division shall prosecute criminal cases in the Clark County Municipal Court and represent and advise the City in all criminal law matters.

(Ord. 88-319. Passed 5-31-88.)

CHAPTER 125

Department of Finance

- 125.01 Finance Director; duties.**
- 125.02 Department established.**
- 125.03 Accounting Division.**
- 125.04 Income Tax Division.**
- 125.05 Purchasing Division.**
- 125.06 Treasury Division.**
- 125.07 Utility Billing Division.**
- 125.08 Late filing of tax returns; first offense.**
- 125.09 Depository and safekeeping agreements.**

CROSS REFERENCES

Appointment of Director - see CHTR. Sec. 2
Finances - see CHTR. Sec. 32 et seq.
Contracts - see ADM. Ch. 145
Municipal finances - see ADM. Ch. 147
Issue and sale of bonds and notes - see ADM. Ch. 151

125.01 FINANCE DIRECTOR; DUTIES.

(a) The Finance Director is the City's fiscal officer. The Finance Director shall manage the City's finances and perform such other duties as required by City Charter or ordinance.

(b) The Finance Director is hereby authorized to waive interest on utility bills of customers when the Finance Director finds that late payment was due to excusable neglect on the part of a customer who has not established a pattern of failing to pay utility bills on time or in those cases in which the customer's failure to pay on time was due to circumstances beyond the customer's control.

(Ord. 93-127. Passed 4-27-93.)

125.02 DEPARTMENT ESTABLISHED.

The Department of Finance is established by City Charter. The Department consists of the Finance Director and such other officers and employees as are appointed. The Department shall assist the Finance Director to manage the City's finances; perform accounting and auditing services for the City; make purchases, solicit bids and negotiate contracts for the City; sell City property as authorized; administer and enforce the City's earned income tax ordinances; collect, invest and disburse City moneys; assess and collect for utility services provided by the City; and perform such other duties as required by City Charter or ordinance.

(Ord. 88-319. Passed 5-31-88.)

125.03 ACCOUNTING DIVISION.

An Accounting Division of the Department of Finance is hereby established. The Accounting Division shall perform accounting and auditing services for the City.

(Ord. 88-319. Passed 5-31-88.)

125.04 INCOME TAX DIVISION.

An Income Tax Division of the Department of Finance is hereby established as provided in Section 195.13. The Income Tax Division shall administer and enforce the City's earned income tax ordinances.

(Ord. 88-319. Passed 5-31-88.)

125.05 PURCHASING DIVISION.

A Purchasing Division of the Department of Finance is hereby established. The Purchasing Division shall make purchases, solicit bids and negotiate contracts for the City and sell City property as authorized.

(Ord. 88-319. Passed 5-31-88.)

125.06 TREASURY DIVISION.

A Treasury Division of the Department of Finance is hereby established. The Treasury Division shall collect, invest and disburse City moneys.

(Ord. 88-319. Passed 5-31-88.)

125.07 UTILITY BILLING DIVISION.

A Utility Billing Division of the Department of Finance is hereby established. The Utility Billing Division shall assess and collect for utility services provided by the City.

(Ord. 88-319. Passed 5-31-88.)

125.08 LATE FILING OF TAX RETURNS; FIRST OFFENSE.

Notwithstanding the provisions of Section 195.08(c), the Tax Commissioner shall waive all but ten percent (10%) of the penalty imposed pursuant to Section 195.10(b)(3) for taxpayers who are first-time offenders in failing to file their tax returns when due.

(Ord. 93-248. Passed 7-13-93.)

125.09 DEPOSITORY AND SAFEKEEPING AGREEMENTS.

The Finance Director is authorized to execute, on behalf of the City, depository agreements, banking services agreements, and agreements obtaining the services of a bailee for City funds and investment instruments (commonly known as safekeeping agreements) with financial institutions; provided, such agreements do not obligate the City to an expenditure of greater than that authorized by Article VI, Section 42, of the City Charter to be made without City Commission authorization by ordinance.
(Ord. 04-162. Passed 05-18-04.)

CHAPTER 127

Department of Central Services

- 127.01 Establishment.**
- 127.02 Repealed by Ord. 93-436.**
- 127.03 Print Shop Division.**
- 127.04 Repealed by Ord. 94-473.**
- 127.05 Airport Division.**

CROSS REFERENCES

Authority to establish - see CHTR. Sec. 23
Airport regulations - see S.U. & P.S. Ch. 959

127.01 ESTABLISHMENT.

A Department of Central Services is hereby established. The Department is administered by the office of City Manager and consists of such officers and employees as are appointed. The Department shall maintain Municipal buildings; operate the print shop; maintain central stores of the City; maintain and operate the Springfield-Beckley Municipal Airport; and perform such other duties as required by City Charter or ordinance.
(Ord. 93-436. Passed 12-21-93.)

127.02 REPEALED BY ORD. 93-436.

127.03 PRINT SHOP DIVISION.

A Print Shop Division of the Department of Central Services is hereby established. The Print Shop Division shall operate the City's print shop and maintain central stores of the City.
(Ord. 88-319. Passed 5-31-88.)

127.04 REPEALED BY ORD. 94-473.

127.05 AIRPORT DIVISION.

An Airport Division of the Department of Central Services is hereby established. The Airport Division shall maintain and operate the Springfield-Beckley Municipal Airport.
(Ord. 88-459. Passed 7-26-88.)

CHAPTER 128

Department of Information Technology

- 128.01 Department established.**

128.01 DEPARTMENT ESTABLISHED.

A Department of Information Technology is hereby established. The Department consists of the Director of Information Technology and such other officers and employees as are appointed. The Department shall collect, store, and disseminate computerized data for use by the various City departments; to make computerized data available to the public, as required by public records law; and perform such other duties as are required by the City Charter and ordinances.
(Ord. 93-436. Passed 12-21-93.)

CHAPTER 129

Department of Community Development

- 129.01 Department established.**
- 129.02 Administrative Division.**
- 129.03 Inspection Services Division.**
- 129.04 Code Enforcement Division.**
- 129.05 Repealed by Ord. 08-111, passed April 8, 2008.**
- 129.06 Community Development Block Grant Division.**
- 129.07 Blighted area defined.**
- 129.08 Urban renewal, blighted area defined.**

CROSS REFERENCES

Authority to establish - see CHTR. Sec. 23
Building codes - see BLDG. Ch. 1301 et seq.

129.01 DEPARTMENT ESTABLISHED.

A Department of Community Development is hereby established. The department consists of the Director of the Department of Community Development and such other officers and employees as are appointed. The department shall promote and protect equal opportunities within the City; administer the fair housing and human relations ordinances and policies of the City and the Human Relations Board; administer and enforce the minority business enterprise ordinances of the City; coordinate and administer the City's housing programs; and coordinate neighborhood activities. The department shall foster safe and orderly development within the City; coordinate administration of the department, coordinate Community Development Block Grant, Urban Development Action Grant, Economic Development Administration and similar federally-funded economic development programs and activities; supervise the planning, subdivision, and zoning responsibilities of the City; administer and enforce the building, heating, electrical, housing, and property maintenance codes of the City; coordinate the City's nuisance abatement efforts; and perform such other duties as required by City Charter or ordinance.

(Ord. 08-111. Passed 4-8-08.)

129.02 ADMINISTRATION DIVISION.

The Administration Division of the Department of Community Development is hereby established. The Administration Division shall coordinate the operations of the Department, work on the redevelopment of specified neighborhoods, and supervise the planning, subdivision, and zoning responsibilities of the City. It will also provide staff for the City Planning Board and Board of Zoning Appeals.

(Ord. 04-347. Passed 11-23-04.)

129.03 INSPECTION SERVICES DIVISION.

An Inspection Services Division of the Department of Community Development is hereby established. The Inspection Services Division shall administer and enforce the building, heating, and electrical codes of the City and the contractor licensing program. It will also provide staff for the Board of Building Appeals.

(Ord. 04-347. Passed 11-23-04.)

129.04 CODE ENFORCEMENT DIVISION.

A Code Enforcement Division of the Department of Community Development is hereby established. The Code Enforcement Division shall administer and enforce the Housing Maintenance Code, enforce the Zoning Code, and work to abate public nuisances.

(Ord. 04-347. Passed 11-23-04.)

129.05 REPEALED BY ORDINANCE 08-111, PASSED 4-8-08.

129.06 COMMUNITY DEVELOPMENT BLOCK GRANT DIVISION.

A Community Development Block Grant (CDBG) Division of the Department of Community Development is hereby established. The CDBG Division shall coordinate, monitor, and administer funding received from Community Development Block Grants, and any similar programs, for the benefit of the City and eligible recipients. It will also provide staff for the Springfield Historic Landmarks Commission and the Community Advisory Review Board.

(Ord. 04-347. Passed 11-23-04.)

129.07 BLIGHTED AREA DEFINED.

(a) In conjunction with the expenditures of Community Development Block Grant funds, a "blighted area" shall be defined as follows: "Blighted area" means an area within a municipality containing a significant number of structures which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation or open spaces, unsafe and unsanitary conditions, or the existence of conditions which endanger lives or properties by fire or other hazards and causes, or which by reason of location in an area with inadequate street layout, incompatible land uses or land use relationships, overcrowding of buildings on the land, excessive dwelling unit density, or other identified hazards to health and safety, are conducive to ill health, transmission of disease, juvenile delinquency and crime and are detrimental to the public health, morals and general welfare.

(b) The Department of Community Development is hereby authorized to adopt, promulgate, and enforce regulations for applying the definition in subsection (a) hereof.

(Ord. 04-347. Passed 11-23-04.)

129.08 URBAN RENEWAL, BLIGHTED AREA DEFINED

For purposes of considering an area within the City of Springfield as suitable for an urban renewal plan, including for the purpose of using eminent domain in implementing the urban renewal plan, the term "blighted area" means an area within the City of Springfield containing a majority of structures that have been extensively damaged or destroyed by a major disaster, or that, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, unsafe and unsanitary conditions or the existence of conditions which endanger lives or properties by fire or other hazards and causes, or that, by reason of location in an area with inadequate street layout, incompatible land uses or land use relationships, overcrowding of buildings on the land, excessive dwelling unit density, or other identified hazards to health and safety, are conducive to ill health, transmission of disease, juvenile delinquency and crime and are detrimental to the public health, safety, morals, and general welfare.

(Ord. 07-140. Passed 5-15-07.)

CHAPTER 130

Department of Engineering

This chapter has been repealed in its entirety by Ordinance No. 19-289 effective December 24, 2019.

CHAPTER 131

Department of Human Relations, Housing, and Neighborhood Services

NOTE: CHAPTER REPEALED BY ORDINANCE NO. 08-111, PASSED APRIL 8, 2008.

CHAPTER 133

Department of Parks, Recreation, and Facilities

133.01 Department established.

CROSS REFERENCES

Authority to establish - see CHTR. Sec. 23

Board of Parks and Recreation - see ADM. Ch. 161

133.01 DEPARTMENT ESTABLISHED.

A Department of Parks, Recreation, and Facilities is hereby established. The Department of Parks, Recreation, and Facilities shall consist of a Director of Parks, Recreation, and Facilities and such other officers and employees as are appointed. The Department shall maintain and operate the City's parks and recreational facilities and Municipal buildings, and perform such other duties as required by City Charter and ordinance. (Ord. 94-473. Passed 12-20-94.)

CHAPTER 135

Department of Human Resources

135.01 Department established.

CROSS REFERENCES

Authority to establish - see CHTR. Sec. 23

Compensation and employment provisions - see ADM. Title Nine

Civil service commission - see CHTR. Sec. 47; ADM. Ch. 163

135.01 DEPARTMENT ESTABLISHED.

A Department of Human Resources is hereby established. The Department consists of a Human Resources Director and such other officers and employees as are appointed. The Department shall assist City departments in the recruitment, hiring, classification, compensation and disciplining of City employees; administer contracts with recognized bargaining units; maintain personnel records; and perform such other duties as required by City Charter and ordinance. (Ord. 22-168. Passed 5-24-2022.)

CHAPTER 137

Department of Public Health

137.01 Department established.

137.02 Environmental Health Services Division.

137.03 Plumbing Inspections Division.

137.04 Public Health Nursing Division.

137.05 Vital Statistics Division.

CROSS REFERENCES

City health district - see Ohio R.C. 3705.09 et seq.

Health regulations - see Part 17 - Health Code

Board of Health - see ADM. Ch. 159

Plumbing regulations - see BLDG. Ch. 1361 et seq.

137.01 DEPARTMENT ESTABLISHED.

A Department of Public Health is hereby established. The Department shall operate under the control and supervision of the Board of Health of the City Health District and shall consist of a Health Commissioner, Director of Environmental Health Services, Director of Public Health Nursing, Plumbing Inspector; and such other health officials and employees as are appointed by the City Manager in accordance with the recommendations of the Board of Health and all applicable laws and ordinances. The Department shall promote and protect public health within the City; administer the City's Health District; administer and enforce State and City plumbing codes; take appropriate action to abate all public health nuisances; compile and maintain a record of births, deaths and other vital statistics within the City; and, except as otherwise provided, enforce all ordinances and laws pertaining to public health. (Ord. 88-319. Passed 5-31-88.)

137.02 ENVIRONMENTAL HEALTH SERVICES DIVISION.

An Environmental Health Services Division in the Department of Public Health is hereby established. The Environmental Health Services Division is responsible for food protection, disease control, safe drinking water, sewage disposal, school health, rabies control, swimming pools, mobile home parks, solid waste disposal, public health nuisances, institutional health, lead poisoning and such other programs and duties as assigned to the Division by the Board of Health or the Health Commissioner and required by State law or City ordinances.
(Ord. 88-319. Passed 5-31-88.)

137.03 PLUMBING INSPECTIONS DIVISION.

A Plumbing Inspections Divisions in the Department of Public Health is hereby established. The Plumbing Inspections Division shall administer and enforce State and City plumbing codes.
(Ord. 88-319. Passed 5-31-88.)

137.04 PUBLIC HEALTH NURSING DIVISION.

A Division of Public Health Nursing in the Department of Public Health is hereby established. The Division of Public Health Nursing shall assist the City Health District's physician in providing for the public health and perform such other duties assigned to the Division by the Board of Health or the Health Commissioner and required by State law or City ordinances.
(Ord. 88-319. Passed 5-31-88.)

137.05 VITAL STATISTICS DIVISION.

A Division of Vital Statistics in the Department of Public Health is hereby established. The Division of Vital Statistics shall compile and maintain a record of births, deaths and other vital statistics within the City and perform such other duties assigned to the Division by the Board of Health or the Health Commissioner and required by State law or City ordinances.
(Ord. 88-319. Passed 5-31-88.)

CHAPTER 139

Department of Public Safety

- 139.01 Department established.**
- 139.02 Fire Division.**
- 139.03 Classification of Fire Division personnel.**
- 139.04 Police Division.**
- 139.05 Classification of Police Division personnel.**
- 139.06 Rules and regulations of Fire and Police Divisions.**
- 139.07 Police Auxiliary Unit.**
- 139.08 Police Auxiliary Unit regulations.**
- 139.09 Officers and bylaws of Police Auxiliary Unit.**
- 139.10 Police Chief authorized to execute tax exemption forms.**
- 139.11 Police Chief authorized to Dispose of property.**
- 139.12 Maximum age for original appointment for Police Officers.**

CROSS REFERENCES

Police and Fire Divisions - see CHTR. Sec. 92
Fire protection and emergency services - see CHTR. Sec. 93
Police Division - see ADM. Ch. 188
Promotional examination - see ADM. Ch. 189
Fire protection outside City - see S.U. & P.S. Ch. 955

139.01 DEPARTMENT ESTABLISHED.

A Department of Public Safety is hereby established. The Department is administered by the City Manager as Director of Public Safety and consists of a Fire Chief and a Chief of Police and such other officers and employees as are appointed. The Department shall provide fire and police protection for the City and perform such other duties as required by City Charter and ordinance.
(Ord. 88-319. Passed 5-31-88.)

139.02 FIRE DIVISION.

A Fire Division of the Department of Public Safety is hereby established. The Fire Division shall protect persons and property from fire; provide rescue and emergency services; and foster and promote fire suppression practices.
(Ord. 88-319. Passed 5-31-88.)

139.03 CLASSIFICATION OF FIRE DIVISION PERSONNEL.

Personnel in the Fire Division are classified according to the following ranks and positions:

Uniformed Personnel	Non-uniformed Personnel
Chief	Clerk Stenographer II
Assistant Chief	Clerk Typist II
Battalion Chiefs	Fire Hydrant Repair Worker
Captains	Fire Hydrant Maintenance
Lieutenants	Mechanic
Fire Medics/Firefighters	

Paramedics	

(Ord. 88-319. Passed 5-31-88.)

139.04 POLICE DIVISION.

A Police Division of the Department of Public Safety is hereby established. The Police Division shall preserve the peace; protect persons and property; and enforce all traffic and criminal ordinances and laws.

(Ord. 88-319. Passed 5-31-88.)

139.05 CLASSIFICATION OF POLICE DIVISION PERSONNEL.

Personnel in the Police Division are classified according to the following ranks and positions:

Uniformed Personnel	Non-uniformed Personnel
Chief	Forensic Criminologist
Captain	Data Processing Supervisor
Lieutenant	Administrative Assistant
Sergeant	Computer Programmer
Patrolman	Records Supervisor
	Communications Operator
	Clerk Steno II
	Clerk Steno I
	Police Service Clerk
	Community Service Officers
	Clerk Typist I

(Ord. 88-319. Passed 5-31-88.)

139.06 RULES AND REGULATIONS OF FIRE AND POLICE DIVISIONS.

The City Manager, as Director of Public Safety, shall adopt and promulgate general rules and regulations governing the operation of the Fire and Police Divisions.

(Ord. 88-319. Passed 5-31-88.)

139.07 POLICE AUXILIARY UNIT.

A Police Auxiliary Unit of the Police Division of the Department of Public Safety is hereby established. The Police Auxiliary Unit consists of qualified members appointed and removed by the City Manager as Director of Public Safety. The Unit shall assist and aid the Police Division and perform such duties as are assigned to the Unit by the Chief of Police.

(Ord. 88-319. Passed 5-31-88.)

139.08 POLICE AUXILIARY UNIT REGULATIONS.

The Chief of Police shall adopt and promulgate rules and regulations governing the qualifications, dress, weaponry, conduct, supervision and discipline of the members of the Police Auxiliary Unit while on duty with the Police Division.

(Ord. 88-319. Passed 5-31-88.)

139.09 OFFICERS AND BYLAWS OF POLICE AUXILIARY UNIT.

The Police Auxiliary Unit may elect a captain and subordinate officers of the Unit. The Police Auxiliary Unit may adopt bylaws in conformity with the ordinances and rules and regulations of the City.

(Ord. 88-319. Passed 5-31-88.)

139.10 POLICE CHIEF AUTHORIZED TO EXECUTE TAX EXEMPTION FORMS.

The Chief of the Police Division is authorized to execute, on behalf of the City, tax exemption forms seeking exemption from Federal excise taxes related to the purchase of firearms by the City to be used in law enforcement.

(Ord. 93-307. Passed 9-7-93.)

139.11 POLICE CHIEF AUTHORIZED TO DISPOSE OF PROPERTY.

When property has come into the possession of the Police Division by virtue of having been stolen and recovered, abandoned, taken into evidence, or otherwise, the Police Chief may dispose of such property as follows in lieu of the process stated in Ohio Revised Code §§ 737.29, et seq.:

- (a) When other applicable law requires a particular manner of disposal, the Police Chief shall dispose of it as required.
- (b) When other applicable law permits, but does not require a particular manner of disposal, the Police Chief may dispose of such property as permitted.
- (c) When other applicable law does not require a particular manner of disposal and either:
 - (1) the Police Chief or his subordinates have been unable to identify the owner of such property despite reasonable efforts to do so, or
 - (2) the owner of such property has failed to reclaim such property after having been given a reasonable opportunity to do so,
 the Police Chief may dispose of such property on such terms as the Police Chief reasonably determines are best suited to the nature and condition of the property being disposed of.

(Ord. 18-49. Passed 2-27-18.)

139.12 MAXIMUM AGE FOR ORIGINAL APPOINTMENT FOR POLICE OFFICERS.

Notwithstanding any provision of the Ohio Revised Code to the contrary, there shall be no maximum age restriction for an applicant seeking an initial appointment as a Police Officer with the City of Springfield.

CHAPTER 140

Institutional Special Police Officers

- 140.01 Definitions.**
- 140.02 License required.**
- 140.03 Application for license.**
- 140.04 Requirements for institutional special police officer license.**
- 140.05 Issuance of license; expiration.**
- 140.06 Insurance required.**
- 140.07 Reports to police required.**
- 140.08 Powers and duties of institutional special police officers.**
- 140.09 Badge; termination of employment.**
- 140.10 Institutional special police officer not to qualify for police benefits.**
- 140.11 Oath required.**
- 140.12 Suspension/revocation of license.**
- 140.99 Penalty.**

140.01 DEFINITIONS.

As used in this chapter:

- (a) "Institution" means an educational or medical facility.
- (b) "Institutional special police officer" means a person who has all the following characteristics:
 - (1) Is licensed by the City of Springfield;
 - (2) Is commissioned with the power of arrest by the City of Springfield;
 - (3) Is employed directly by an institution, and is not employed by, or has his or her services provided to the institution by any agency or security guard provider as defined in Ohio Revised Code Section 4749.01;
 - (4) Has the authority to carry or wear a firearm while employed by and performing any of the following duties and functions while on the premises of the employing institution:
 - A. Investigating matters pertinent to the function or mission of the institution;
 - B. Protecting persons on the premises of the institution;
 - C. Protecting the property of the institution;
 - D. Enforcing the rules and regulations of the institution relating to the safety and protection of persons and property.

140.02 LICENSE REQUIRED.

- (a) No person shall perform any service as an institutional special police officer within the City without first obtaining and maintaining in full force and effect a valid institutional special officer license.
- (b) No person shall wear an institutional special police officer badge, or represent or hold himself/herself out to be an institutional special police officer unless he/she is duly licensed as such by the City.

140.03 APPLICATION FOR LICENSE.

- (a) Every person desiring to perform the duties of an institutional special police officer shall submit an application for the license to the Chief of Police, on a form provided for that purpose. The applicant shall answer all questions in the application, and shall include the name and address of the institution by which they are employed.
- (b) Upon receipt of the application, the Chief of Police shall cause to be made such investigation of the applicant as is necessary to determine whether the applicant meets the requirements set forth in this chapter.

140.04 REQUIREMENTS FOR INSTITUTIONAL SPECIAL POLICE OFFICER LICENSE.

An applicant for the initial issuance or renewal of an institutional special police officer license shall meet the following requirements. The determination as to whether an applicant meets all such requirements shall be within the sound discretion of the Chief of Police; all such decisions of the Chief shall be final.

- (a) Be an American citizen or a person who has been granted permanent residency by the U.S. Immigration and Naturalization Service, and be able to speak and read the English language;
- (b) Be twenty-one (21) or more years of age;
- (c) Be employed directly by an institution as defined in Section 140.01(a);
- (d) Be in sound physical condition, have good eyesight, and not subject to any infirmity, defect or disorder of mind or body which might reasonably render him or her unfit for the safe carrying out of the duties of an institutional special police officer, as determined by the Chief of Police from all reliable medical, psychological, or health information supplied by the applicant or other persons concerning the applicant's physical or mental condition. Where such facts indicate that an applicant is suffering from any such infirmity, defect or disorder of mind or body, the Chief of Police may require the applicant, at his or her expense, to be examined by a licensed physician, psychologist, or psychiatrist and to submit such physician's, psychologist's, or psychiatrist's written report of such examination to the Chief for use in determining the applicant's fitness.
- (e) Possess a training certification from an Ohio Peace Officer's Training Council approved school indicating successful completion of the basic police school, including a satisfactory firearms range qualification score on a practical pistol course with a service firearm.
- (f) In the case of an applicant for renewal of an institutional special police officer license, he or she shall submit with the application for renewal, a certificate issued within the previous twelve (12) months from a qualified range instructor certifying that the applicant has satisfactorily re-qualified with his service firearm.

- (g) Shall not have been convicted of, pled guilty to, or forfeited bond for any of the following within the last twenty (20) years:
- (1) Any offense constituting a felony;
 - (2) A misdemeanor involving public disorder, violence, theft or public indecency;
 - (3) Two (2) or more misdemeanors, other than minor misdemeanors, neither of which involve public disorder, violence, theft, or public indecency.

140.05 ISSUANCE OF LICENSE; EXPIRATION.

(a) Upon approval of the application, the Chief of Police shall issue a license to the applicant authorizing that person to perform the duties of an institutional special police officer.

(b) All licenses shall expire on December 31 of each year, unless sooner revoked.

(c) All applications for renewal of licenses must be filed with the Chief of Police no sooner than October 1st or later than November 30th of each year.

140.06 INSURANCE REQUIRED.

(a) Every applicant for an institutional special police officer license shall, prior to the license being issued, submit proof that the institution by which he or she is employed has comprehensive general liability insurance coverage in such form as is satisfactory to the Chief of Police, but not less than one hundred thousand dollars (\$100,000.00) for each person and three hundred thousand dollars (\$300,000.00) for each occurrence for bodily injury and personal injury liability, and one hundred thousand dollars (\$100,000.00) for property damage liability and naming the City and its officers and employees as additional insured parties in any claim arising out of the applicant's activities as an institutional special police officer. The policy shall remain in full force and effect during the entire licensing period.

(b) The policy shall provide, in addition to the aforesaid provisions, that no notice of any acts creating any liability thereunder will be required from the City; that the policy shall not be cancelled before ten (10) days written notice of intention so to cancel has been given to the Chief of Police; and that the policy shall not be revokable, but shall remain in full force and effect until ten (10) days have elapsed from the date of service of the written notice.

(c) The policy shall be renewed annually to the satisfaction of the Chief of Police.

140.07 REPORTS TO POLICE REQUIRED.

(a) Every institution shall notify the Chief of Police in writing of the hiring or termination, within ten (10) days thereof, of any employee performing service as an institutional special police officer.

(b) Any property found or recovered by any institutional special police officer shall be reported to the Chief of Police immediately. The institution shall make available to the Chief of Police upon demand records of property found or recovered by such institutional special police officer. Any misconduct of any institutional special police officer shall be reported to the Chief of Police immediately. In the event misconduct of an institutional special police officer is known to the person in charge of an institution, such person must submit a report immediately to the Chief of Police; and, if necessary, appear and bring action against the institutional special police officer. Failure to comply with the submission of any information as provided for herein shall be deemed a violation of this Section and considered as just cause to revoke the license of the institutional special police officer.

(c) If an institutional special police officer engages in improper conduct and this conduct is known to a City police office, the police officer shall report such conduct to his or her commanding officer, who shall take the proper action and submit a report which will be forwarded to the Chief of Police and then, in turn, to the person in charge of the institution.

140.08 POWERS AND DUTIES OF INSTITUTIONAL SPECIAL POLICE OFFICERS.

The powers and duties of all persons licensed under this Chapter shall be as follows:

- (a) To obey the orders of the Chief of Police;
- (b) To be permitted to carry arms and have the power of arrest only when on duty and in the scope of his or her employment for the institution by which he or she is employed, and then only in compliance with Ohio Revised Code Section 2923.12;
- (c) To obey and comply with all rules and regulations for institutional special police officers as set forth by the Chief of Police;
- (d) When on duty and within scope of his or her employment an institutional special police officer:
 - (1) Must work in a uniform that is approved as to color and style by the Chief of Police;
 - (2) Must wear a shoulder patch on the left sleeve, bearing the name of the institution by whom employed, the color and design to be approved by the Chief of Police;
 - (3) Must wear the institutional special police officer badge issued by the institution, and approved by the Chief of Police, on the left breast of the outer most garment;
 - (4) May drive a vehicle in the course of his or her employment only after the color, equipment, and apparatus have been approved by the Chief of Police.
- (e) An institutional special police officer who notifies the Police Division of the commission of a crime shall not, after such notification, conduct an investigation into the matter without the consent of the Police Division. During an investigation of any crime, the Police Division reserves the right to stop an institutional special police officer from investigating or interfering in any way with the Police Division.
- (f) No institutional special police officer shall fail to comply with any of the provisions of this Section.

140.09 BADGE; TERMINATION OF EMPLOYMENT.

(a) At the time of appointment as an institutional special police officer, a badge shall be issued by the institution. Upon termination of employment as an institutional special police officer, no such institutional special police officer shall fail to surrender the badge to the institution within five (5) days after such termination.

(b) Upon termination of employment as an institutional special police officer, it shall be the joint responsibility of the officer and the institution by whom he or she is employed to report such termination to the Police Division.

140.10 INSTITUTIONAL SPECIAL POLICE OFFICER NOT TO QUALIFY FOR POLICE BENEFITS.

Any police service rendered as an institutional special police officer shall not qualify such person or assist to qualify such person in any way for participation in any of the emoluments, privileges, or benefits of the Police and Firemen Disability and Pension Fund, or any of the benefits or emoluments received by City police officers or other employees of the City.

140.11 OATH REQUIRED.

Before commencing the duties of an institutional special police officer, every person so appointed shall take and subscribe to an oath of affirmation similar to the oath or affirmation administered to the police officers of the City, which oath or affirmation shall be filed and kept in the office of the Chief of Police.

140.12 SUSPENSION/REVOCATION OF LICENSE.

The Chief of Police shall have the right and authority to suspend or revoke any license issued under the provisions of this Chapter for any of the following reasons:

- (a) If such licensee has violated any of the provisions of this Chapter;
- (b) If such licensee is convicted of any offense specified in Section 140.04(g), except minor traffic violations;
- (c) If such licensee violates any of the rules and regulations for institutional special police officers as set forth by the Chief of Police;
- (d) If such licensee displays an institutional special police officer badge issued by the City in any employment as an institutional special police officer outside the corporate limits of the City;
- (e) If such licensee's physical or mental condition becomes such as to render him or her unfit for the safe carrying out of the duties of an armed institutional special police officer, as determined by the Chief of Police using the criteria set forth in Section 140.04(d).

140.99 PENALTY.

A violation of the provisions of Sections 140.02(a) or (b), 140.08(f), or 140.09(a) shall constitute a misdemeanor of the fourth degree, punishable as provided in Section 501.99, and each day such violation is continued shall constitute a separate offense.
(Ord. 92-253. Passed 8-11-92.)

CHAPTER 141

Service Department

141.01 Department established.

141.02 Public Works.

141.03 Utilities.

141.04 Engineering.

CROSS REFERENCES

Street and sidewalk regulations--see S.U. & P.S. Title One

Trees--see S.U. & P.S. Ch. 907

141.01 DEPARTMENT ESTABLISHED.

A Service Department is hereby established. The Department consists of the Service Director and such other officers and employees as are appointed. All authority, responsibilities and duties vested in the offices of Director of Utilities and of Director of Public Works prior to December 31, 2000, are, on and after December 31, 2000, vested in the Service Director.
(Ord. 00-456. Passed 12-19-00.)

141.02 PUBLIC WORKS

The Service Department shall maintain and regulate the use of City streets and grounds; administer and enforce the City's tree ordinances; maintain the City's motor vehicles and rolling stock together with an inventory of parts and supplies; and perform such other duties as required by City Charter and ordinance.

(Ord. 00-456. Passed 12-19-00.)

141.03 UTILITIES

The Service Department shall furnish, maintain and operate the City's water and sewer utilities and perform such other duties as required by City Charter and ordinance.

(Ord. 00-456. Passed 12-19-00.)

141.04 ENGINEERING

The Service Department shall provide engineering designs, technical specifications, cost estimates, and inspection services for public improvements undertaken by the City; and perform such other duties as required by City Charter or ordinance.

(Ord. 19-289. Passed 12-10-19.)

CHAPTER 143

Department of Utilities

Municipal Contracts

- 145.01 Competitive contracts.**
- 145.02 Noncompetitive contracts.**
- 145.03 Bid exceeding estimate.**
- 145.04 Award of contract.**
- 145.05 Approval of contracts.**
- 145.06 Expenditures exceeding Charter limitations.**
- 145.07 Centralized purchasing.**
- 145.08 Unlawful discrimination.**
- 145.09 Certification of contracts.**
- 145.10 Bid protests.**
- 145.11 Contracts to provide laboratory services.**
- 145.12 Selection of professional design firms.**
- 145.13 Noncompetitive design contracts.**
- 145.14 Purchasing contracts during an emergency.**

CROSS REFERENCES

Contracts - see CHTR. Sec. 42 et seq.
General disqualification - see CHTR. Sec. 86
Disadvantaged and minority business enterprises - see ADM. Ch. 153
Contract interest - see GEN. OFF. 525.08

145.01 COMPETITIVE CONTRACTS.

Except as provided in Section 145.02, the City shall not enter into a contract for any project, improvement or purchase, other than the purchase of real property, without notice of the opportunity to bid on such project, improvement or purchase first being given by advertisement in a newspaper of general circulation within the City for not less than two nor more than four consecutive weeks.
(Ord. 88-319. Passed 5-31-88.)

145.02 NONCOMPETITIVE CONTRACTS.

The competitive bidding requirement of Section 145.01 shall not apply to the following:

- (a) The estimated cost for the entire project, improvement or purchase is less than the project cost requiring formal bids pursuant to Section 45 of the City's Charter; or
(Ord. 91-294. Passed 7-23-91.)
- (b) The contract entered into involves the performance of personal services of a specialized nature requiring the exercise of peculiar skill and aptitude; or
- (c) A real and present emergency exists as determined by a two-thirds vote of the members of the City Commission which requires a waiver of the bidding requirements; or
- (d) The requirements for competitive bidding are waived by the Ohio Revised Code.
(Ord. 88-319. Passed 5-31-88.)

145.03 BID EXCEEDING ESTIMATE.

The City shall not enter into a contract for which the preparation of a cost estimate is required with any person whose bid is in excess of one hundred ten percent (110%) of such estimate; however, if bids are taken for a contract which requires the preparation of a cost estimate and which is divisible into separate parts, then the City may enter into a contract for any such part with a person whose bid does not exceed one hundred ten percent (110%) of the estimated cost for such part.
(Ord. 91-294. Passed 7-23-91.)

145.04 AWARD OF CONTRACT.

The City shall not enter into any contract for which competitive bidding is required with any person other than the lowest and best bidder.
(Ord. 88-319. Passed 5-31-88.)

145.05 APPROVAL OF CONTRACTS.

The Director of Law or an attorney authorized by the Director of Law shall approve every contract entered into by the City as to its legal form and correctness. However, the Director of Law or an attorney authorized by the Director of Law may approve the legal form and correctness of preprinted and other standardized contracts prior to their completion and execution by the City.
(Ord. 88-319. Passed 5-31-88.)

145.06 EXPENDITURES EXCEEDING CHARTER LIMITATIONS.

The City shall not enter into any contract involving an expenditure in excess of the threshold dollar amount requiring legislative authorization established in Section 735.05 of the Ohio Revised Code, as presently enacted and as it may be amended from time to time by the General Assembly, with any person unless such expenditure is authorized by ordinance and such contract is approved by the City Commission and the City Manager. This section shall not apply to expenditures for the compensation of persons employed by the City.
(Ord. 91-294. Passed 7-23-91.)

145.07 CENTRALIZED PURCHASING.

No department or division of the City shall obtain any supplies, materials or equipment without submitting a written requisition for such supplies, materials or equipment to the City's Purchasing Agent. The Director of Finance, with the approval of the City Manager, shall prescribe the form and

manner with which such purchase requisitions are submitted to the Purchasing Agent. No officer or employee of the City shall expend any funds or enter into, execute or deliver on behalf of the City any purchase order, contract or other obligation upon the City, either oral or written, without the advance written approval of the Purchasing Agent; provided, however, that the City Manager, or the Director of Finance in the City Manager's absence, may dispense with such procedure if a real and actual emergency exists in connection with the proposed purchase. Provided further, however, that this section shall not apply to purchases or contracts directly authorized by the City Commission by appropriate legislation nor remove the duty of the City Manager to approve vouchers for the payment of funds from the City Treasury.
(Ord. 88-319. Passed 5-31-88.)

145.08 UNLAWFUL DISCRIMINATION.

Every contract, for or on behalf of the City, for the purchase by the City of any goods or services, is subject to the following provisions:

- (a) In the hiring of employees for the manufacture, processing or furnishing of such goods or services, the seller and any person or corporation acting on his behalf, shall not, by reason of race, religion, color, ancestry, national origin, sex, or sexual orientation discriminate against any person who is qualified to perform the work required by such employment.
- (b) The seller and any person or corporation acting on his behalf, shall not, on account of race, religion, color, ancestry, national origin, sex, or sexual orientation in any manner intimidate any employee hired for the performance of work in connection with the manufacture, processing or furnishing of any such goods or service.
- (c) Any seller who violates this section is subject to the following forfeitures:
 - (1) The deduction of one hundred dollars (\$100.00) from the amount payable to the seller by the City under such contract for each person who is discriminated against or intimidated in violation of this section;
 - (2) The cancellation or termination by the City of the seller's contract with the City and the forfeiture of all money due thereunder for a second or subsequent violation of this section.
- (d) Contracts with the City shall contain a warning that the above described unlawful acts shall subject the seller to the forfeitures set forth in this section.

(Ord. 88-319. Passed 5-31-88; Ord. 18-24. Passed 1-30-18.)

145.09 CERTIFICATION OF CONTRACTS.

(a) Except as otherwise provided in the City Charter, the City shall not make any contract or give any order involving the expenditure of money unless there is attached thereto a certificate of the Finance Director that the amount required to meet the obligation or, in case of a continuing contract to be performed in whole or in part in an ensuing calendar year, the amount required to meet the obligation in the calendar year in which the contract is made, has been lawfully appropriated for such purpose and is in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances. This certificate need be signed only by the Finance Director. Every such contract made without such a certificate shall be void, and no warrant shall be issued in payment of any amount due thereon. If no certificate is furnished as required, upon receipt by the City Commission of a certificate of the Finance Director stating that there was at the time of the making of such contract or order and at the time of the execution of such certificate a sufficient sum appropriated for the purpose of such contract in the treasury or in the process of collection to the credit of an appropriate fund free from any previous encumbrances, the City Commission may authorize the drawing of a warrant in the payment of amounts due upon such contract; provided, that if the amount involved is less than \$100.00, the Finance Director may authorize it to be paid without such affirmation of the City Commission, if such expenditure is otherwise valid.

(b) Upon certification by the Finance Director that a certain sum of money, not in excess of the limit established in Section 42 of the City's Charter, has been lawfully appropriated, authorized, or directed for a certain purpose and is in the treasury or in the process of collection to the credit of a specific line-item appropriation account in a certain fund free from previous and then outstanding obligations or certifications, then for such purpose and from such line-item appropriation account in such fund, over a period not exceeding twelve (12) months and not extending beyond the thirty-first (31st) day of the January immediately following the end of the fiscal year in which the certification is made, expenditures may be made, orders for payments issued, and contracts or obligations calling for or requiring the payment of money made and assumed; provided, that the aggregate sum of money included in and called for by such expenditures, orders, contracts, and obligations shall not exceed the sum so certified. Such certification need be signed only by the Finance Director, but need not be limited to a specific vendor. An itemized statement of obligations incurred and expenditures made under such certificate shall be rendered to the Finance Director before another such certificate may be issued, and not more than one such certificate shall be outstanding at a time.

(c) In any case in which a contract is entered into upon a per unit basis, the head of the department, for which the contract is made, shall make an estimate of the total amount to become due upon such contract, which estimate shall be certified in writing to the Finance Director. Such contract may be entered into if the appropriation covers such estimate, or so much thereof as may be due during the current calendar year. In such a case, the certificate of the Finance Director based upon the estimate shall be in sufficient compliance with the law requiring a certificate.

(d) Any certificate of the Finance Director attached to a contract shall be binding upon the City as to the facts set forth therein. Upon request of any person receiving an order or entering into a contract with the City, the certificate of the Finance Director shall be attached to such order or contract. "Contract" as used in this section excludes obligations for the compensation of persons employed by the City.

(e) Taxes and other revenue in process of collection or the proceeds to be derived from authorized bonds, notes, or certificates of indebtedness sold and in process of delivery, shall, for the purpose of this section, be deemed in the treasury or in process of collection and in the appropriate fund. This section applies neither to the investment of sinking funds by the trustees of such funds, nor to investments made under sections 731.56 to 731.59 of the Ohio Revised Code.

(Ord. 91-433. Passed 11-5-91.)

145.10 BID PROTESTS.

(a) Bidders whose bids are refused or rejected by the Purchasing Agent and bidders who object to the Purchasing Agent's recommendation of a contract award who desire reconsideration of the Purchasing Agent's acts must submit a written request for reconsideration to the City's Finance Director stating all reasons the bidder objects to the Purchasing Agent's decision.

(b) All requests for reconsideration must be submitted within five (5) days after the Purchasing Agent has posted notice of his recommendation for award. Bidders who fail to submit a petition for reconsideration within the said five (5) day period, waive any objection to the decisions of the Purchasing Agent.

(Ord. 94-203. Passed 5-31-94.)

145.11 CONTRACTS TO PROVIDE LABORATORY SERVICES.

The City Manager is authorized to enter into contracts on behalf of the City to provide laboratory services to public and private entities; provided, that such contracts may be terminated by the City upon thirty-days notice. The contracts shall provide for fees to be paid to the City which shall be set by the City Manager to recover the costs to the City of providing such services. Laboratory services shall be provided only to the extent that the City's Utilities Department has excess capacity to perform laboratory services over and above the services needed for City operations. The City Manager may delegate the authority to execute laboratory service contracts to the City's Utilities Director.
(Ord. 94-302. Passed 8-9-94.)

145.12 SELECTION OF PROFESSIONAL DESIGN FIRMS.

The following procedure shall be used by the City Purchasing Division to select professional design firms when the expenditure to obtain such services will require authorization by the City Commission as required by Section 145.06 of this Chapter. The term "professional design services" means services within the scope of practice of an architect or landscape architect registered under Chapter 4703 of the Ohio Revised Code or a professional engineer or surveyor registered under Chapter 4733 of the Ohio Revised Code and the term "professional design firm" means any person legally engaged in rendering professional design services.

- (a) The City will publish a notice in a newspaper of general circulation in the City requesting proposals from professional design firms to provide professional design services for a project. The notice will appear at least once per week for no less than two weeks. In addition to the notice published in a newspaper, the City may, but is not required to, publish a notice in other print or electronic media.
- (b) The notice shall contain a Proposal due date established by the Purchasing Division which shall be no less than four weeks after the first newspaper publication date of the notice; however, the Finance Director may establish a due date less than four weeks after the first newspaper publication if the Finance Director finds that an emergency exists to preserve the public health, safety, property or welfare necessitating the establishment of a due date less than four weeks after the first newspaper publication.
- (c) The Purchasing Division shall prepare a Request for Proposals which shall include a general description of the project, a statement of the professional design services required and the evaluation criteria to be applied by the City which shall include, but is not limited to, the following:
 - (1) The training, licensing and expertise relevant to the proposed work of the proposer's personnel,
 - (2) The proposer's overall staffing,
 - (3) The proposer's proposed project team,
 - (4) The proposer's related experience on similar projects,
 - (5) The proposer's demonstrated ability to work with federal, state, and local governments applicable to the project,
 - (6) Client references,
 - (7) Knowledge of the proposer's ability to perform the work in a timely and efficient manner,
 - (8) Travel time from the proposer's project office to City's project site,
 - (9) The proposer's understanding of the project,
 - (10) Proposer's explanation of how the City's needs and concerns will be addressed, including a project timetable, and
 - (11) Cost and fee information.
- (d) The Request for Proposals will be sent by the Finance Department to all professional design firms requesting a Request for Proposals as well as to a sufficient number, as determined by the Finance Director in his/her discretion, of professional design firms to provide the City with adequate competition.
- (e) The Purchasing Division will review all Proposals submitted to the City on or before the proposal due date and shall reject any Proposal which does not substantially conform to the requirements of the Request for Proposals, including the requirement that cost and fee information be submitted with the Proposal in a separately-sealed envelope. The Finance Director will designate an Evaluation Committee. Proposals received on or before the proposal due date will be distributed to the Evaluation Committee for evaluation.
- (f) The Evaluation Committee will coordinate with the Community Development Department, to assure compliance with the Chapters 153 and 155 of the City's Codified Ordinances, and with any other departments or agencies necessary to assure that all other requirements and regulations are met.
- (g) The Evaluation Committee shall initially evaluate the Proposals based on technical aspects of the Proposals and professional experience and qualifications and shall rate and rank the Proposals based upon such evaluation. The Evaluation Committee shall have the right to check client references and other entities which may have knowledge of the proposer's qualifications to the extent the Evaluation Committee deems it necessary. If the contract for professional design services is to be funded by Federal and/or State funding, the evaluation and selection process will include consideration of information in the Proposals bearing upon achieving compliance with all governmental requirements related to such funding in the award and performance of the proposed contract for professional design services. After the initial evaluation is completed, the Evaluation Committee will next develop a short-list of proposers based on the initial rating and ranking. The short list will be composed of the highest-ranking proposers (i.e. top ranked, next to top ranked, etc.). At least two (2) proposers will be included on the short list, but the Evaluation Committee need not include more than four (4) proposers.
- (h) After a short list of professional design firms has been selected, the Evaluation Committee shall:
 - (1) Open and evaluate the cost and fee information submitted by the short-list proposers,
 - (2) Re-rank the short-list Proposals giving consideration to the cost and fee information submitted with the Proposal, and,
 - (3) If deemed necessary by the Evaluation Committee to ensure an accurate understanding of the Proposals, meet with one or more of the short-list proposers to discuss their Proposals.
- (i) The Evaluation Committee shall commence simultaneous negotiations with one or more of the short-list proposers, including the highest ranked short-list proposer (based on professional qualifications, technical merit and cost and fee information). Negotiations may include developing a final written description of the scope of the proposed project contract as well as acceptable costs and fees, if different than the original proposal. In the event none of the short-list proposers are able to agree with the Evaluation Committee on the terms of a contract after the initial round of negotiations, the Evaluation Committee may then proceed to recommence negotiations with any one or more of the short-list proposers even though negotiations with that short-list proposer had been terminated earlier in the initial round of negotiations.
- (j) The Evaluation Committee will review its recommended contract award with the City Manager (or his/her designee) for the City Manager's concurrence in the Evaluation Committee's recommended contract award. Section 145.10 of this Chapter is applicable to this professional design services procurement process. The Purchasing Agent shall give the notice of the proposed contract award recommendation pursuant to Section 145.10 upon obtaining the City Manager's concurrence in recommendation of a contract award.
- (k) If approval by a Federal or State agency is required prior to consideration of the proposed contract award by the City Commission, the City staff's recommendation for the contract award will be forwarded to the appropriate agency or agencies for approval.

- (l) Upon receiving all required agency approval(s), the Purchasing Agent will prepare a Request for Commission Action requesting an award of contract by the City Commission.
 - (m) If the City Commission awards the recommended contract, the Purchasing Agent shall give written notice of such award to the unsuccessful proposers. If the recommended contract is not awarded, the Evaluation Committee will proceed as directed by City Commission.
- (Ord. 96-147. Passed 4-30-96.)

145.13 NONCOMPETITIVE DESIGN CONTRACTS.

The contractor selection requirement of Section 145.12 shall not apply and the City Commission may award a contract for professional design services without any competitive selection process in the following circumstances:

- (a) The estimated cost for the design professional services is less than the project cost requiring formal bids pursuant to Section 45 of the City's Charter; or
 - (b) The City Commission finds that that the time required to perform the process described in Section 145.12 will jeopardize the feasibility of a project and selection of a design professional must be expedited to enable the project to be feasible and to promote the public welfare; or
 - (c) A real and present emergency exists as determined by a two-thirds vote of the members of the City Commission which requires a waiver of the competitive design professional selection process; or
 - (d) The requirements for competitive contractor selection are waived by the Ohio Revised Code.
- (Ord. 02-318. Passed 8-6-02.)

145.14 PURCHASING CONTRACTS DURING AN EMERGENCY.

(a) In the event the Mayor determines and declares that the City is in a time of public danger or emergency, as provided for in Section 7 of the City's Charter, during such time of public danger or emergency, a real and present emergency is deemed to exist and no vote of the City Commission will be required to find a real and present emergency, as provided for in Section 145.02 of the Codified Ordinances, and the Mayor, the City Manager, and the Finance Director are each authorized to and may bind the City to contracts without complying with competitive bidding requirements and without obtaining additional legislative approval and authorization by the City Commission for the expenditures related to such contracts.

(b) In the event the Mayor determines and declares that the City is in a time of public danger or emergency, as provided for in Section 7 of the City's Charter, during such time of public danger or emergency, each City Department Director is authorized to approve purchases of necessary equipment, supplies, and services needed to respond to the exigencies of the time of public danger or emergency, up to a maximum aggregate sum of ten thousand dollars (\$10,000.00) of purchases which have not been authorized by the Mayor, City Manager, or Finance Director.

(Ord. 06-382. Passed 10-17-06.)

CHAPTER 147

Municipal Finances

- 147.01 Record of accounts.**
- 147.02 Issuance of warrants.**
- 147.03 Approval of obligations.**
- 147.04 Collections.**
- 147.05 Moneys and securities.**
- 147.06 Treasury Investment Board.**
- 147.07 City investment policy.**
- 147.08 Vending machine deposits.**
- 147.09 Earned interest.**
- 147.10 Funds considered appropriated.**
- 147.11 Agency funds established.**
- 147.12 General grants and loans.**
- 147.13 Claims.**
- 147.14 Bad debt.**
- 147.15 Charge for bad checks.**
- 147.16 Utility funds.**

CROSS REFERENCES

Finances generally - see CHTR. Sec. 32 et seq.

147.01 RECORD OF ACCOUNTS.

The Director of Finance shall keep an accurate account of all taxes and assessments, of all money due to, and all receipts and disbursements by, the Municipality, of all its assets and liabilities, and of all appropriations made by the City Commission. The Director of Finance shall audit the accounts of the Municipal departments and officers and shall audit all other accounts in which the City is interested. The Director of Finance may prescribe the form of reports submitted to the Department of Finance and the method of keeping accounts by all other departments. All departments of the City and all boards and agencies responsible to the City shall provide the Director of Finance with a daily account of all Municipal moneys received by such department, board or agency.

(Ord. 88-319. Passed 5-31-88.)

147.02 ISSUANCE OF WARRANTS.

The Director of Finance shall issue all warrants for the payment of money by the City. The City Treasurer shall not disburse any money except upon a warrant issued by the Director of Finance.

(Ord. 88-319. Passed 5-31-88.)

147.03 APPROVAL OF OBLIGATIONS.

The Director of Finance shall examine and approve all contracts, orders and other documents by which the City incurs financial obligations and shall ascertain that moneys are appropriated for such purpose. The Director of Finance shall audit and approve the payment of all bills, invoices, payrolls and other evidences of claims, demands or charges against the City and with the advice of the Director of Law shall determine the regularity, legality and correctness of such claims, demands or charges.

(Ord. 88-319. Passed 5-31-88.)

147.04 COLLECTIONS.

The Director of Finance shall collect all fees and other obligations owed to the City and promptly transmit them to the City Treasurer for deposit. However, the Director of Finance may, with the concurrence of the City Manager, permit other departments to collect fees and other obligations due to the City and payable through such departments and to promptly transmit them to the City Treasurer for deposit.

(Ord. 88-319. Passed 5-31-88.)

147.05 MONEYS AND SECURITIES.

The City Treasurer shall have custody of all moneys and securities of the City and shall keep them in a safe place and manner as required by law.

(Ord. 88-319. Passed 5-31-88.)

147.06 TREASURY INVESTMENT BOARD.

The City Manager, the Director of Finance and the Director of Law shall constitute the Treasury Investment Board as provided in Ohio R.C. 731.57. The Director of Finance shall maintain an account to be known as the Treasury Investment Account, in which the Director of Finance shall enter all transactions relating to the investment of Treasury funds, as is provided in Ohio R.C. 731.56 and 731.57. The Director of Finance shall furnish the City Treasurer such information as is required by Ohio R.C. 731.58.

(Ord. 88-319. Passed 5-31-88.)

147.07 CITY INVESTMENT POLICY.

Neither the City nor the Treasury Investment Board is required to comply with Ohio R.C. Chapter 135 so long as there is a City investment policy adopted by the City Commission effective for the City. The Director of Finance, the Treasurer and their respective bondsmen or surety are relieved from any liability for the loss of any public moneys invested by them; provided, the investment of the public money is done in compliance with an effective City investment policy adopted by the City Commission.

(Ord. 88-319. Passed 5-31-88.)

147.08 VENDING MACHINE DEPOSITS.

The Director of Finance shall deposit all proceeds from vending machines situated on City property received since January 1, 2013, into the General Fund.

(Ord. 00-456, Passed 12-19-00; Ord. 13-149, Passed 6-11-13.)

147.09 EARNED INTEREST.

The Director of Finance may credit the interest earned on moneys received for and on behalf of the City to the General Fund of the City; provided, however, that the Director of Finance shall credit interest earned on moneys derived from trusts or other instruments in accordance with such trusts or other instruments.

(Ord. 88-319. Passed 5-31-88.)

147.10 FUNDS CONSIDERED APPROPRIATED.

The following funds are considered appropriated:

- (a) Money borrowed as provided in Ohio R.C. 133.20.
- (b) The proceeds of a bond issue duly authorized as provided in Ohio R.C. 5705.41.
- (c) Grants or loans of money to the City from the U.S. government as provided in Ohio R.C. 5705.42.

(Ord. 88-319. Passed 5-31-88.)

- (d) Money derived from an annual levy of the Board of Directors of the Conservancy District which has determined, ordered and levied same as provided in Ohio R.C. 6101.61.

(Ord. 88-319. Passed 5-31-88.)

147.11 AGENCY FUNDS ESTABLISHED.

The Director of Finance is authorized to establish agency funds to account for assets held by the City as an agent for individuals, private organizations, other political subdivisions and other third party funds held by the City. Agency funds, being of a custodial nature, are recognized by Generally Accepted Accounting Principles (GAAP) as being exempt from the City's formal budgetary accounting requirements and, therefore, do not require appropriation by the City Commission.

(Ord. 88-319. Passed 5-31-88.)

147.12 GENERAL GRANTS AND LOANS.

The City Manager is the authorized representative of the City in all matters concerning the execution, submission and processing of all applications for loans or grants from any State or federal department, agency or authority.

(Ord. 88-319. Passed 5-31-88.)

147.13 CLAIMS.

The Director of Law shall not settle any claim unless an appropriation is available for such claim. The Director of Finance may issue a warrant for payment of a claim settled by the Director of Law. The Director of Law shall submit a voucher to the Director of Finance requesting payment for such claim.

The Director of Law shall not settle any claim against the City based on a contract made or purportedly made with the City or any claim in an

amount in excess of ten thousand dollars (\$10,000.00) without first obtaining specific authorization to settle such claim from the City Commission.
(Ord. 22-22. Passed 2-1-22.)

147.14 BAD DEBT.

The Director of Finance, with the concurrence of the City Manager and also of the Director of Law or Deputy Law Director, may determine that a financial obligation owed to the City is uncollectable and may delete such obligation from the City's current accounts. In determining that an obligation is uncollectable, the Director of Finance shall adhere to the Generally Accepted Accounting Principles (GAAP) for governmental entities and other applicable legal and accounting requirements.
(Ord. 06-11. Passed 1-17-06.)

147.15 CHARGE FOR BAD CHECKS.

There shall be a charge of twenty-five dollars (\$25.00) for each check, draft, money order or the like, which is made payable to the City as payment for any tax, fee, charge, license or renewal thereof, permit or renewal thereof, assessment, rent, sale of City property or Municipal Court restitution, which is properly refused for payment to the City. Such twenty-five dollar (\$25.00) charge shall be levied and collected against the maker or drawer of such check, draft, money order or the like.
(Ord. 92-308. Passed 10-13-92.)

147.16 UTILITY FUNDS.

The Director of Finance is hereby directed to apply moneys collected from or on behalf of owners, as that term is defined in Chapters 911 and 917 of the City's Codified Ordinances, first to charges levied pursuant to Chapter 911 and finally to charges levied pursuant to Chapter 917. When such utility charges are not paid when due, the Director of Finance may pursue collection of such utility charges pursuant to the procedure described in Ohio R.C. 743.04(A).
(Ord. 88-91. Passed 2-23-88.)

CHAPTER 149

Municipal Property

149.01 Acquisition of real property.

149.02 Disposal of real property.

149.03 Disposal of personal property.

149.04 Donations.

149.05 Lease of City property.

149.06 Water utility rental.

149.07 Water utility rental payment.

149.08 Plumbing materials at municipal golf courses.

149.09 Records submitted to the City; trade secrets.

CROSS REFERENCES

Procedure for sale or lease of real property - see ADM. 111.02

Sale or lease of property - see Ohio R.C. Ch. 721

149.01 ACQUISITION OF REAL PROPERTY.

The City may acquire real property by private or public sale, gift, devise, lease, dedication, eminent domain or any other lawful means as needed for Municipal purposes.
(Ord. 88-319. Passed 5-31-88.)

149.02 DISPOSAL OF REAL PROPERTY.

The City may convey real property owned by the City and which is not needed for Municipal purposes by private or public sale and with or without competitive bidding. The City may dispose of such real property only upon authorization and direction by ordinance of the City Commission.
(Ord. 88-319. Passed 5-31-88.)

149.03 DISPOSAL OF PERSONAL PROPERTY.

(a) The City may dispose of personal property owned by the City and no longer needed for municipal purposes by private or public sale and with or without competitive bidding.

(b) Personal property of the City not needed for municipal purposes, as determined by the City Manager, and having an estimated value not exceeding fifteen thousand dollars (\$15,000), may be sold or traded by the City Manager. The record of such sale or disposal shall be recorded in the City Manager's journal. All other personal property not needed for Municipal purposes may be sold or traded only upon authorization and direction by ordinance of the City Commission.
(Ord. 02-328. Passed 8-20-02.)

(c) Personal property of the City not needed for municipal purposes and which has no value, as determined by the City Manager, may be offered at no charge to non-profit organizations serving the Springfield community on a first-come-first-served basis prior to such unneeded property being sent to a landfill or otherwise discarded.
(Ord. 00-194. Passed 5-16-00.)

149.04 DONATIONS.

Property, both real and personal, and services donated, devised, dedicated or otherwise given to the City without cost, excepting recording fees, may be accepted by the City Manager on behalf of the City, provided the value of the property or services does not exceed ten thousand dollars (\$10,000), the estimated expenditures by the City related to the property or services for a period of twelve months will not exceed ten thousand dollars (\$10,000) and the City Manager finds that acceptance of the property or services is in the best interest of the City. A record of property and services accepted by the City Manager shall be recorded in the City Manager's journal. All other property, both real and personal, and services donated, devised, dedicated or otherwise given to the City may be accepted by the City only by ordinance of the City Commission, which ordinance shall contain a finding by the City Commission that acceptance of the property or services is in the best interest of the City.
(Ord. 88-319. Passed 5-31-88; Ord 23-326. Passed 10-24-23.)

149.05 LEASE OF CITY PROPERTY.

(a) The City Manager is authorized to enter into lease agreements and license agreements to lease or issue a license for the use of the Municipal Swimming Pool, Municipal Stadium, public recreation areas owned by the City, Core Block Plaza, the Esplanade, and City-owned lands when exclusive occupancy by the City is not currently necessary to provide City services; when the lease or license is cancelable upon no more than thirty days advance notice. The City Manager is authorized to execute any and all documents necessary to fulfill the City's obligations under the agreements described in this section.
(Ord. 99-290. Passed 9-7-99.)

(b) The City Manager is authorized to grant, on behalf of the City, licenses to public utilities to use City property, including public thoroughfare right-of-way; provided, that such licenses may be revoked at any time and the Service Director or designee has made a determination that granting such license will not result in creating a nuisance within a public thoroughfare. The City Manager may impose such obligations and limitations upon a licensee as are necessary to prevent safety hazards, protect public property and ensure the licensee's compliance with law.
(Ord. 19-289. Passed 12-10-19.)

(c) The City Manager is authorized to grant and enter into, on behalf of the City, conduit lease and service agreements allowing the occupancy of space in City-owned conduit which the City Manager determines is not needed for municipal purposes. The City Manager is further authorized to establish fee structures for allowing the occupancy of space in City-owned conduit. The conduit lease and service agreements shall provide that the City shall have the right to terminate the lease and service agreement upon six (6) months written notice to the lessee if the leased space is needed in connection with the City's municipal purposes of a higher priority, as determined by the City Commission. At the time of such notice of termination, the City shall waive (or return to the lessee as the case may be) any unused portion of the payment made under the lease and service agreement that the City elects to terminate. In addition, the City shall have the right to terminate the lease and service agreement upon thirty (30) days written notice to the lessee if the lease and service agreement creates an adverse impact upon the public health, safety, and welfare or the City's fiscal standing as an Ohio municipal corporation.
(Ord. 09-328. Passed 12-8-09.)

149.06 WATER UTILITY RENTAL.

Unless otherwise provided by the City Commission, and so long as the Water Fund utilizes and derives the benefit of the City Hall garage space and the light, heat, janitorial, maintenance and other facilities and services incident thereto, the Water Fund shall pay from revenue derived by it from its operations; namely, water rental assessments, to the Municipal government, for credit to the General Fund thereof, an annual rental, in the amount of thirteen thousand six hundred dollars (\$13,600), payable in quarterly installments of three thousand four hundred dollars (\$3,400) each, at the end of each three months.
(Ord. 88-319. Passed 5-31-88.)

149.07 WATER UTILITY RENTAL PAYMENT.

The Director of the Department of Utility Services shall issue a voucher approved by the City Manager and drawn against the Water Works Fund of the City to pay the quarterly amount due of the annual rental required by Section 149.06. Upon receipt of such voucher, the Director of Finance shall issue a warrant against the Water Works Fund and in favor of the General Fund of the City in the amount of the voucher.
(Ord. 88-319. Passed 5-31-88.)

149.08 PLUMBING MATERIALS AT MUNICIPAL GOLF FACILITIES.

Notwithstanding the provisions of Section 1361.02(b) of the Codified Ordinances, the City may use polyvinyl chloride (PVC), chlorinated polyvinyl chloride (CPVC), reinforced thermal-setting resin pipe (RTRP), polybutylene (PV), polyethylene (PE), and other plastic pipings or fittings permitted by the Ohio Plumbing Code in the construction of plumbing on golf facilities owned and operated by the City.
(Ord. 94-201. Passed 5-24-94.)

149.09 RECORDS SUBMITTED TO THE CITY; TRADE SECRETS.

(a) All records submitted to the City in performance of a contract with the City, as part of an application made to the City, as part of a bid or proposal made to the City, as part of an information submittal made to the City in compliance with licensing requirements of the City, or as part of a request or petition seeking any form of action by the City shall be the property of the City. All such records shall have the status of a public record available for inspection and copying by the public pursuant to Section 149.43 of the Ohio Revised Code, unless:

- (1) The submitter of the record identifies the specific record or portion of the record as a trade secret by clearly and conspicuously labeling the record or portion of the record with the legend "**TRADE SECRET**", or
- (2) The submitter of the record identifies the specific record or portion of the record as material the release of which is prohibited by state or federal law by clearly and conspicuously labeling the record or portion of the record with the legend "**NOT TO BE RELEASED TO THE PUBLIC**" and with a citation to the statute or other law prohibiting release of the record or portion thereof.

(b) The term "record" means all written or graphic matter, data processing media, sound recordings, and all other written or electronic mediums by which information is stored, however produced or reproduced and of every kind and description.

(c) The term "trade secret" means information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following:

- (1) It derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper

- means by, other persons who can obtain economic value from its disclosure or use.
- (2) It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.
(Ord. 03-382. Passed 11-25-03.)

CHAPTER 151

Issue and Sale of Bonds and Notes

151.01 Compliance with law required

CROSS REFERENCES

Uniform Public Securities Law - see Ohio R.C. Ch. 133

151.01 COMPLIANCE WITH LAW REQUIRED.

All bonds and notes of the City, hereafter issued or sold, and all proceedings relating to the issue or sale thereof, shall conform to the general laws of Ohio, particularly the Uniform Public Securities Law of the Ohio Revised Code, and other applicable acts of the General Assembly; and, to the extent that the same are not inconsistent therewith, to the provisions of the City Charter, the particular ordinance or resolution authorizing the issue or sale of any specific bonds or notes.

(Ord. 88-319, passed 5-31-88; Ord. 13-164, passed 6-25-13.)

CHAPTER 153

Disadvantaged and Minority Business Enterprises

- 153.01 Policy statement and objectives.**
- 153.02 Definitions.**
- 153.03 Duties of the Minority Business Coordinator.**
- 153.04 MBE eligibility and certification.**
- 153.05 DBE eligibility and certification.**
- 153.06 Required steps in evaluating MBE and DDE.**
- 153.07 Contracting goals.**
- 153.08 Counting MBE participation.**
- 153.09 Counting DBE participation.**
- 153.10 Waiver of bond.**
- 153.11 Nondiscrimination by contractors.**
- 153.12 Time requirements and procedure for noncompliance.**
- 153.13 Third party complaints.**
- 153.14 Reciprocal certification.**

Note: This chapter was repealed and replaced in its entirety by Ord. No. 24-221 passed July 30, 2024.

153.01 POLICY STATEMENT AND OBJECTIVES.

(a) The City of Springfield, Ohio, commits to fostering an inclusive environment where Disadvantaged Business Enterprises (DBEs) and Minority Business Enterprises (MBEs), as outlined in Section 153.02, are actively encouraged to participate in City contracts. This policy aligns with federal regulations, including the United States Department of Transportation, 49 CFR Part 23, Title VI of the Civil Rights Act of 1964, Executive Order 11625, October 13, 1971, Executive Order 11246, and all other applicable laws and regulations regarding contracting opportunities for DBEs and MBEs.

(b) The City establishes the following inclusive goals for the Disadvantaged Business Enterprise (DBE) Program and the Minority/Women Business Enterprise (MBE/WBE) Program.

- (1) To ensure nondiscrimination in the award and administration of contracts;
- (2) To create a level playing field on which MBEs and DBEs can compete fairly for contracts;
- (3) To ensure that the MBE/WBE and DBE Programs are narrowly tailored in accordance with applicable law;
- (4) To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as MBEs and DBEs;
- (5) To help remove barriers to the participation of MBEs and DBEs in contracts and subcontracts;
- (6) To assist the development of firms that can compete successfully in the market place outside the MBE and DBE Programs;
- (7) To promote the use of MBEs and DBEs in all types of contracts and procurement activities conducted by recipients; and,
- (8) To provide appropriate flexibility to recipients of applicable financial assistance in establishing and providing opportunities for MBEs and DBEs.

(c) Corporations, firms, or individuals benefiting from City-provided tax abatement or tax credit development incentives must align their construction and purchasing contracts with the inclusive goals detailed in this section.

153.02 DEFINITIONS.

In this chapter, the terms listed below are defined as follows:

- (a) "Affiliation" means a connection with another business concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indicators of affiliation. Power to control exists when a party or parties have fifty-one percent (51%) or more ownership. It may also exist with considerably less than fifty-one percent (51%) ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Affiliation business concerns need not be in the same line of business. The calculation of a concern's size includes the employees or receipts of all affiliates. Except as otherwise provided, concerns are affiliates of each other when, either directly or indirectly:
 - (1) One concern controls or has the power to control the other; or
 - (2) A third party or parties controls or has the power to control both; or
 - (3) An identity of interest between or among parties exists such that affiliation may be found.In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.
- (b) "Assets" means all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.
- (c) "Asian-Indian Americans" includes people with origins from India, Pakistan, Sri Lanka, or Bangladesh.

- (d) "Asian-Pacific Americans" includes individuals from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, or the Northern Marianas.
- (e) "Bid" or "Bidder" includes the terms "proposal" and "proposer."
- (f) "Black Americans" includes persons having origins in any black racial groups of Africa.
- (g) "Business, business concern or business enterprise" means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.
- (h) "City" means The City of Springfield, Ohio.
- (i) "City Manager" means the City Manager of the City of Springfield, Ohio.
- (j) "Contract" means an agreement where the City spends its funds for goods or services. Certain contracts, such as specialized services, emergency requisitions, petty cash funds, and contracts utilizing nonfederal funds under the thresholds set by 9.17 of the Ohio Revised Code may be exempt. Exemptions under this Chapter are determined by the Minority Business Coordinator in conjunction with the City Finance and City Legal Departments.
- (k) "Contractor" means a party participating in a contract as defined in subsection (g).
- (l) "Disadvantaged Business Enterprise" or "DBE" means small business concern:
 - (1) At least fifty-one percent (51%) owned by socially and economically disadvantaged individuals, or if publicly owned, at least fifty-one percent (51%) of the stock is owned by these individuals; and
 - (2) Managed and operated on a daily basis by one or more of the disadvantaged individuals who own it.
- (m) "Discriminate" means exclusion of an individual or group solely based on race, religion, color, sex, national origin, age, disability, ancestry, or Vietnam-era or disabled veteran status.
- (n) "Hispanic Americans" includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race.
- (o) "Joint Venture" means an association of an MBE or DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the MBE or DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.
- (p) "Manufacturer" means a firm operating a factory or establishment that produces materials or supplies on-premises.
- (q) "Minority Business Coordinator" or "MBC" means the person designated by the City Manager to administer this chapter, also serving as the City's "DBE Liaison Officer" per 49 CFR Section 23.45 (May also be referred to as the "MBE Officer.")
- (r) "Minority" means a U.S. citizen or lawful permanent resident who is:
 - (1) Black American,
 - (2) Hispanic American,
 - (3) Native American,
 - (4) Asian-Pacific American, or
 - (5) Asian-Indian American.
- (s) "Minority Business Enterprise" or "MBE" means a business which is:
 - (1) At least fifty-one percent (51%) owned by minorities or females, or if publicly owned, at least fifty-one percent (51%) of the stock is owned by minorities or females;
 - (2) Managed and operated daily by minority or female individuals; and
 - (3) At least fifty-one percent (51%) of net profits or losses are attributable to minority or female persons.
- (t) "Native Americans" includes American Indians, Eskimos, Aleuts, or Native Hawaiians.
- (u) "Regular Dealer" means a firm engaged in the principal business of buying and selling specific products, owning and maintaining a store or warehouse, but not including brokers and packagers.
- (v) "Small Business Concern" means a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implemented in (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in § 26.65(b).
- (w) "Socially and Economically Disadvantaged Individuals" and "Disadvantaged Individuals" includes U.S. citizens or lawfully admitted permanent residents who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, or others found disadvantaged by the Small Business Administration. The social disadvantage must stem from circumstances beyond the individual's control.
 - (1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that they have held himself or herself out, as a member of a designated group if you require it.
 - (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - A. "Black Americans" which includes persons having origins in any of the Black racial groups of Africa;
 - B. "Hispanic Americans" which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - C. "Native Americans" which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;
 - D. "Asian-Pacific Americans" which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the US Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - E. "Subcontinent Asian Americans" which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - F. Women;
 - G. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.
 - (3) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.
- (x) "Subcontractor" means one who contracts with the original contractor for part or all of the work, excluding the purchase of materials and/or equipment.
- (y) "HUD" means United States Department of Housing and Urban Development.
- (z) "UMTA" means United States Urban Mass Transportation Administration. (aa) "DOT" means United States Department of Transportation.
- (bb) "FAA" means Federal Aviation Administration. (cc) "FTA" means Federal Transit Administration.

153.03 DUTIES OF THE MINORITY BUSINESS COORDINATOR.

In addition to the duties specified in other sections of this chapter, the Minority Business Coordinator, established within the City Manager's Office, along with necessary support staff, shall implement and enforce this chapter in accordance with the following duties:

- (a) Developing, monitoring, and continuously evaluating the City's Minority/Women Business Enterprise (MBE/WBE) and Disadvantaged Business Enterprise (DBE) Program.
- (b) Administering this chapter and assisting contractors in complying with its provisions. Should the MBC suspect non-compliance by a contractor, they shall communicate with the City Manager, seeking advice and instruction before initiating corrective or enforcement actions.
- (c) Reviewing certifications, submittals, and other pertinent information to assess whether contractors are eligible as MBEs in accordance with Sections 153.04 and 153.05 and applicable Federal requirements.
- (d) Compiling, maintaining, and annually updating a directory of MBEs and DBEs, categorizing them by appropriate designations. This directory shall be publicly accessible at the City of Springfield, Ohio website.

- (e) Facilitating management and technical assistance resources for MBEs and DBEs.
- (f) Publicizing City business opportunities suitable for MBE or DBE participation, encompassing those involving funds provided by HUD, UMTA, DOT, and FAA, FTA, etc.
- (g) Supporting MBEs and DBEs in procuring resources to aid in bidding on City contracts and subcontracts, including pre-bid and pre-construction meetings, training sessions, workshops, seminars, etc.
- (h) Continuously monitoring contractors' subcontracting practices to ensure ongoing compliance with this chapter.
- (i) Staying informed of state and federal rules and regulations regarding contract compliance, and ensuring that the City conforms to applicable statutes.
- (j) Investigating any allegations of discrimination against MBEs and DBEs by City contractors.

153.04 MBE ELIGIBILITY AND CERTIFICATION.

(a) Businesses, including joint ventures aiming to participate in City contracts as an MBE, must complete and submit a dedicated MBE application. The applications must be signed by the business entity's authorized representative and notarized. A business seeking MBE certification must submit the required application.

(b) The Minority Business Coordinator will assess the eligibility of a business for MBE status using the following criteria:

- (1) Proof of genuine minority group membership.
- (2) Verification of independent and substantial ownership and control by minorities.
- (3) The power of the minority owner(s) to guide the firm's management, policies, and daily operations.
- (4) Verification that non-minority owners are not disproportionately responsible for the firm's operation.
- (5) Direct holding of securities by minorities.
- (6) Real and substantial contributions of capital or expertise by minority owners.
- (7) Evaluation of the timing of new or recently changed firms.
- (8) Review any previous employer-employee relationships among the owners.
- (9) Investigation of any relationship between an MBE and a non-MBE that might conflict with ownership and control requirements.

(c) A joint venture qualifies if an association of a DBE or MBE firm and one or more other firms exist to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

(d) Businesses aspiring to be certified as an MBE or joint venture MBE must furnish additional information to the City as requested by the Minority Business Coordinator.

(e) If the Minority Business Coordinator concludes that the applicant is a genuine MBE, certification will be granted with an MBE number. Certification remains valid for up to twenty-four months, so long as the application information remains accurate.

(f) Once certified, MBEs are to update their applications annually or bi-annually as needed. In case of any change in ownership or control, the MBE must file a new application.

153.05 DBE ELIGIBILITY AND CERTIFICATION.

(a) A business wishing to be verified as a DBE or joint venture DBE shall provide such existing certifications and additional information to the City as the MBE Officer shall request.

(b) If after reviewing the above data, the MBE Officer determines that the applying business enterprise is a bona fide DBE, they shall recognize the business enterprise as a DBE firm. The verification shall be effective as long as the information in the relevant DBE application continues to be true, but no longer than for a period of twelve months.

(c) DBEs must update applications annually or bi-annually as needed, and submit new proof of certification if ownership or control changes.

153.06 REQUIRED STEPS IN EVALUATING MBE APPLICATIONS.

The Minority Business Coordinator is responsible for evaluating MBE applications and may conduct further investigation as necessary for thorough and fair evaluation. The following minimum steps shall be taken:

- (a) Stock Analysis: If applicable, analyze the stock ownership of the applicant firm.
- (b) Financial Capacity Analysis: Analyze the bonding and financial capacity of the applicant firm.
- (c) Work History Assessment: Determine the applicant firm's work history, including contracts received and work completed.
- (d) Equipment and Licensing: Compile a list of equipment owned or available to the applicant firm, and verify the licenses of the firm and its key personnel.
- (e) Work Preference Statement: Obtain a statement from the applicant firm regarding the type of work it prefers to perform under the MBE/WBE Program.
- (f) Owner Interviews: Obtain the resumes or work histories of the applicant firm's principal owners and conduct personal interviews.
- (g) Site Visits: Conduct an on-site visit to the applicant firm's offices and any current job sites.

153.07 CONTRACTING GOALS.

(a) The Minority Business Coordinator shall gather reports and other statistical data necessary to work with departments to calculate overall annual MBE and DBE participation goals as required by the specific funding streams utilized. The city endeavors to meet the maximum feasible portion of its overall annual goals by using funding specific required means of facilitating MBE and DBE participation.

(b) Individual Contract Goals: The City Manager can establish individual goals for prime contracts with subcontracting possibilities funded by HUD, DOT, FAA, or UMTA. These goals shall consider the availability of qualified MBEs and DBEs.

(c) Effort to Meet Goals: Contractors awarded a contract funded by HUD, DOT, FAA, or UMTA shall use their best efforts to meet the individual contract goal established by the City Manager.

(d) Geographic Area Consideration: Contractors shall seek DBEs and MBEs within the same geographic area, with a focus on the City of Springfield if possible, as other subcontractors. If goals cannot be met, contractors may widen their search reasonably.

(e) Disclosure to MBC: Bidders shall disclose to the Minority Business Coordinator in writing the details of each DBE and MBE's participation in the contract, including names, addresses, work descriptions, and dollar amounts, prior to contract award.

(f) Good Faith Efforts for Replacement: Contractors shall make good faith efforts to replace unsuccessful MBE or DBE subcontractors with other MBEs or DBEs, respectively.

(g) Bid Requests Information: City-published bid requests shall inform competitors of MBE/DBE compliance requirements and state that compliance is a precondition for contract award.

(h) Discretion of City Manager: The City Manager shall determine whether contractors have exercised best efforts to meet individual goals, considering factors such as attendance at meetings, advertising, written notice, negotiations, assistance in obtaining financial support, and utilization of minority-focused resources.

(i) Revocation of Award: If the City Manager decides, in discussion with the City Law Department and City Finance Department, that a contract awardee has not exercised good faith, the award of the contract may be recommended for revocation to the City Commission.

153.08 COUNTING MBE PARTICIPATION.

(a) Total Contract Value: Once a firm qualifies as an MBE under this chapter, the entire dollar value of the contract awarded to the MBE shall be counted toward the relevant MBE goals.

(b) Proportional Ownership: The total contract value to an MBE owned and controlled by minorities shall be counted toward minority goals in proportion to the ownership and control percentage of each group in the business.

(c) Joint Venture: A contractor may count toward MBE goals the portion of the total contract value with an eligible joint venture, equal to the MBE partner's ownership and control percentage.

(d) Commercially Useful Function

- (1) Contractors may only count toward MBE goals the expenditures to MBEs performing a commercially useful function, defined as

responsibility for a distinct work element, with actual execution, management, and supervision.

- (2) An MBE may subcontract consistently with industry practices. However, excessive subcontracting may be presumed as non-compliance with commercial usefulness. The MBE may present evidence to rebut this presumption to the Minority Business Coordinator.
- (e) Materials and Supplies: A contractor may count toward its MBE goal:
 - (1) Sixty percent (60%) of expenditures for materials and supplies from an MBE regular dealer.
 - (2) One hundred percent (100%) of such expenditures from an MBE manufacturer.
- (f) Specific Expenditures to Non-Manufacturers or Regular Dealers: A contractor may count toward MBE goals expenditures to MBEs that aren't manufacturers or regular dealers for:
 - (1) Fees for bona fide services, such as professional, technical, consulting, or managerial services, or procurement assistance, if deemed reasonable.
 - (2) Fees for material and supply delivery, excluding the cost of the materials themselves, if the delivery fee is reasonable.
 - (3) Fees for bonds or insurance specifically required for contract performance, if deemed reasonable.

153.09 COUNTING DBE PARTICIPATION.

- (a) Total Contract Value: Once a firm is established as a DBE under this chapter, the entire dollar value of the contract awarded to the DBE shall be counted toward the relevant DBE goals.
- (b) Proportional Ownership: The total contract value to a DBE owned and controlled by disadvantaged individuals shall be counted toward the DBE goals for disadvantaged individuals, in proportion to the ownership and control percentage of each group in the business.
- (c) Joint Venture: A contractor may count toward DBE goals the portion of the total contract value with an eligible joint venture, equal to the DBE partner's ownership and control percentage.
- (d) Commercially Useful Function
 - (1) Contractors may only count toward DBE goals the expenditures to DBEs performing a commercially useful function, defined as responsibility for a distinct work element, with actual execution, management, and supervision.
 - (2) A DBE may subcontract consistently with industry practices. However, excessive subcontracting may be presumed as non-compliance with commercial usefulness. The DBE may present evidence to rebut this presumption to the MBE Officer.
- (e) Materials and Supplies: A contractor may count toward its DBE goal:
 - (1) Sixty percent (60%) of expenditures for materials and supplies from a DBE regular dealer.
 - (2) One hundred percent (100%) of such expenditures from a DBE manufacturer.
- (f) Specific Expenditures to Non-Manufacturers or Regular Dealers: A contractor may count toward DBE goals expenditures to DBEs that aren't manufacturers or regular dealers for:
 - (1) Fees for bona fide services, such as professional, technical, consulting, or managerial services, or procurement assistance, if deemed reasonable.
 - (2) Fees for material and supply delivery, excluding the cost of the materials themselves, if the delivery fee is reasonable.
 - (3) Fees for bonds or insurance specifically required for contract performance, if deemed reasonable.

153.10 WAIVER OF BOND.

- (a) Exemption Criteria: The Minority Business Coordinator, in consultation with the Finance Department, may recommend to the City Manager an exemption for MBEs or DBEs from posting bid bonds with bids and performance bonds with contract execution, provided one or more of the following conditions are met:
 - (1) The contract aligns with the bidder's abilities for goods, services, or construction.
 - (2) The waiver does not conflict with the Federal Wages and Hour Act, the Davis Bacon Act, or other federal procedures.
 - (3) The bidder's prior performance record supports their ability to execute the contract.
- (b) State Prevailing Wage Requirements: This section shall not be interpreted to limit state prevailing wage requirements or exempt transactions from such requirements, if they would otherwise apply and be enforceable.

153.11 NONDISCRIMINATION BY CONTRACTORS.

- (a) Affirmative Action Goals: The goals outlined in Section 153.01 are established to promote affirmative action and apply to all contractors and subcontractors participating in contracts with the City.
- (b) Prohibition of Discrimination: No contractor shall discriminate against any employee or applicant for employment on the basis of race, religion, color, sex, national origin, age, handicap, ancestry, Vietnam-era or disabled veteran status, or sexual orientation. The term "treated" includes, without limitation, recruitment, compensation, selection for training, promotion, upgrading, demotion, transfer, layoff, and termination. Contractors are required to:
 - (1) Take affirmative action as mandated by law to ensure fair treatment during employment and
 - (2) Post notices in visible locations, as provided by hiring representatives, detailing this nondiscrimination clause.
- (c) Misrepresentation of MBE or DBE Status: Any person who intentionally misrepresents ownership, control, operation, or participation in an MBE or DBE to gain contracts, subcontracts, or other benefits under this chapter shall be found guilty of theft by deception, as defined in Ohio R.C. 2913.02.

153.12 TIME REQUIREMENTS AND PROCEDURE FOR NONCOMPLIANCE.

- (a) Initial Determination and Reconciliation Efforts: If the Minority Business Coordinator identifies a contractor's violation of this chapter, the process shall proceed as follows:
 - (1) The Minority Business Coordinator must issue a written finding detailing the violation and decision basis, and inform the contractor of the right to object. This finding shall be sent via certified mail;
 - (2) The contractor must first seek informal reconciliation with the Minority Business Coordinator, a necessary step before filing a written objection with the City Manager.
- (b) Formal Objection and Hearing Request: If informal reconciliation fails, the contractor may file a written objection with the City Manager within fifteen business days of receipt of the written finding:
 - (1) The Minority Business Coordinator must forward all related materials and recommended remedial action to the City Manager within seven business days;
 - (2) The contractor may request a hearing before the City Manager when filing the written objection.
- (c) Lack of Reconciliation Efforts: Should no reconciliation attempt be made by the contractor within fifteen days of receiving the written finding, the Minority Business Coordinator must immediately send his finding and recommended remedial action to the City Manager.
- (d) Determination of Persistent Violation: Upon authorization from the City Manager, the Minority Business Coordinator shall assess when a violation persists, and reconciliation efforts are unlikely to resolve the situation.
- (e) Appeal Process: If the contractor disagrees with the City Manager's decision, the contractor must follow the appeal process outlined in 49 CFR Section 23.55.

153.13 THIRD PARTY COMPLAINTS.

- (a) Filing a Complaint: Any person or organization with concerns regarding unjust participation by an enterprise or individuals under this program, or believing that the DBE and MBE participation is being improperly applied, may take the following action:
 - (1) File a written complaint with the Minority Business Coordinator;
 - (2) The complaint must contain a detailed written statement explaining the basis of the complaint.

153.14 RECIPROCAL CERTIFICATION.

- (a) Acceptance of State Certification: Notwithstanding the stipulations outlined in Section 153.06, the City shall adhere to the following conditions regarding MBE, WBE and/or DBE certification:
 - (1) Accept MBE certification granted by the State of Ohio under Ohio Administrative Code.
 - (2) Recognize the qualification as MBE, WBE and/or DBE status for the intents and purposes of this Chapter 153, as of the date of the State of

Ohio's certification.

(b) Acceptance of Other Certifications: The City may accept other certifications if valid evidence of compliance with the terms and conditions of this Chapter can be shown to have been met.

CHAPTER 155

City Contractors and Affirmative Action

155.01 Definitions.

155.02 Minority Business Coordinator.

155.03 Affirmative action programs required.

155.04 Affirmative action programs review and approval.

155.05 Contractor filing certificate of prior affirmative action programs.

155.06 Issuance of certificates of compliance.

155.07 Contract award requires chapter compliance.

155.08 Contracts executed by contractors and subcontractors requires compliance.

155.09 Pre-award conference.

155.10 Submission of reports to evidence compliance.

155.11 Access to and submission of records and information.

155.12 Notice to unions and employees.

155.13 Third party complaints.

155.14 Violation procedure.

155.15 Failure to comply; breach of contract and termination.

Note: This chapter was repealed and replaced in its entirety by Ord. No. 24-221 passed July 30, 2024.

155.01 DEFINITIONS.

In this chapter, the terms listed below are defined as follows:

- (a) "Affirmative Action Program" means a written plan where contractors ensure fair treatment in employment without regard to race, color, religion, natural origin, disability (if qualified), sex, or sexual orientation. It includes goals for actions like employment, transfer, compensation, and training.
- (b) "City" refers to the City of Springfield, Ohio.
- (c) "Contractor" means any entity employing four or more people that enters into a contract with the City of Springfield, Ohio.
- (d) "Subcontractor" means any entity employing four or more people that contracts with a contractor to perform part of the contractor's work with the City.
- (e) "Contract" means an agreement where the City spends its funds for goods or services. Certain contracts, such as specialized services, emergency requisitions, petty cash funds, and contracts utilizing nonfederal funds under the thresholds set by 9.17 of the Ohio Revised Code may be exempt. Exemptions under this Chapter are determined by the Minority Business Coordinator in conjunction with the City Finance and City Legal Departments.
- (f) "Federally Assisted Construction Contract" means a contract with the City and a contractor for construction-related work on real property exceeding \$10,000 assisted in any part by Federal Funds.
- (g) "Executive Order 11246" refers to the Executive Order 11246 by the U.S. President, including any rules, regulations, or directives related to it.
- (h) "Disability" refers to a physical or mental impairment that significantly restricts major life activities, a record of such impairment, or being regarded as having such an impairment.
- (i) "Qualified Individual with a Disability" means a person with a disability who can perform the job's essential functions, with or without reasonable accommodations, as defined in the federal Americans with Disabilities Act.

155.02 MINORITY BUSINESS COORDINATOR.

- (a) The position of Minority Business Coordinator is established within the Office of the City Manager.
- (b) The Minority Business Coordinator is responsible for administering this Chapter.
- (c) The Minority Business Coordinator will provide necessary assistance to help contractors and potential contractors comply with all requirements of this Chapter.
- (d) If non-compliance is suspected, the Minority Business Coordinator will consult the City Manager and seek advice before proceeding with corrective or enforcement actions.

155.03 AFFIRMATIVE ACTION PROGRAMS REQUIRED.

(a) Prospective contractors submitting bids for City contracts must complete and include the written affirmative action program form pertinent to the contract bid. An authorized executive official of the contractor must sign this program. The Minority Business Coordinator will provide guidelines to aid bidders in creating and executing their affirmative action programs. Contractors must include the details specified by the Minority Business Coordinator in their program, aligned with the Chapter's objectives and Executive Order 11246.

(b) Private companies or individuals benefiting from City tax abatements or credits must submit a written affirmative action program to the Minority Business Coordinator. An authorized executive official of the entity must sign this program. The Minority Business Coordinator will offer guidance to these beneficiaries in creating and executing their affirmative action programs. They must include the details specified by the Minority Business Coordinator in their program, aligned with the Chapter's intentions and Executive Order 11246.

155.04 AFFIRMATIVE ACTION PROGRAMS REVIEW AND APPROVAL.

The Minority Business Coordinator shall review all submitted affirmative action programs, accepting or rejecting them based on their alignment with the conditions, requirements, and objectives of this chapter, any rules and regulations adopted by the Minority Business Coordinator, and Executive Order 11246.

155.05 CONTRACTOR FILING CERTIFICATE OF PRIOR AFFIRMATIVE ACTION PROGRAMS.

If a contractor bidding on a City contract has completed one or both of the following processes, they may file the certificate(s) along with a copy of the contractor's affirmative action program with the Minority Business Coordinator:

- (a) The contractor previously filed an affirmative action program approved by the Minority Business Coordinator within the last calendar year, OR
- (b) The contractor has filed or become a signatory to a governmentally recognized affirmative action program in another jurisdiction.

155.06 ISSUANCE OF CERTIFICATES OF COMPLIANCE.

The Minority Business Coordinator may issue certificates of compliance to contractors who have successfully completed and submitted an affirmative action program and adhered to the requirements of that plan throughout the contract's duration

155.07 CONTRACT AWARD REQUIRES CHAPTER COMPLIANCE.

The City shall not award a contract unless the affirmative action program submitted by the contractor has been approved or is in the process of being approved by the Minority Business Coordinator, verifying compliance with this chapter or a valid waiver or exemption is permitted by the Minority Business Coordinator.

155.08 CONTRACTS EXECUTED BY CONTRACTORS AND SUBCONTRACTORS REQUIRES COMPLIANCE.

- (a) All contracts executed by a contractor, as well as contracts between a contractor and a subcontractor, must contain an agreement.
- (b) The agreement shall affirm that the contractor/subcontractor commits to adhering to the terms and purposes of this chapter and Executive Order 11246.
- (c) All applicable provisions required by Executive Order 11246 shall be included in each contract through incorporation by reference.

155.09 PRE-AWARD CONFERENCE.

- (a) Before any construction contract is awarded, the Minority Business Coordinator may host a pre-award conference.
- (b) This meeting will be with the apparent successful bidder or with all potential bidders who have submitted approved affirmative action plans.
- (c) The purpose of the conference is to clarify the affirmative action obligations under this chapter. The conference must take place at least ten days before awarding the contract.

155.10 SUBMISSION OF REPORTS TO EVIDENCE COMPLIANCE.

- (a) The contractor must provide, and ensure that their subcontractors provide, written reports as evidence of compliance with this chapter and Executive Order 11246.
- (b) The Minority Business Coordinator will determine the format and timing of these reports in coordination with Contracts Compliance.
- (c) These compliance reports should include information about the practices, policies, and employment statistics of the contractor and each subcontractor, as deemed necessary by the Minority Business Coordinator to demonstrate compliance.

155.11 ACCESS TO AND SUBMISSION OF RECORDS AND INFORMATION.

- (a) Every contractor governed by this chapter must give the Minority Business Coordinator access to all relevant persons, books, papers, records, reports, or accounts.
- (b) The Minority Business Coordinator may examine and investigate these materials at reasonable times to ensure that the contractor and all subcontractors comply with this chapter and Executive Order 11246.
- (c) If requested by the Minority Business Coordinator, the contractor must provide this information in writing within ten business days from the date of the request.

155.12 NOTICE TO UNIONS AND EMPLOYEES.

- (a) The contractor must send a notice to every labor union or worker's representative with whom they have a collective bargaining agreement or other understanding.
- (b) This notice, provided by the Minority Business Coordinator, will inform them of the contractor's obligations under this chapter and Executive Order 11246.
- (c) The contractor shall also post copies of this notice in visible locations accessible to employees and job applicants.

155.13 THIRD PARTY COMPLAINTS.

Any person or organization with concerns regarding unjust participation by an enterprise or individuals under this program, or believing that the DBE and MBE participation is being improperly applied, may take the following action:

- (a) File a written complaint with the Minority Business Coordinator.
- (b) The complaint must contain a detailed written statement explaining the basis of the complaint.

155.14 VIOLATION PROCEDURE.

- (a) If the Minority Business Coordinator finds a violation of this chapter, whether through self-initiative or after investigating a complaint, they will first try to resolve the issue by discussing, persuading, and negotiating with the contractor.
- (b) The Minority Business Coordinator and the contractor may also enter into agreements to reach a resolution.
- (c) If these efforts fail and the violation continues, the Minority Business Coordinator will give the contractor a reasonable time to correct the situation.
- (d) If the situation remains uncorrected, the Minority Business Coordinator will recommend that the City Manager take action as outlined in Section 155.15 below.

155.15 FAILURE TO COMPLY; CONSEQUENCES FOR BREACH OF CONTRACT.

- (a) If a contractor fails to meet any of the terms of this chapter, the City Manager may consider it a complete breach of contract.
- (b) As a result, the contract may be terminated, canceled, or suspended, either entirely or partially.
- (c) The contractor may also be barred from further City contracts for up to one year.
- (d) Before taking any of these actions, the City Manager will inform the City Commission. If a contract is terminated, canceled, or suspended in this manner, the contractor cannot claim damages against the City.

TITLE SEVEN - Boards and Commissions

- Chap. 157. Planning Boards and Commissions.
- Chap. 163. Civil Service Commission.
- Chap. 165. Airport Advisory Board.
- Chap. 167. Mediation Board.
- Chap. 169. Wrestling Commission.
- Chap. 170. Community Police Advisory Team.
- Chap. 171. Human Relations Board and Regulations.
- Chap. 172. Community Advisory Review Board.
- Chap. 173. Fair Housing Board and Regulations.
- Chap. 174. ADA Transportation Advisory Committee.

CHAPTER 157

Planning Boards and Commissions

- 157.01 Creation; membership; term; vacancy.**
- 157.02 Officers; meetings; procedure; records.**
- 157.03 Assistance to the City Planning Board.**
- 157.04 Powers and duties.**
- 157.05 Conflicts with Zoning Code.**
- 157.06 Regional Planning Commission powers and duties.**
- 157.07 Municipal planning and platting policy objectives.**

CROSS REFERENCES

City Planning Commissions - see Ohio R.C. Ch. 713

Zoning regulations - see Part Eleven - Zoning Code

157.01 CREATION; MEMBERSHIP; TERM; VACANCY.

(a) There is hereby created and established a Planning Commission for the City, which shall be known as the City Planning Board, and which shall consist of nine members. Each of the members shall serve for a period of three years and shall be appointed by the Mayor with the consent and approval of the City Commission. Notwithstanding the foregoing, the members of the Planning Board as of October 9, 1990, shall be established by an ordinance enacted by the City Commission. No member shall serve more than three consecutive terms. After a member has served during three consecutive terms he shall be ineligible for reappointment to the Planning Board until one year has expired since his last date of service on the Board.

(b) Any vacancy on the Planning Board shall be filled as in the case of the original appointment, as set forth herein, for the unexpired term of the member whose vacancy is so filled.

(c) All members of the Planning Board shall serve without compensation and shall be subject to removal from office by a majority vote of the City Commission.

(d) The City Commission shall appoint at least one of its members as an advisory, nonvoting member of the Planning Board. This City Commission member shall not be counted as one of the nine members of the Board.

(e) Persons eligible for service on the Planning Board shall meet the following qualifications:

(1) Persons serving on another City board or commission shall not be eligible to serve on the Planning Board; provided, however, one member may serve on both the City Planning Board and the Board of Zoning Appeals and members of the City Planning Board may serve on Regional Planning Commissions for which the City Planning Board was a creating party.

(2) Persons serving on the Planning Board shall be electors of the City.

(3) Persons who are members of a City employee's family, as defined in Section 111.04, or elected public officials shall not be eligible to serve on the Planning Board.

(Ord. 12-110. Passed 4-10-12.)

(4) Except as otherwise provided herein, if any member of the Planning Board fails to meet any of the qualifications stated in subsections (e)(1) and (2) hereof, his office shall immediately become vacant.

(5) The City Commission, by ordinance and upon finding that the particular expertise of a potential appointee or member is needed on the Planning Board, may waive any or all of the requirements of subsections (e)(1) and (2) hereof, for such appointee or member.

(f) If any board member is absent from three of any six consecutive regularly scheduled meetings, or if such member is unwilling or unable to attend a regularly scheduled prearranged discussion of the public business of his board which fails to qualify as a "meeting" for lack of quorum, his office shall immediately become vacant. Such member shall have the opportunity to explain his absence to the City Commission and may be reappointed by a majority vote of the City Commission to complete the balance of his term.

(g) The Planning Board, constituted as hereinbefore provided, shall exercise authority and jurisdiction in all matters pending before the Planning Board existing prior to the effective date of this section.

(Ord. 02-350. Passed 9-3-02.)

157.02 OFFICERS; MEETINGS; PROCEDURE; RECORDS.

(a) The City Planning Board shall elect from its membership a chairperson and such other officers as it may deem necessary. No chairperson shall serve more than three years during a period of nine consecutive years. The term "year" means twelve consecutive months. The Board shall adopt rules and regulations consistent with law and ordinance. Meetings of the Board shall be held once each month, and at such additional times as the Board may determine; provided, however, the chairperson may cancel a meeting if no member has proposed business to be conducted at the meeting. The time of regular meetings shall be specified in the rules and regulations of the Board. Special meetings shall be called by the chairperson. There shall be a fixed place of meeting.

(b) The Planning Board shall keep minutes of its proceedings, showing the action of the Board and the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its official action, all of which shall be filed promptly in the Community Development Department. The presence of five members shall constitute a quorum. The Board shall act by resolution and a copy of each resolution duly adopted shall be filed in the office of the Clerk of the City Commission.

(Ord. 02-350. Passed 9-3-02.)

157.03 ASSISTANCE TO THE CITY PLANNING BOARD.

It shall be the duty of the Director of Community Development to furnish the City Planning Board and any Regional Planning Commission formed by the Planning Board with such plats, plans, drawings and other data as it may require, and to furnish to such Board or Regional Planning Commission such engineering assistance as the City Manager may approve. All other officers and employees of the City shall render to the City Planning Board or Regional Planning Commission such assistance as the City Commission may from time to time direct.

(Ord. 02-350. Passed 9-3-02.)

157.04 POWERS AND DUTIES.

Except as otherwise provided in this chapter, the powers and duties of the City Planning Board shall include the following:

(a) To make or cause to be made plans and maps of the whole or any portion of the City, which plans and maps shall show the Board's recommendations for the general location, character, extent, design, removal, relocation, widening or extension of streets, alleys, ways, street fixtures, viaducts, bridges, parks, parkways, boulevards, parking areas, playgrounds, monuments, memorials, public works and improvements; and to make such changes and enlargements in, and amendments and additions to, such plans and maps as are deemed advisable;

(b) To act and perform the functions and duties of a platting commission or a platting commissioner for the City, in the manner permitted in Ohio R.C. 713.03 and 735.17;

- (c) To perform all the powers and duties permitted to be performed by a director of public service, as specified in Ohio R.C. 735.15, relating to the location of public buildings, Municipal and County, within the City, and the plans and specifications thereof;
- (d) To perform all the duties and functions required of a planning commission under Ohio R.C. 711.09, relating to major streets, thoroughfares, parks and subdivisions within the City;
- (e) To do and perform all duties, functions and things authorized by municipal planning commissions to be done and performed under the provisions of Ohio R.C. 713.01 to 713.05, inclusive, as the same now provides or hereafter may be amended, save those acts, duties and functions herein excepted, reserved or prohibited, and save as such provisions may be in conflict with this chapter, or the Charter or other ordinances of the City;
- (f) To coordinate all its activities to the extent that the same are relevant or pertain to the duties, power and authority of the Board of Adjustment and the Board of Park Trustees of the City and the County Commissioners of Clark County, or any planning or zoning authority now or hereafter created or established by the County Commissioners; and
- (g) To provide by contract with boards of township trustees and the Board of County Commissioners of Clark County, Ohio, for the establishment of one or more Regional Planning Commissions pursuant to Ohio R.C. 713.21 et seq., as the same now provides or may hereafter be amended. The City Planning Board may, by means of the contract by which the City Planning Board participates in the creation of a Regional Planning Commission to have jurisdiction within the corporate boundaries of the City, transfer or delegate to such Regional Planning Commission the functions, powers, and duties of the City Planning Board, but only to the extent such functions, powers, and duties pertain to the territory within the City over which the Regional Planning Commission shall have jurisdiction.
- (h) The regulatory jurisdiction of the City Planning Board is limited to the corporate boundaries of the City.

(Ord. 02-350. Passed 9-3-02.)

157.05 CONFLICTS WITH ZONING CODE.

It is expressly provided, however, that nothing contained in this chapter shall be construed as to:

- (a) Repeal, modify, limit or affect the provisions of the Zoning Code, as heretofore or hereafter amended, relating to the zoning of the City, or limit or affect the powers and responsibilities of the Board of Adjustment created by such Code; and in the event of any conflict between the provisions of this chapter and those of such Zoning Code, the latter shall prevail;
- (b) Authorize the City Planning Board to incur or impose any indebtedness or obligation against the City without the advance authority and approval of the City Commission; or
- (c) Limit or prevent the City Commission from overruling, in whole or in part, modifying or amending any plan, map, recommendation or proceeding of the Board or a Regional Planning Commission in the manner and to the extent set forth in Ohio R.C. 713.02, as the same provides or hereafter may be amended.

(Ord. 02-350. Passed 9-3-02.)

157.06 REGIONAL PLANNING COMMISSION POWERS AND DUTIES.

Should the City Planning Board transfer or delegate its functions, powers, and duties to a Regional Planning Commission, as provided for in Subsection 157.04(g) of this Chapter, such Regional Planning Commission shall be clothed with the following municipal powers and duties which shall be operative within that portion of the Regional Planning Commission's territory included within the corporate boundaries of the City:

- (a) To make or cause to be made plans and maps of the whole or any portion of the City included within the Regional Planning Commission's territory, which plans and maps shall show the Regional Planning Commission's recommendations for the general location, character, extent, design, removal, relocation, widening or extension of streets, alleys, ways, street fixtures, viaducts, bridges, parks, parkways, boulevards, parking areas, playgrounds, monuments, memorials, public works and improvements; and to make such changes and enlargements in, and amendments and additions to, such plans and maps as are deemed advisable;
- (b) To act and perform the functions and duties of a platting commission or a platting commissioner for those portions of the City included within the Regional Planning Commission's territory, in the manner permitted in Ohio R.C. 713.03 and 735.17;
- (c) To perform all the powers and duties permitted to be performed by a director of public service, as specified in Ohio R.C. 735.15, relating to the location of public buildings, Municipal and County, within those portions of the City included within the Regional Planning Commission's territory, and the plans and specifications thereof;
- (d) To perform all the duties and functions required of a planning commission under Ohio R.C. 711.09, relating to major streets, thoroughfares, parks and subdivisions within those portions of the City included within the Regional Planning Commission's territory;
- (e) As pertaining to that portion of the City included within the Regional Planning Commission's territory, to do and perform all duties, functions and things authorized by municipal planning commissions to be done and performed under the provisions of Ohio R.C. 713.01 to 713.05, inclusive, as the same now provides or hereafter may be amended, save those acts, duties and functions herein excepted, reserved or prohibited, and save as such provisions may be in conflict with this chapter, or the Charter or other ordinances of the City; and,
- (f) As pertaining to that portion of the City included within the Regional Planning Commission's territory, to coordinate all its activities to the extent that the same are relevant or pertain to the duties, power and authority of the Board of Adjustment and the Board of Park Trustees of the City and the County Commissioners of Clark County, or any planning or zoning authority now or hereafter created or established by the County Commissioners.

The said Regional Planning Commission shall exercise the powers and duties transferred or delegated to it pursuant to this Section and Subsection 157.04(g) so as to implement the municipal planning and platting policy objectives described in Section 157.07 of this Chapter.

(Ord. 02-350. Passed 9-3-02.)

157.07 MUNICIPAL PLANNING AND PLATTING POLICY OBJECTIVES.

With respect to planning and platting in the City, it is the policy of the City to:

- (a) Protect the public health, safety morals and general welfare,
- (b) Maintain and enhance property values in the Springfield community,
- (c) Stabilize neighborhoods,
- (d) Promote orderly development to optimize the quality of life for the City's residents, facilitate the creation and preservation of employment opportunities and enhance the economic prosperity of the Springfield community,
- (e) Control population density to preserve the benefits of light and air to Springfield residents and to avert the deleterious effects of urban congestion,
- (f) Encourage the development of affordable housing,
- (g) Not unnecessarily burden the free and peaceful practice of religion in the Springfield community,
- (h) Minimize adverse impacts on neighboring lands near the City's boundaries and to preserve the spirit of cooperation among political subdivisions participating in Cooperative Economic Development Agreements, Joint Economic Development Districts and similar inter-governmental cooperation arrangements involving the City,

- (i) Conserve agricultural land most suitable for agricultural uses to preserve its economic, environmental and aesthetic benefits for the Springfield community,
 - (j) Focus growth and development in appropriate areas which balance environmental, economic and infrastructure considerations,
 - (k) Protect and conserve water, land and air resources and mitigate conflicting land uses that may harm environmental quality,
 - (l) Provide for and protect open space and park and recreational systems to ensure accessibility for all Springfield residents,
 - (m) Provide for the coordination of public thoroughfares and for effective and safe traffic flow and avoidance of traffic congestion in the Springfield community,
 - (o) Provide for and facilitate a multi-modal transportation system with sensitivity to land use relationships, and
 - (p) Provide space for adequate energy delivery infrastructure, communications infrastructure and public water, wastewater and drainage infrastructure and to promote development where such infrastructure has been provided for.
- The Planning Board and Regional Planning Commissions provided for in this Chapter shall exercise their powers so as to implement the foregoing City policy concerning planning and platting matters.
(Ord. 02-350. Passed 9-3-02.)

CHAPTER 159

Board of Health

Repealed by Ord. 96-209, passed June 11, 1996

CHAPTER 161

Board of Parks and Recreation

Repealed by Ord. 99-323, passed October 5, 1999

CHAPTER 163

Civil Service Commission

163.01 Membership on the Civil Service Commission.

163.02 Meetings, records, general procedures.

CROSS REFERENCES

Civil Service Commission - see CHTR. Sec. 47

Municipal civil service commissions - see Ohio R.C. 124.40 et seq.

163.01 MEMBERSHIP ON THE CIVIL SERVICE COMMISSION.

(a) Persons appointed to service on the Civil Service Commission shall meet the following qualifications in addition to those qualifications set forth in the City's Charter. Persons who have served during three consecutive terms on the Civil Service Commission shall be ineligible for reappointment to the Commission until one year has expired since his last date of service on the Commission.

(b) A person who is either a member of a City employee's family, as defined in Section 111.04, or a person serving on another City board or commission shall not be eligible to serve on the Civil Service Commission.
(Ord. 12-110. Passed 4-10-12.)

(c) The City Commission by ordinance, and upon finding that the particular expertise of a potential appointee or member is needed on the Civil Service Commission, may waive the requirement of subsection (b) hereof for such appointee or member.

(d) If any Commission member is absent from three of any six consecutive regularly scheduled commission meetings, or if such member is unwilling or unable to attend a regularly scheduled prearranged discussion of the public business of his board which fails to qualify as a "meeting" for lack of quorum, his office shall immediately become vacant. Such member shall have the opportunity to explain his absence to the City Commission and may be reappointed by a majority vote of the City Commission to complete the balance of his term.
(Ord. 95-96. Passed 3-14-95.)

163.02 MEETINGS, RECORDS, GENERAL PROCEDURES.

(a) The Civil Service Commission shall elect from its membership a chairperson. No chairperson shall serve more than three years during a period of nine consecutive years. The term "year" means twelve consecutive months. The Commission shall adopt rules and regulations consistent with law and ordinance. Meetings of the Commission shall be held once each month and, at such additional times as the Commission may determine; provided, however, the chairperson may cancel a meeting if no member has proposed business to be conducted at the meeting. The time of regular meetings shall be specified in the rules and regulations of the Civil Service Commission. Special meetings shall be called by the chairperson. There shall be a fixed place of meeting.

(b) The Civil Service Commission shall keep minutes of its proceedings, showing the action of the Commission and the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of all its official action, all of which shall be filed promptly with the Clerk of the City Commission. The presence of three members shall constitute a quorum.
(Ord. 02-54. Passed 2-5-02.)

CHAPTER 165

Airport Advisory Board

165.01 Creation; members; term; vacancy.

165.02 Officers; meetings; records; quorum; reports.

165.03 Powers and duties.

CROSS REFERENCES

Airports - see Ohio R.C. Ch. 4563

Airport Division - see ADM. 127.05

Municipal airport - see S.U. & P.S. Ch. 959

165.01 CREATION; MEMBERS; TERM; VACANCY.

(a) The Airport Advisory Board shall consist of five members. Each of the members shall serve for a period of three years and shall be appointed by the Mayor with consent and approval of the City Commission. No member shall serve more than three consecutive terms. After a member has served during three consecutive terms the member shall be ineligible for reappointment to the Airport Advisory Board until one year has expired since their last date of service on the Board.

(Ord. No. 23-206. Passed 6-20-2023.)

(b) Any vacancy on the Airport Advisory Board shall be filled as in the case of the original appointment, as set forth herein, for the unexpired term of the member whose vacancy is so filled.

(c) All members of the Airport Advisory Board shall serve without compensation and shall be subject to removal from office by a majority of the City Commission.

(d) Persons eligible for service on the Airport Advisory Board shall meet the following qualifications:

(1) Persons serving on another City board or commission shall not be eligible to serve on the Airport Advisory Board.

(2) Four of the five Board members shall be electors of the City. One member need not be an elector of the City.

(Ord. 14-114. Passed 5-13-14.)

(3) Except as otherwise provided in this section, elected public officials shall not be eligible to serve on the Airport Advisory Board. A member of a City employee's family as defined in Section 111.04, shall not be eligible for service.

(Ord. 12-110. Passed 4-10-12.)

(4) Except as otherwise provided in this section, if any member of the Airport Advisory Board fails to meet any of the qualifications stated in subsection (d)(1) through (3) hereof, their seat shall immediately become vacant.

(Ord. 23-206. Passed 6-20-2023.)

(5) The City Commission, by ordinance and upon finding that the particular expertise of a potential appointee or member is needed on the Airport Advisory Board, may waive any or all of the requirements of subsections (d)(1) and (2) hereof for such appointee or member.

(e) If any member of the Airport Advisory Board, appointed by the City Commission, is absent from three of any six consecutive regularly scheduled Board meetings, or if such member is unwilling or unable to attend a regularly scheduled prearranged discussion of the public business of his board which fails to qualify as a "meeting" for lack of quorum, the member's seat shall immediately become vacant. Such member shall have the opportunity to explain his absence to the City Commission and may be reappointed by a majority vote of the City Commission to complete the balance of his term.

(Ord. 97-267. Passed 7-22-97. Ord. 23-206. Passed 6-20-2023.)

165.02 OFFICERS; MEETINGS; RECORDS; QUORUM; REPORTS.

(a) The Airport Advisory Board shall elect from its membership a chairperson and such other officers as it may deem necessary. No chairperson shall serve more than two years during a period of six consecutive years. The term "year" means twelve consecutive months. The Board shall adopt rules and regulations consistent with law and ordinance. Meetings of the Board shall be held every other month, and at such additional times as the Board may determine; provided, however, the chairperson may cancel a meeting if no member has proposed business to be conducted at the meeting. The time of regular meetings shall be specified in the rules and regulations of the Board. Special meetings shall be called by the chairperson. There shall be a fixed place of meeting.

(b) The Airport Advisory Board shall keep minutes of its proceedings, showing the action of the Board and the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of all of its official action, all of which shall be filed promptly in the office of the Airport Manager. The presence of four members shall constitute a quorum. The Board shall act by resolution and a copy of each resolution duly adopted shall be filed in the office of the Clerk of the City Commission. The Airport Manager or his duly authorized representative shall serve as Secretary to the Airport Advisory Board.

(c) The Airport Advisory Board shall make such annual and other reports as may be required by the City Commission.

(Ord. 97-267. Passed 7-22-97.)

165.03 POWERS AND DUTIES.

Without limitation on the general powers or authority necessary or incidental to the purposes for which the Municipal Airport Advisory Board is appointed, the duties of the Board shall be to study matters affecting and concerning the Springfield Municipal Airport and to make recommendations to and advise the City Manager and the City Commission from time to time through the Airport Manager on policy matters, such rules, regulations and ordinances governing the management, development and control of the airport. The Board shall study such other matters as the City Manager or the City Commission may designate from time to time.

The powers and duties of the Board are advisory in nature only and under no circumstances shall the Board have the power to enter into financial obligations on the part of the City, or in any way to incur any liability or obligation on the part of the City.

CHAPTER 167

Mediation Board

167.01 Establishment; membership; term; vacancy.

167.02 Officers; meetings; procedures; records.

167.03 Powers and duties.

167.01 ESTABLISHMENT; MEMBERSHIP; TERM; VACANCY.

(a) A Mediation Board is hereby established. The Board shall consist of eight members. Each member shall serve for a period of three years and shall be confirmed by the City Commission. The Board shall consist of one City Commissioner, who shall be a non-voting liaison; two representative from the community; one City of Springfield Police Officer; one member from the Board of Human Relations; and three volunteer mediators. City Commission shall accept recommendations for board members from each of the representative organizations and the Community Development Director. No member shall serve more than two consecutive terms. After a member has served during two consecutive terms, he shall be ineligible for reappointment to the Mediation Board until one year has expired since his last date of service on the Mediation Board.

(b) Any vacancy on the Mediation Board shall be filled as in the case of the original appointment, as set forth herein, for the unexpired term of the member whose vacancy is so filled.

(c) All members of the Mediation Board shall serve without compensation and shall be subject to removal from office by a majority vote of the City Commission.

(d) Persons eligible for service on the Mediation Board shall meet the following qualifications:

- (1) Persons serving on another City Board or Commission shall not be eligible to serve on the Mediation Board, with the exception of the one member appointed from the Human Relations Board and the one member from the City Commission, who shall be a non-voting liaison.
- (2) Persons serving on the Mediation Board shall be electors of the City and shall have completed a mediation training program within three months of appointment.
- (3) A person who is either a member of a City employee's families, as defined in Section 111.04, or an elected public officials shall not be eligible to serve on the Mediation Board, except the member appointed from the City Commission, who shall be a non-voting liaison.

(Ord. 12-110. Passed 4-10-12.)

- (4) Except as otherwise provided herein, if any member of the Mediation Board shall fail to meet any of the qualifications stated in subsections (d)(1) through (3) hereof, his office shall immediately become vacant.

- (5) The City Commission, by ordinance and upon finding that the particular expertise of a potential member is needed on the Mediation Board, may waive any or all of the requirements of subsection (d)(1) and (2) hereof for such member.

(e) If any Mediation Board member is absent from two of any four consecutive regular, quarterly meetings of the Mediation Board, or if such member is unwilling or unable to attend a regularly scheduled prearranged discussion of the public business of his board which fails to qualify as a "meeting" for lack of quorum, his office shall immediately become vacant. Such member shall have the opportunity to explain his absence to the City Commission and may be reappointed by a majority vote of the City Commission to complete the balance of his term.

(Ord. 95-96. Passed 3-14-95.)

167.02 OFFICERS; MEETINGS; PROCEDURES; RECORDS.

(a) The Mediation Board shall elect from its membership a Chairperson and such other officers as it may deem necessary. No Chairperson shall serve more than two years during a period of six consecutive years. The term "year" means twelve consecutive months. The Mediation Board shall adopt rules and regulations consistent with law and ordinance. Meetings of the Mediation Board shall be held once each quarter, during the second week of January, April, July, and October, and at such additional times as the Board may determine. The time of regular meetings shall be specified in the rules and regulations of the Mediation Board. Special meetings shall be held within the City limits of Springfield.

(b) The Mediation Board shall keep minutes of its proceedings, showing the action of the Mediation Board and the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of all its official action, all of which shall be filed promptly in the office of the Mediation Board and shall be a public record. The presents of four members shall constitute a quorum. The Mediation Board shall act by resolution and a copy of each resolution duly adopted shall be filed in the Office of the Clerk of the City Commission.

167.03 POWERS AND DUTIES.

(a) The duties of the Mediation Board shall be to adopt policies and procedures for the conduct of mediation sessions to evaluate volunteer mediators, to evaluate the City's mediation program and to report to and advise the City Commission concerning activities of the Mediation Board and the operation of the City's mediation program.

(b) The Mediation Board shall conduct mediation proceedings to resolve disputes between Springfield residents involving the following circumstances:

Neighbor-to-neighbor disputes, neighborhood parking and boundaries, animal nuisances, disturbing the peace and other services as determined by the Mediation Board to be appropriate for its services. Mediation services will be provided on a non-discriminatory basis to all City residents regardless of age, race, creed, color, national origin, sexual orientation, handicap, or gender.

(Ord. 91-401. Passed 10-1-91.)

CHAPTER 169

Wrestling Commission

Repealed by Ordinance No. 12-111; April 10, 2012

CHAPTER 170

Community Police Advisory Team

NOTE: Chapter 170 titled Police Community Relations Advisory Group was repealed and replaced in its entirety with Chapter 170 titled Community Police Advisory Team by Ordinance No. 20-197 passed August 25, 2020.

170.01 Creation; members; term; vacancy.

170.02 Officers; meetings; records; quorum; reports.

170.03 Powers and duties.

170.01 CREATION; MEMBERS; TERM; VACANCY.

(a) The Community Police Advisory Team shall consist of nine members. Each of the members shall serve for a period of three years and shall be appointed by the Mayor with consent and approval of the City Commission. No member shall serve more than three consecutive terms. After a member has served during three consecutive terms, he shall be ineligible for reappointment to the Community Police Advisory Team until one year has expired since his last date of service on the Advisory Team. Original appointments shall be staggered, such that three originally appointed members shall have a term of three years; three originally appointed members shall have a term of two years; and three originally appointed member shall have a term of one year.

(b) Any vacancy on the Community Police Advisory Team shall be filled as in the case of the original appointment, as set forth herein, for the unexpired term of the member whose vacancy is so filled.

(c) All members of the Community Police Advisory Team shall serve without compensation and shall be subject to removal from office by a majority of the City Commission.

(d) Persons eligible for service on the Community Police Advisory Team shall meet the following qualifications:

(1) Persons serving on another City board or commission shall not be eligible to serve on the Community Police Advisory Team, except for said member currently serving on the Human Relations Board.

(2) All nine Advisory Team members shall be electors of the City. Members shall be community leaders selected to represent neighborhood groups, the business community, the religious community, higher education community, Human Relations Board, and other sectors of the community.

(3) Except as otherwise provided in this section, elected public officials shall not be eligible to serve on the Community Police Advisory Team. A member of a City employee's family, as defined in Section 111.04, shall not be eligible for service.

(4) No person shall be appointed to, or continue to serve as, a member if such person has a criminal felony conviction of any type, or a criminal conviction for an offense against a police officer, such as resisting arrest, assaulting a police officer, or obstructing official business, within the last five (5) years prior to that person's appointment, or at any time during that person's service as a member.

(5) Except as otherwise provided in this section, if any member of the Community Police Advisory Team fails to meet any of the qualifications stated in subsection (d)(1) through (4) hereof, his office shall immediately become vacant.

(6) Members must participate in the Springfield Police Division's Citizen's Police Academy within the first two years of their first term.

(7) The City Commission, by ordinance and upon finding that the particular expertise of a potential appointee or member is needed on the Community Police Advisory Team, may waive any or all of the requirements of subsections (d) (1) (2) and (4) hereof for such appointee or member.

(e) If any member of the Community Police Advisory Team, appointed by the City Commission, is absent from three of any six consecutive regularly scheduled Advisory Team meetings, or if such member is unwilling or unable to attend a regularly scheduled prearranged discussion of the public business of the Advisory Team which fails to qualify as a "meeting" for lack of quorum, his office shall immediately become vacant. Such members shall have the opportunity to explain his absence to the City Commission and may be reappointed by a majority vote of the City Commission to complete the balance of his term.

(f) No Advisory Team member shall disclose any information or document which may come to his or her attention during the course of the member's service upon the Community Police Advisory Team if the Chief of Police has identified such information or document as confidential and directed that the same not be disclosed. Members with a direct conflict of interest related to any matter discussed by the Community Police Advisory Team must abstain from any discussion involving such conflict of interest.

170.02 OFFICERS; MEETINGS; RECORDS; QUORUM; REPORTS.

(a) The Community Police Advisory Team shall elect from its membership a chairperson and such other officers as it may deem necessary. No chairperson shall serve more than two years during a period of six consecutive years. The term "year" means twelve consecutive months. The Advisory Team shall adopt rules and regulations consistent with law and ordinances. Meetings of the Advisory Team shall be held at minimum every other month, and at such additional times as the Advisory Team may determine; provided, however, the chairperson may cancel a meeting if no member has proposed business to be conducted at the meeting. The Community Police Advisory Team must convene at least 4 times per year. The time of regular meetings shall be specified in the rules and regulations of the Advisory Team. Special meetings shall be called by the chairperson. There shall be a fixed location for meetings.

(b) The Community Police Advisory Team shall keep minutes of its proceedings, showing the action of the Advisory Team and the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of all of its official action, all of which shall be filed promptly in the office of the Police Chief. The presence of five members shall constitute a quorum. The Advisory Team shall act by resolution and a copy of each resolution duly adopted shall be filed in the office of the Clerk of the City Commission. The Police Chief or his duly authorized representative shall serve as Secretary to the Advisory Team.

(c) The Community Police Advisory Team shall make such annual and other reports as may be required by the City Commission.

(d) The Community Police Advisory Team shall submit bi-annual updates of the Team's business to the Springfield Community.

170.03 POWERS AND DUTIES

Without limitation on the general powers or authority necessary or incidental to the purposes for which the Community Police Advisory Team is appointed, the duties of the Advisory Team shall be to study matters affecting and concerning the relationship between the Police Division and members of the community and to make recommendations to and advise the Police Chief, City Manager and the City Commission from time-to-time

through the City Manager on policy matters, including, but not limited to, specifically the following issues:

- (1) Recruitment and retention of a racially and culturally diverse workforce at all levels of the Police Division.
- (2) Review, provide input, and recommend policies and procedures of the Police Division;
- (3) Review and provide input on equipment changes proposed by the Police Division;
- (4) Assist in the development and participate in community engagement activities in the Community related to the Police Division;
- (5) Review, recommend, and monitor policies training, and practices that impact cultural diversity, racial profiling, and other biases.
- (6) Review use of force, traffic stop, SWAT call out and other applicable incident-based data;
- (7) Serve as a conduit for citizen complaints and commendations and review final internal investigatory reports relative to police activities;
- (8) Working with the Police Chief to identify specific community issues and concerns at the earliest possible stage.

The Advisory Team shall study such other matters as the Police Chief, City Manager or the City Commission may designate from time-to-time.

CHAPTER 171

Human Relations Board and Regulations

- 171.01 Definitions.**
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CROSS REFERENCES

Discrimination - see Ohio R.C. Ch. 4112

171.01 DEFINITIONS.

For the purpose of the enforcement of this chapter, the following definitions shall apply:

- (a) "Age" means at least forty years old.
- (b) "Controlled substance" has the same meaning as in section 3719.01 of the Ohio Revised Code.
- (c) "Person" means one or more individuals, partnerships, associations, organizations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers and other organized groups of persons. It also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesman, agent, employee, lending institution, and the City of Springfield and any officer or employee thereof.
- (d) "Employer" means the City of Springfield and any officer or employee thereof, any person employing four or more persons, and any person acting in the interest of an employer, directly or indirectly.
- (e) "Employee" does not include any individual employed in the domestic service of any person.
- (f) "Labor organization" means any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or for other mutual aid or protection in relation to employment.
- (g) "Employment agency" means any person regularly undertaking with or without compensation to procure opportunities to work or to procure, recruit, refer or place employees.
- (h) "Physical or mental impairment" includes any of the following:
 - (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine;
 - (2) Any mental or psychological disorder, including, but not limited to, mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;
 - (3) Diseases and conditions, including, but not limited to, orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction, and alcoholism.
 - (4) "Physical or mental impairment" does not include any of the following:
 - A. Homosexuality and bisexuality;
 - B. Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
 - C. Compulsive gambling, kleptomania, or pyromania;
 - D. Psychoactive substance use disorders resulting from current illegal use of a controlled substance.
- (i) "Public accommodations" means any business, enterprise or activity consisting of or involving furnishing, providing or making available to the public any goods, services, accommodations, facilities, advantages or privileges, and includes any activity engaged in pursuant to the performance of any public duty.
- (j) "Discriminatory practice" means any act, practice or course of conduct constituting or resulting in inequality of treatment of any person because of race, religion, color, ancestry, national origin, handicap, age, sex, or sexual orientation in the areas of employment, education, public accommodations or economic opportunity. As used in this chapter, "discriminatory practice" includes, but is not limited to the following:
 - (1) For any employer, because of the race, color, religion, national origin, ancestry, handicap, age, sex, or sexual orientation of any person, to refuse to hire or otherwise to discriminate against him with respect to hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment.

- (2) For an employment agency to:
 - A. Refuse or fail to accept, register, classify properly or refer to employment, or otherwise to discriminate against any person because of race, color, religion, national origin, ancestry, handicap, age, sex, or sexual orientation, or
 - B. Comply with a request from an employer for referral of applicants for employment if the request or any other matters known to such employment agency reasonably indicate, directly or indirectly, that the employer engages or shall engage in a discriminatory practice in connection with the hiring of any employee.
 - (3) For any labor organization to:
 - A. Limit or classify its membership on the basis of race, color, religion, national origin, ancestry, handicap, age, sex, or sexual orientation, or
 - B. Discriminate against any person or limit his employment opportunities, or otherwise adversely effect his status as an employee, or his wages, hours or employment conditions, because of his race, color, religion, national origin, ancestry, handicap, age, sex, or sexual orientation.
 - (4) For any employer, labor organization or joint labor-management committee controlling apprentice training programs to discriminate against any person because of his race, color, religion, national origin, ancestry, handicap, age, sex, or sexual orientation in admission to, or employment in any program established to provide apprentice training.
 - (5) For any person to:
 - A. Refuse to lend money, whether or not secured by mortgage or otherwise, to any person because of the race, color, religion, ancestry, national origin, handicap, age, sex, or sexual orientation of any such person, provided such lender, whether an individual, corporation or association of any type, lends money as one of the principal aspects of his business or incidental to his principal business; or
 - B. Discriminate against any person in the terms or conditions of any loan of money, whether or not secured by mortgage or otherwise, because of the race, color, religion, ancestry, national origin, handicap, age, sex, or sexual orientation of any such person.
 - (6) For any person in any manner engaged in any public accommodations to deny to any person, except for reasons applicable alike to all persons, regardless of race, color, religion, national origin, ancestry, handicap, age, sex, or sexual orientation the full enjoyment of the goods, services, accommodations, facilities, advantages or privileges thereof.
 - (7) For any person to discriminate in any manner against any other person because he has opposed any practice defined in this section or because he has made a charge, testified, assisted or participated in any manner in any investigation, proceeding or hearing under this chapter.
 - (8) The provisions of this Chapter as they pertain to discriminatory practices based on sexual orientation shall not apply to religious schools, churches that are engaged in religious activities, parachurch organizations, or any nonprofit institution, or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, and owner-occupied residences with not more than three (3) unrelated renters.
 - (k) "Handicap" means a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment.
- (Ord. 18-24. Passed 1-30-18.)

171.02 BOARD CREATED; MEMBERSHIP; TERM; VACANCY.

(a) A Human Relations Board is hereby established which shall consist of seven members. Each of the members shall serve for a period of three years and shall be appointed by the Mayor with the consent and approval of the City Commission. No member shall serve more than two consecutive terms. After a member has served during two consecutive terms he shall be ineligible for reappointment to the Human Relations Board until one year has expired since his last date of service on the Board.

(b) Any vacancy on the Human Relations Board shall be filled as in the case of the original appointment, as set forth herein, for the unexpired term of the member whose vacancy is so filled.

(c) All members of the Human Relations Board shall serve without compensation and shall be subject to removal from office by a majority of the City Commission.

(d) Persons eligible for service on the Human Relations Board shall meet the following qualifications:

- (1) Persons serving on another City board or commission shall not be eligible to serve on the Human Relations Board.
- (2) Persons serving on the Human Relations Board shall be electors of the City.
- (3) A person who is a member of a City employee's family, as defined in Section 111.04, or an elected public officials shall not be eligible to serve on the Human Relations Board.

(Ord. 12-110. Passed 4-10-12.)

(4) Except as otherwise provided herein, if any member of the Human Relations Board shall fail to meet any of the qualifications stated in subsection (d)(1) through (3) hereof, his office shall immediately become vacant.

(5) The City Commission, by ordinance and upon finding that the particular expertise of a potential appointee or member is needed on the Board, may waive any or all of the requirements of subsections (d)(1) and (2) hereof for such appointee or member.

(e) If any Human Relations Board member is absent from three of any six consecutive regularly scheduled Board meetings, or if such member is unwilling or unable to attend a regularly scheduled prearranged discussion of the public business of his board which fails to qualify as a "meeting" for lack of quorum, his office shall immediately become vacant. Such member shall have the opportunity to explain his absence to the City Commission and may be reappointed by a majority vote of the City Commission to complete the balance of his term.

(Ord. 95-96. Passed 3-14-95.)

171.03 OFFICERS; MEETINGS; PROCEDURE; RECORDS.

(a) The Human Relations Board shall elect from its membership a chairperson and such other officers as it may deem necessary. No chairperson shall serve more than two years during a period of six consecutive years. The term "year" means twelve consecutive months. The Board shall adopt rules and regulations consistent with law and ordinance. Meetings of the Board shall be held once each month, and at such additional times as the Board may determine; provided, however, the chairperson may cancel a meeting if no member has proposed business to be conducted at the meeting. The time of regular meetings shall be specified in the rules and regulations of the Board. Special meetings may be called by the chairperson, Director of Community Development or by any two members of the Board. There shall be a fixed place of meeting.

(b) The Human Relations Board shall keep minutes of its proceedings, showing the action of the Board and the vote of each member upon each

question or, if absent or failing to vote, indicating such fact, and shall keep records of all of its official action, all of which shall be filed promptly in the office of the Community Development Director. The presence of four members shall constitute a quorum. The Board shall act by resolution and a copy of each resolution duly adopted shall be filed in the office of the Director of the Community Development Department. The Director of Community Development or his appointee shall serve as Secretary to the Human Relations Board.
(Ord. 90-568. Passed 10-23-90.)

171.04 BOARD DUTIES.

(a) The Human Relations Board shall:

- (1) By means of public hearing or otherwise investigate and study any conditions having an adverse affect on inter-group relations in the City and the problems of prejudice, intolerance, bigotry and discrimination as they affect the public safety and general welfare of the City;
- (2) Institute and conduct educational and other programs to promote the equal rights and opportunities of all persons, regardless of their race, color, religion, ancestry, national origin, handicap, age, sex, or sexual orientation. In the performance of its duties the Board may cooperate with interested citizens, private agencies, business entities, non-profit organizations, educational institutions and agencies of the federal, State and local governments;
- (3) Appoint hearing examiners who shall be admitted to the practice of law in the State of Ohio and other employees as it deems necessary to effectuate the purposes of this chapter. No commitments for employees or services shall ever exceed the appropriations made by the City Commission for such purposes;
- (4) Receive, investigate and pass upon written charges made under oath of policies, practices or courses of conduct prohibited by Section 171.01;
- (5) On a periodic basis review discrimination complaint processing carried out by the Ohio Civil Rights Commission as such complaints relate to activities occurring in the City of Springfield;
- (6) Adopt, promulgate, amend and rescind rules and regulations and other guidelines to effectuate the purposes of this chapter;
- (7) Foster through community efforts or otherwise, good will among the groups and elements of the City of Springfield;
- (8) Study the problems of discrimination in all or specific fields of human relations and make periodic surveys, gather data, and publish statistical summaries of the results of investigations and research into the existence and effect of discrimination because of race, color, religion, ancestry, national origin, handicap, age, sex, or sexual orientation or the enjoyment of civil rights and human rights by persons within the City to the extent that, in the Board's judgment, will tend to promote good will and minimize or eliminate discrimination; and
- (9) Submit reports and recommendations to the City Commission from time to time, but not less than once a year describing the work performed by the Board. The Board shall submit an annual report to the City Commission describing the effectiveness of discrimination complaint processing conducted by the Ohio Civil Rights Commission on matters occurring in the City of Springfield. Reports may include a copy of any surveys or other studies prepared by the Board and may include recommendations of the Board as to remedial action, legislative and otherwise.

(b) The Board may:

- (1) Meet and function at any place within the City;
- (2) Adopt goals and objectives in carrying out the mission of the Board and at least annually review and update the goals and objectives;
- (3) Initiate and undertake on its own motion, investigations of discriminatory practices as defined in Section 171.01; and
- (4) Upon the affirmative vote of at least a majority of the Board, pursuant to a finding by such members of the necessity and propriety therefor, issue subpoenas for the attendance and testimony of witnesses and for the production of relevant papers, documents and other evidence at any time subsequent to the filing or initiation of a complaint alleging a discriminating practice.

(Ord. 18-24. Passed 1-30-18.)

171.05 ADDITIONAL BOARD POWERS.

The Human Relations Board may:

(a) Prepare and promulgate:

- (1) Rules and regulations for the conducting of hearings before the Board or its Hearing Examiner;
- (2) Guidelines for affirmative action programs; and
- (3) Informational and educational materials, including but not limited to those pertaining to requirements of law in regard to recruitment and hiring of employees and terms and conditions of employment.

(b) Enter into and perform agreements with a government subdivision or agency thereof providing for the exchange of information and data relating to human relations, civil rights and discriminatory practices. No other provision of this chapter shall be deemed to prohibit or prevent the furnishing of any such information and data pursuant to any such agreement.

171.06 COMMUNITY DEVELOPMENT DIRECTOR.

There shall be a Community Development Director who shall be appointed and removable by the City Manager. The Director shall be the principal administrative officer of the Community Development Department, and he shall supervise and direct the employees of such Department. In the event of dismissal, the Director shall receive thirty-day severance pay.

(Ord. 80-207. Passed 4-22-80.)

171.07 COMMUNITY DEVELOPMENT DEPARTMENT.

There is hereby created the Community Development Department, as provided in Chapter 131, which Department shall perform the principal administrative functions necessary to properly implement the provisions of this chapter.

(Ord. 80-207. Passed 4-22-80.)

171.08 CIVIL RIGHTS ATTORNEY.

The Director of Law shall assign to a member of his staff, who is hereby designated the "Civil Rights Attorney", the duty to provide such legal advice, services, and representation as may be required by the Human Relations Board.

When necessary, the Director may employ special counsel to act as and to perform the duties of the Civil Rights Attorney.

171.09 COMPLAINT PROCEDURE.

(a) Preliminary Investigation. Whenever it is charged in writing and under oath, by a person, referred to as the "complainant" that any person,

referred to as the "respondent" has engaged or is engaging in any act, practice or course of conduct defined as a discriminatory practice in Section 171.01, or upon its own initiative in matters relating to such discriminatory practices, the Human Relations Board shall initiate a preliminary investigation. Such preliminary investigation shall be an attempt to determine whether or not there is any merit to the charge. The preliminary investigation shall be confidential, unless the Board shall determine after such preliminary investigation that it is "probable" that any discriminatory practices have been or are being engaged in. If the Board determines after such preliminary investigation that it is not probable that any discriminatory practice has occurred, the Board dismisses the complaint and shall notify the respondent and the complainant of its action. No such complaint shall be made later than 180 days after the date of occurrence of the act or practice complained of.

(b) Informal Methods. If the Board determines that it is probable that any discriminatory practice has occurred, it shall endeavor to eliminate such practices by informal methods of conference, conciliation and persuasion, which proceedings may include or involve the execution by the parties of a written conciliation agreement setting forth the manner, terms and conditions of the resolution of such dispute and requiring compliance with any such terms and conditions. Nothing said or done during any such endeavors at conciliation shall be disclosed by any member of the Board or its staff or be used in any subsequent proceedings. If, after such investigation and conference, the Board is satisfied that any discriminatory practice of the respondent shall be eliminated, it may treat the complaint as conciliated, and entry of such disposition shall be made on the records of the Board. If the Board fails to effect the elimination of any discriminatory practice and to obtain voluntary compliance with this chapter, the Board shall issue and cause to be served upon any person or respondent a complaint stating the charges in that respect and containing a notice of hearing before a hearing examiner appointed by the Board at a place therein fixed to be held not less than ten days after the service of such complaint. Such hearing shall be in the Municipal Building or at such other place located within the City as may be designated by the Board. The City Law Director, a member of his staff or an attorney appointed by the Board shall represent the Board at such hearing.

(c) Complaints Amended. Any complaint may be amended by the Board or its hearing examiner conducting the hearing, at any time prior to or during the hearing based thereon. The respondent shall have the right to file an answer or to amend an answer to the original or amended complaint, and to appear at such hearing in person, or by attorney or otherwise to examine and cross-examine witnesses.

(d) Hearings. The complainant shall be a part to the proceeding and any person who is an indispensable party to a complete determination or settlement of a question involved in a proceeding shall be joined. Any person who has or claims an interest in the subject of the hearing and in obtaining or preventing relief against the acts or practices complained of may be, in the discretion of the person or persons conducting the hearing, permitted to appear for the presentation of oral or written arguments.

In any proceeding, the hearing examiner or Board shall not be bound by the rules of evidence prevailing in the courts of law or equity, but shall, in ascertaining the practices followed by the respondent, take into account all reliable, probative and substantive evidence, statistical or otherwise, produced at the hearing, which may tend to prove the existence or nonexistence of any discriminatory practices.

The testimony taken at the hearing shall be under oath and shall be reduced to writing and filed with the Board. Thereafter, at its discretion, the Board or its hearing examiner upon notice to the complainant and to the respondent with an opportunity to be present may take further testimony or hear argument.

No person shall be compelled to be a witness against himself at any hearing before the Board or a hearing examiner of the Board.

(e) Hearing Examiner Determination. If upon all the reliable, probative and substantive evidence the hearing examiner determines that the respondent has engaged in, or is engaging in, any discriminatory practice charged in the complaint, he shall state in writing to the Board his findings of fact and conclusions of law and any recommendations which he may have concerning remedial actions to be taken. Whereupon, the Board shall issue and cause to be served on such respondent an order requiring him to cease and desist from such discriminatory practice and to take such further affirmative or other action as shall effectuate the purposes of this chapter, including, but not limited to, hiring, reinstatement or upgrading of employees with, or without back pay, admission or restoration to union membership, including a requirement for reports of the manner of compliance. If the Board directs payment of back pay, it shall make allowance for interim earnings. Upon the submission of such reports of compliance, the Board may issue a declaratory order stating that the respondent has ceased to engage in any discriminatory practices.

If the Hearing Examiner finds that no probable cause exists for crediting the charges, or if upon all the evidence, the Hearing Examiner finds that a respondent has not engaged in any discriminatory practices against the complainant or others, he shall state in writing to the Board his finding of fact and conclusion of law and shall issue and cause to be served on the complainant and the respondent an order dismissing such complaint as to such respondent.

(f) Judicial Review. Any party to the proceeding, claiming to be aggrieved by final order of the Board, including a determination by it that a prima facie case was not established by the complainant, may obtain judicial review thereof by a resort to any court of competent jurisdiction in accordance with the provisions of Ohio R.C. Chapter 2506.

171.10 INJUNCTION.

(a) The existence of any discriminatory practice and the commission of any act constituting the same, is hereby declared to be a public nuisance, and any person injured or aggrieved thereby may apply to a court of competent jurisdiction for an order enjoining the continuance of any such practice or act.

(b) Whenever deemed necessary in order to protect the rights of the complainant and to preserve the power to the Human Relations Board to act upon or to resolve a complaint, the Civil Rights Attorney may apply to a court of competent jurisdiction for an injunction directed against a respondent, restraining him from taking any action which would prevent the Board from acting or which would make any order issued by the Board meaningless.

171.11 SECTION REPEALED BY ORD. 92-179, PASSED 5-27-92.

171.12 RECORDS AND REPORTS.

Each employer, labor organization and employment agency within the City shall:

- (a) Make and keep such records relevant to the determination of whether discriminatory practices are being engaged in; and
- (b) Preserve such records for such periods and make such reports therefrom to the Human Relations Board as the Board shall determine to be reasonable, necessary or appropriate for the enforcement of this chapter.

171.13 CONTINUANCE OF PENDING PROCEEDINGS.

Any and all proceedings heretofore commenced under heretofore existing Chapter 171, shall not abate or terminate, but shall be prosecuted and

concluded in accordance with the procedures established by this chapter.

171.99 VIOLATIONS; PENALTIES.

- (a) Any person who fails to comply with a subpoena issued by the Human Relations Board is guilty of a misdemeanor of the third degree.
- (b) Any person who fails to comply with a conciliation agreement or any order issued by the Board as provided in Section 171.09 is guilty of misdemeanor of the first degree. Each day's noncompliance with any such agreement or order shall be deemed to be a separate offense.
- (c) Any person who engages in conduct constituting a discriminatory practice is guilty of a misdemeanor of the first degree.
- (d) Any person who fails to comply with any requirement of Section 171.12 is guilty of a misdemeanor of the third degree.

CHAPTER 172

Community Grant Advisory Board

172.01 Establishment; membership; terms; vacancy.

172.02 Chairpersons; meetings; records; quorum.

172.03 Powers and duties.

172.01 ESTABLISHMENT; MEMBERSHIP; TERMS; VACANCY.

(a) The Community Grant Advisory Board shall consist of 11 members appointed by a majority vote of the City Commission. Each of the members shall serve for a term of three (3) years or until the member's successor is duly appointed. No member shall serve more than two consecutive terms. After a member has served two consecutive terms, he/she shall be ineligible for reappointment to the board until one year has expired since the last date of service to the board.

(b) Any vacancy on the Community Grant Advisory Board shall be filled as in the case of the original appointment, as set forth herein, for the unexpired term of the member whose vacancy is so filed.

(c) All members of the Community Grant Advisory Board shall serve without compensation and shall be subject to removal from office by a majority vote of the City Commission.

(d) The Community Grant Advisory Board shall be composed of the following members:

- (1) One representative of Springfield Metropolitan Housing Authority;
- (2) One housing provider;
- (3) One supportive services organization;
- (4) One realtor;
- (5) One neighborhood representative;
- (6) One educator or educational institution representative;
- (7) Three residents of qualified low-to-moderate-income census tracts (including one homeless or formerly homeless representative);
- (8) Two members employed or providing services in qualified low-to-moderate-income census tracts

City-wide civic organizations or service clubs, the City Planning Board, business and supportive services organizations, and educational institutions may make nominations to the City Commission of members of their organizations for appointment as a member of the Community Grant Advisory Board.

(e) Persons eligible for service on the Community Grant Advisory Board shall meet the following qualifications:

- (1) Persons serving on another City board or Commission shall not be eligible to serve on the Community Grant Advisory Board; with the exception that, one member may serve on both the City Planning Board and on the Community Grant Advisory Board.
- (2) All members of the Community Grant Advisory Board shall be electors of the City.
- (3) A person who is a member of a City employee's family, as defined in Section 111.04, or an elected public officials shall not be eligible to serve on the Community Grant Advisory Board, except the member appointed from the City Commission who shall be a non-voting member.

(Ord. 12-110. Passed 4-10-12.)

- (4) Except as otherwise provided herein, if any member of the Community Grant Advisory Board shall fail to meet any of the qualifications stated in subsections (e)(1) through (e)(4) hereof, his office shall immediately become vacant.
- (5) The City Commission by ordinance and upon finding that the particular expertise of a potential member is needed on the Community Grant Advisory Board, may waive any or all of the requirements of subsections (e)(1) and (e)(2) hereof for such member.
- (6) Members of the Community Grant Advisory Board appointed as representatives of census tracts or block groups, must be a current resident of such census tract or block group at the time of their appointment and must have resided in the census tract or block group for at least twelve months prior to their date of appointment.

(f) If any member of the Community Grant Advisory Board is absent from three (3) of any six (6) consecutive regularly scheduled board meetings, or if such member is unwilling or unable to attend a regularly scheduled prearranged discussion of the public business of this board which fails to qualify as a "meeting" for lack of quorum, his office shall immediately become vacant. Such member shall have the opportunity to explain his absence to the City Commission and may be reinstated by a majority vote of the City Commission to complete the balance of his term.

172.02 CHAIRPERSON; MEETINGS; RECORDS; QUORUM; REPORTS.

(a) The Community Grant Advisory Board shall elect from its membership a chairperson and other such officers as it may deem necessary. No chairperson shall serve more than two years during a period of six consecutive years. The term "year" means twelve consecutive months. The board shall adopt rules and regulations consistent with law and ordinance. Meetings of the board shall be held once each month, and at such additional

times as the chairperson may determine; provided, however, the chairperson may cancel a meeting if no member has proposed business to be conducted at the meeting. The time of regular meetings shall be specified in the rules and regulations of the board. Special meetings shall be called by the chairperson. Meetings shall be held within the City limits of Springfield.

(b) The Community Grant Advisory Board shall keep minutes of its proceedings, showing the action of the board and the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of all its official actions, all of which shall be filed properly in the office of the Community Development Director. The presence of six (6) members shall constitute a quorum. The Community Development Director shall designate a City employee to serve as secretary to the Community Grant Advisory Board.

(c) The Community Grant Advisory Board shall make such annual and other reports as may be required by the City Commission.

172.03 POWERS AND DUTIES.

(a) The Community Grant Advisory Board shall provide advice and recommendations to the City Commission regarding the City's community development and housing needs, shall assist the City Commission in the formulation of the strategies to address those needs and to assist in the selection of community development programs and activities funded through the City and other organizations, and to assist in the development, implementation, and evaluation of the City's consolidated plan, serve as liaison with local citizen organizations involved in community development, and perform such other duties as the City Commission may assign to the Community Grant Advisory Board.

(b) The powers and duties of the Community Grant Advisory Board are advisory in nature only and under no circumstances shall the Community Grant Advisory Board have the power to enter into financial obligations on the part of the City, or in any way to incur in the liability or obligation on the part of the City.

CHAPTER 173

Fair Housing Board and Regulations

- 173.01 Declaration of policy.**
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- 173.15 Remedial actions.**
- 173.16 Judicial relief.**
- 173.17 Additional remedies.**
- 173.18 Limitation of jurisdiction.**
- 173.99 Penalty.**

CROSS REFERENCES

Housing discrimination--see Ohio R. C. Ch. 4112

173.01 DECLARATION OF POLICY.

It is hereby declared to be the purpose of this chapter to provide, within constitutional limitations, for fair housing throughout the City, to assure that all persons have full and equal opportunity to consider all available housing for themselves and their families within the City without being discriminated against on the basis of race, color, religion, sex, ancestry, handicap, familial status, national origin, or sexual orientation and to promote a stable, racially integrated community.

(Ord. 18-24. Passed 1-30-18.)

173.02 DEFINITIONS.

For the purposes of the enforcement of this chapter, the following definitions shall apply:

- (a) "Administrator" means the Director of Community Development.
- (b) "Board" means the Human Relations Board.
- (c) "Discriminate" or "discrimination" means to separate or segregate persons in a particular manner solely or in part because of race, color, religion, sex, ancestry, handicap, familial status, national origin, or sexual orientation; provided that "discriminate" or "discrimination" shall not include special outreach efforts conducted by or under the authority of units of local government (including agencies, departments, and commissions thereof) or non-profit fair housing corporations or agencies to ensure that persons of minority groups are fully informed of, and have access to, available dwelling opportunities in areas of present or prospective majority group concentration, or to ensure that persons of the majority group are fully informed of and have access to available dwelling opportunities in areas of present or prospective minority group concentration.
- (d) "Covered multi-family dwellings" means buildings consisting of four or more units if such buildings have one or more elevators, and ground floor units in other buildings consisting of four or more units.
- (e) "Dwelling" means a building or structure, or part thereof, used or designed or intended to be used for residential purposes.
- (f) "Familial status" means one or more individuals (who have not attained the age of 18 years) being domiciled with:

- (1) A parent or another person having legal custody of such individual or individuals; or
 - (2) The designee of such parent or other person having such custody, with the written permission of such parent or their person; and shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.
- (g) "Housing for older persons" means housing:
- (1) Provided under any State or Federal program that the Secretary of HUD determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or
 - (2) Intended for, and solely occupied by, persons 62 years of age or older; or
 - (3) Housing facilities where at least 80 percent of the units in the housing facility are occupied by at least one person 55 years of age or older, except that a newly constructed housing facility for first occupancy after March 12, 1989, need not comply with this requirement until 25 percent of the units in such facility are occupied. Housing satisfies the requirements of this section even though:
 - (A) On September 13, 1988, under 80 percent of occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit, provided that at least 80 percent of the units that are occupied after September 13, 1988, are occupied by at least one person 55 years of age or older.
 - (B) There are unoccupied units, provided that at least 80 percent of the occupied units are occupied by at least one person 55 years of age or older.
 - (C) There are units occupied by employees of the housing provider (and family members residing in the same unit) who are under 55 years of age, provided the employees perform substantial duties directly related to the management or maintenance of the housing.
 - (D) There are insufficient units occupied by at least one person 55 years of age or older to meet the requirements of this subsection, but the housing provider:
 - (i) Reserves all unoccupied units for occupancy by at least one person 55 years of age or older until at least 80 percent of the units are occupied by at least one person who is 55 or older; or
 - (ii) Where application of the 80 percent rule stated in this subsection (g) results in a fraction of a unit, that unit shall be considered to be included in the units which must be occupied by at least one person who is 55 or older.
- (h) "Lending institution" means any bank, savings and loan association, insurance company, or other organization or person regularly engaged in the business of lending money, guaranteeing loans for profit, or otherwise providing financial assistance or insurance in connection with the purchase, sale or rental of dwellings.
- (i) "Person" means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, or fiduciaries.
- (j) "Purchase" means to obtain a dwelling through a sale.
- (k) "Real estate agent" means a real estate broker or salesman, or a limited real estate broker or salesman, as defined in Section 4735.01 of the Ohio Revised Code.
- (l) "Rent" or "rental" means to lease, sublease, assign, or otherwise grant or obtain the right to occupy a dwelling not owned by the occupant in return for consideration, or a contract or option to do any of the foregoing.
- (m) "Sale" or "sell" means to convey, exchange, transfer, or assign legal or equitable title to, or beneficial interest in, a dwelling in return for consideration, or a contract or option to do any of the foregoing.
- (n) "Solicit" or "solicitation" means any conduct by a real estate agent, or an employee or agent thereof, intended to induce the owner of a dwelling within the City to sell, rent, or list the same for sale or rental.
- (o) "Unlawful discriminatory practice" means any act prohibited by Section 173.04 of this chapter.
- (p) "Handicap" means, with respect to a person:
- (1) A physical or mental impairment which substantially limits one or more of such person's major life activities;
 - (2) A record of having such an impairment; or
 - (3) Being regarded as having such an impairment; but such term does not include current, illegal use of or addiction to a controlled substance as defined in 21 U. S. C. Section 802.
- (Ord. 18-24. Passed 1-30-18.)

173.03 EXEMPTIONS.

The provisions of this chapter shall not:

- (a) Prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members, provided such club does not discriminate in its membership policies on the basis of race, color, religion, sex, ancestry, handicap, familial status, or national origin. The provisions of this chapter as it pertains to sexual orientation shall not apply to religious schools, churches engaged in religious activities and owner-occupied residences with not more than three (3) unrelated renters.
- (b) Require any person selling or renting property to modify such property in any way at his or her expense, provided that such person does not refuse to permit reasonable modifications by a handicapped person, necessary for that person to fully enjoy the premises in which he or she resides, when such modifications are made at the expense of the handicapped person, which permission may be conditioned on that person's promise to restore the premises to the condition in which it previously existed before granting permission for such modification, nor shall this chapter be construed to relieve any handicapped person of any obligation generally imposed on all persons regardless of handicap in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement, or contract, so long as such distinctions are not based on the handicap itself, or on the landlord's refusal to make reasonable modification in the lease, agreement or contract conditions for the purpose of denying a handicapped person equal opportunity to the use and enjoyment of the premises.
- (c) Prohibit restricting the sale or rental of a dwelling on the basis of handicap when such a dwelling is authorized, approved, financed, or subsidized in whole or in part for the benefit of persons of a handicap by a unit of state, local, or federal government, so long as such restrictions do not discriminate against otherwise qualified handicapped persons.
- (d) Require that a dwelling be made available to a person with a handicap whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
- (e) Prohibit the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to

occupy a dwelling.

- (f) With regard to familial status, apply to dwellings provided under any state or federal program specifically designed and operated to assist elderly persons, as defined in the State or Federal program, or to housing for older persons, provided that HUD has determined that such program or housing is exempt, which determination shall be conclusive.
 - (g) Prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, familial status, or sexual orientation.
 - (h) Apply to any single-family house sold or rented by an owner, under the terms and conditions set forth in 42 U. S. C. Section 3603(b); or to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.
 - (i) Prohibit conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in 21 U. S. C. Section 802.
- (Ord. 18-24. Passed 1-30-18.)

173.04 PROHIBITED ACTS.

It is hereby declared to be a discriminatory housing practice and unlawful for any person to:

- (a) Refuse to sell, transfer, assign, rent, lease, sublease, finance, negotiate, or otherwise deny or make unavailable a dwelling to any person because of the race, color, religion, sex, ancestry, handicap, familial status, national origin, or sexual orientation of any present or prospective owner, occupant, or user of such dwelling, or in the case of a handicapped person, an associate thereof;
- (b) Represent to any person, because of race, color, religion, sex, ancestry, handicap, familial status, national origin, or sexual orientation, that a dwelling is not available for sale, rental, or inspection when in fact it is available;
- (c) Refuse to lend money, or to purchase a loan, or to provide other financial assistance, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of a dwelling or otherwise withhold financing of a dwelling from any person because of the race, color, religion, sex, ancestry, handicap, familial status, national origin, or sexual orientation of any present or dwelling, provided such person lends money as one of the principal aspects or incident to his principal business and not only as a part of the purchase price of an owner-occupied residence he is selling nor merely casually or occasionally to a relative or friend;
- (d) Discriminate against any person in the terms or conditions of selling, transferring, assigning, brokering, renting, leasing, or subleasing any dwelling or in furnishing facilities, services, or privileges in connection with the ownership, occupancy, or use of any dwelling, including the sale of fire, extended coverage or homeowners insurance, because of the race, color, religion, sex, ancestry, handicap, familial status, national origin, or sexual orientation of any present or prospective owner, occupant, or user of such dwelling, or in the case of a handicapped person, an associate thereof, or because of the racial composition of the neighborhood in which the dwelling is located;
- (e) Discriminate against any person in the terms or conditions of any loan of money, purchase of loans, or in a providing other financial assistance, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of a dwelling because of the race, color, religion, sex, ancestry, handicap, familial status, national origin, or sexual orientation of any present or prospective owner, occupant, or user of such dwelling, or because of the racial composition of the neighborhood in which the dwelling is located;
- (f) Refuse to consider without prejudice the purpose of extending mortgage credit to a married couple or either member thereof;
- (g) Print, publish, or circulate any statement or advertisement, or make any verbal statement, relating to the sale, transfer, assignment, rental, lease, sublease, or acquisition of any dwelling or the loan of money, whether or not secured by mortgage or otherwise, for the acquisition, construction, rehabilitation, repair, or maintenance of a dwelling which indicates any preference, limitation, specification, or discrimination based upon race, color, religion, sex, ancestry, handicap, familial status, national origin, or sexual orientation or an intention to make any such preference, limitation, specification, or discrimination.
- (h) Include in any transfer, rental, or lease of a dwelling any restrictive covenant, based on race, color, religion, sex, ancestry, handicap, familial status, national origin, or sexual orientation or honor or exercise, or attempt to honor or exercise, any such restrictive covenant, provided that the prior inclusion of such a restrictive covenant in the chain of title shall not be deemed a violation of this provision;
- (i) Induce or solicit or attempt to induce or solicit a dwelling listing, sale, or transaction by representing that a change has occurred or may occur with respect to the racial, religious, sexual, or ethnic composition of the block, neighborhood, or area in which the dwelling is located, or induced or solicited or attempt to induce or solicit such sale or listing by representing that the presence or anticipated presence of persons of any race, color, religion, sex, ancestry, handicap, familial status, national origin, or sexual orientation, in the area will or may have results such as the following:
 - (1) The lowering of property values;
 - (2) A change in the racial, religious, sexual, or ethnic composition of the block, neighborhood, or area in which the dwelling is located;
 - (3) An increase in criminal or antisocial behavior in the area;
 - (4) A decline in the quality of the schools serving the area.
- (j) Deny any person access to or membership or participation in any multiple-listing service, real estate agents' association, or other service, association, or facility relating to the business of selling or renting housing accommodations, or to discriminate against any person in the terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, national origin, handicap, familial status, ancestry, or sexual orientation;
- (k) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of that person's having exercised or enjoyed or having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this section;
- (l) Discourage or attempt to discourage the purchase by a prospective purchaser of a dwelling, by representing that any block, neighborhood, or area has undergone or might undergo a change with respect to the religious, racial, sexual, familial status, or ethnic composition of the block, neighborhood, or area.
- (m) Discriminate against any person, because of race, color, religion, sex, national origin, handicap, familial status, ancestry, or sexual orientation, in appraising the value of any dwelling in connection with the sale, brokering, or rental of such dwelling.
- (n) Refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premise, except that, in the case of a rental, no modification need be permitted unless the renter first agrees to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted unless previously negotiated with the landlord.
- (o) Refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling.
- (p) Construct covered multi-family dwellings that do not provide for accessibility and usability for physically handicapped persons in compliance with applicable state or federal law, whichever is controlling.
- (q) Discriminate in any manner against any other person because that person has opposed any unlawful practice defined in this chapter, or because

that person has made a charge, testified, assisted, or participated in any manner in any investigation, proceeding, or hearing as provided pursuant to this chapter.

- (r) Aid, abet, incite, compel, or coerce the doing of any act declared by this chapter to be an unlawfully discriminatory practice, or to obstruct or prevent any person from complying with the provisions of this chapter, or any order issued pursuant thereto, or to attempt directly or indirectly to commit any act declared by this chapter to be an unlawful discriminatory practice.

(Ord. 18-24. Passed 1-30-18.)

173.05 POSTING OF NOTICES.

All real estate agents and all persons who operate or manage a dwelling with more than four (4) dwelling units shall post in a conspicuous location in those areas of their places of business located within the City where prospective purchasers, sellers, or renters normally make inquiries, and where the terms of a sale or rental are normally negotiated, a notice which contains the following language, printed on a light-colored background, in not less than fourteen-point type:

"It is a violation of the City of Springfield Fair Housing Law, in connection with any housing activity, to discriminate against any person because of race, color, religion, sex, ancestry, handicap, familial status, national origin, or sexual orientation.

For more information, contact: 324-7380"

(Ord. 18-24. Passed 1-30-18.)

173.06 ENFORCEMENT.

(a) The Board shall have the responsibility to administer the provisions of this chapter and to adjudicate complaints alleging violations of Section 173.04. The Board shall have and may exercise the following powers to implement the purposes of this chapter:

- (1) To hold adjudicative hearings, make findings of fact, issue orders, enforce such orders, and seek judicial and/or administrative relief with respect to any such complaints in accordance with the provisions of this chapter.
- (2) To subpoena witnesses, compel their attendance, administer oaths, take sworn testimony, and, in connection therewith, to require the production for examination of any documents relating to any matter under investigation or in question before the Board, and enforce such powers by proper petition to any court of competent jurisdiction.
- (3) To adopt such rules and regulations as the Board may deem necessary or desirable for the conduct of its business and to carry out the purposes of this chapter.
- (4) To do such other acts as are necessary and proper to perform those duties with which the Board is charged under this chapter.

(b) The Administrator shall receive and process complaints on behalf of the Board.

173.07 COMPLAINTS.

Any person may allege that a violation of Section 173.04 has occurred, or that a violation will occur and cause injury, by filing with the Board, within one year of the alleged violation, a written complaint setting forth his grievance. The complaint shall state, on a printed form made available by the Board, the name and address of the complainant, the name and address of the person(s) alleged to have committed a violation of Section 173.04 and the particular facts thereof, and such other information as may be required by the Board. A complaint may be amended at any time. Upon the filing of a complaint, the Administrator shall acknowledge the receipt of the complaint, serving notice thereof to the complainant, which notice shall also contain information as to the time limits and choice of forum provided in this chapter.

173.08 NOTICE.

Within fifteen (15) days after a complaint has been received by the Board, the Administrator shall serve, or cause to be served, in person, or by certified mail, a copy of the complaint on the person (hereinafter referred to as "respondent") alleged to have violated Section 173.04. Along with the service of the complaint, the Administrator shall advise the respondent in writing of his procedural rights and obligations pursuant to this chapter. The respondent may file with the Board an answer to the complaint.

173.09 INVESTIGATION.

Within thirty (30) calendar days after a complaint has been received by the Board, the Administrator shall conduct an investigation of the complaint and shall determine either that:

- (a) There are reasonable grounds to believe that a violation of Section 173.04 has occurred, in which case the Administrator shall then initiate the conciliation process of Section 173.10; or
- (b) There are reasonable grounds to believe that a violation of Section 173.04 has not occurred, in which case the Administrator shall then dismiss the complaint by preparing a written notice of dismissal, including the reasons therefor, and notify the parties of the dismissal, within five (5) days, by serving a copy of the notice of dismissal by certified mail on the parties. A copy of the notice shall also be filed with the Board. The notice of dismissal shall advise the complainant of his right of appeal under this section. Within fourteen (14) days of receipt of the notice of dismissal, the complainant may appeal by filing a written request with the Board for a review of the complaint. By a majority vote, the Board may overrule the dismissal and refer the complaint to the Administrator for conciliation pursuant to Section 173.10.
- (c) The Administrator shall complete the investigation within one hundred (100) days after receipt of the complaint, unless impracticable, in which case the Administrator shall inform, in writing, the complainant and the respondent of the reasons why the investigation cannot be completed within the time prescribed.

173.10 CONCILIATION.

If the Administrator has made a determination pursuant to Section 173.09 that there are reasonable grounds to believe that a violation of Section 173.04 has occurred, or at such other time after a complaint has been filed, as appropriate, the Administrator shall:

- (a) Notify the complainant and respondent of the time, place, and date of the conciliation conference at least ten (10) days prior thereto, and both parties shall appear at the conciliation conference in person or by attorney; and
- (b) Attempt to resolve the complaint by methods of conference, conciliation, and persuasion with all interested parties and such representatives as the parties may choose to assist them. Conciliation conference shall be informal and nothing said or done during such conferences shall be made public unless the parties agree thereto in writing. The terms of conciliation agreed to by the parties shall be reduced to writing and incorporated into a consent agreement to be signed by the parties, subject to approval by the Board. The terms of the conciliation agreement shall be made public unless the complainant and the respondent agree otherwise, and the Board determines that disclosure is not required to further the purposes of this chapter.
- (c) If the complaint has not been resolved by conciliation within sixty (60) calendar days after it has been received, the Administrator shall refer the complaint to the Board for an adjudicative hearing.

173.11 INJUNCTIVE RELIEF.

At any time after the filing of a complaint, the Administrator may request the Director of Law to petition the appropriate court for temporary or preliminary relief pending final determination of the proceedings under this chapter, or as otherwise necessary to carry out the purposes of this chapter, including any order or decree restraining the respondent from doing or causing any action which would render ineffectual any order or action by the Board.

173.12 HEARINGS.

Within thirty (30) calendar days after the complaint is referred to the Board, the Board shall, upon due and reasonable notice to all parties, conduct a hearing on the complaint. Parties to the hearing shall be the complainant and respondent, and such other persons as the Board may deem appropriate. The hearing shall be open to the public. At least seven (7) days before the hearing, the Board shall serve upon the respondent a statement of charges and a summons requiring the attendance of named persons and the production of relevant documents and records. The parties may apply to the Board to have subpoenas issued in the Board's name. Failure to comply with a summons or subpoena shall constitute a violation of this chapter. The parties may file such statements with the Board as they deem necessary. No fewer than three (3) of the same members of the Board must be present at all times during a hearing. The parties may appear before the Board in person or by duly authorized representative, and may be represented by legal counsel. The parties shall have the right to present witnesses and cross-examine witnesses, and all testimony and evidence shall be given under oath or by affirmation.

173.13 HEARING DECISIONS.

Where hearings have been held before the Board, only those members of the Board who have attended all hearings on the complaint shall participate in the determination of the complaint. Within fifteen (15) days of the close of the hearing, the decision shall be rendered in the form of a written order which shall include findings of fact, a statement of whether the respondent has violated Section 173.04, and such remedial actions as the Board may order pursuant to Section 173.15. The order shall be served upon the parties by certified mail within fifteen (15) days of the date of the decision. The order shall be available for public inspection, and a copy shall be provided to any person upon request and payment of production costs.

173.14 HEARING OFFICER.

The Board, in lieu of conducting a hearing upon complaint, may appoint a hearing officer for the purpose of conducting hearings and reporting the finds thereof to the Board. In conducting such hearings, the hearing officer shall be delegated all powers conferred upon the Board pursuant to this chapter as to subpoenaing witnesses, compelling their attendance, administering oaths, taking sworn testimony, and requiring the production for examination of any documents relating to any matter under investigation or question before the Board. Notice of hearing and the procedures therefor shall be in accordance with Section 173.12 of this chapter. After the conclusion of any hearing, the hearing officer shall report these finds to the Board within seven (7) days. Within fifteen (15) days after receipt of the finds of the hearing officer, the Board shall render its decision in accordance with Section 173.13 of this chapter.

173.15 REMEDIAL ACTIONS.

- (a) If the Board finds that the respondent has not violated Section 173.04, its order under Section 173.13 shall dismiss the complaint.
- (b) If the Board finds that the respondent has violated Section 173.04, its order under Section 173.13 shall provide for the taking of such remedial action(s) as it deems appropriate, which may include, but need not be limited to:
 - (1) Directing the respondent to cease and desist from violations of Section 173.04 and to take such affirmative steps as necessary to effectuate the purposes of this chapter.
 - (2) Initiating, at the Board's expense, an appropriate court action for the enforcement of Section 173.04, and for such other or further relief as the court may deem appropriate, including, but not limited to, injunctive relief, compensatory damages, punitive damages, and/or attorneys' fees and costs for award to the complainant; such court action shall be required in the event the respondent does not voluntarily comply with remedial actions ordered by the Board.
 - (3) Initiating proceedings for violation of federal or state law and/or regulations.
 - (4) Initiating proceedings with any contracting agency, in the case of any violation of Section 173.04 by respondent in the course of performing under a contract or subcontract with the State or any political subdivision or agency thereof, or with the United States of America or any agency or instrumentality thereof, for the purpose of causing a termination of such contract or any portion thereof, or obtaining other relief.
 - (5) Initiating proceedings with the State of Ohio where applicable, to revoke, suspend, or refuse to renew the license of any person found to have violated any provision of Section 173.04.
 - (6) Directing the respondent to reimburse the complainant for his actual and reasonable expenses incurred and to be incurred as a result of each violation found including, but not limited to, expenses for moving and temporary storage of household furnishings, additional expenses in connection with the purchase or rental of a dwelling for alternative accommodations, and reasonable attorneys' fees and costs.
 - (7) Assessing compensatory damages, as appropriate, or arrange to have adjudicated in court at the Board's expense the award of compensatory damages against the respondent.
 - (8) Assessing civil penalties, as appropriate, or arrange to have adjudicated in court at the Board's expense the award of a civil penalty against the respondent.
 - (9) Directing the respondent to comply with such other further relief as the Board may deem appropriate for the enforcement of Section 173.04.
- (c) The Board shall make a final administrative disposition of a complaint within one (1) year after the complaint has been filed, unless it is impracticable to do so, in which case the complainant and the respondent shall be notified in writing of the reasons why disposition of the complaint cannot be made within the time prescribed.
- (d) Nothing herein shall be construed to prevent the Board, at its own expense, from initiating appropriate court action on behalf of the complainant in order to enforce the provisions of this chapter. In addition, upon a finding by the Administrator that there are reasonable grounds to believe that a violation of Section 173.04 has occurred, as provided in Section 173.09, either the complainant or the respondent, in lieu of participating in the administrative hearing process before the Board, or at any time during said administrative process, may elect to have the case heard in a civil action. Upon notification thereof, the Board, at its expense, shall initiate a civil action in a court of law on behalf of the complainant.
- (e) The complainant and the respondent shall have the right to appeal in adverse final determination by the Board to the Clark County Common

Pleas Court pursuant to Ohio Revised Code Chapter 2506, or in such other forum or court of competent jurisdiction as provided by law.

173.16 JUDICIAL RELIEF.

The City, or the complainant, or any person aggrieved by a violation of any provision of this chapter may, at any time within one (1) year from the date of the alleged violation, and in lieu of proceeding with the administrative process set forth in this chapter, apply to any court of competent jurisdiction for appropriate relief including, but not limited to:

- (a) Injunctive relief or an order otherwise compelling compliance with this chapter;
- (b) Compensatory damages, and/or punitive damages;
- (c) Reasonable attorneys' fees and costs provided that said complainant, in the opinion of the court, is not financially able to assume said attorneys' fees; and/or
- (d) Such other or further relief as is appropriate for the enforcement of this chapter and the elimination of violations thereof.

173.17 ADDITIONAL REMEDIES.

This chapter shall not prevent the City or any person from exercising any right or seeking any remedy to which that person might otherwise be entitled, or from filing any complaint with any other agency or court of law or equity.

173.18 LIMITATION OF JURISDICTION.

The Human Relations Board shall have no authority to entertain any complaint originating outside the physical boundaries of the City.

173.99 PENALTY.

- (a) Any person who fails to comply with the subpoena issued by the Human Relations Board is guilty of a misdemeanor of the third degree.
- (b) Any person who fails to comply with any of the terms and conditions of any conciliation consent agreement entered into or order issued by the Board pursuant to Section 173.10 is guilty of a misdemeanor of the first degree.

CHAPTER 174

ADA Transportation Advisory Committee

174.01 Creation; members; terms; vacancy.

174.02 Officers; meetings; records; quorum; reports.

174.03 Powers and duties.

174.01 CREATION; MEMBERS; TERMS; VACANCY.

(a) The ADA Transportation Advisory Committee shall consist of eleven voting members and three non-voting members. Each of the members shall serve for a period of three years and shall be appointed by the Mayor with the consent and approval of the City Commission. Of the eleven voting members, three members shall be affiliates of social service organizations who serve disabled persons, two shall be representatives from transportation providers within the City, and the remaining six voting members shall be electors of the City at least four of which shall be disabled persons. Of the three non-voting members, one shall be a City Commissioner, one shall be a staff member of the Springfield-Clark County Transportation Coordinating Committee, and one shall be the City's Transportation Coordinator. No members of the committee, with the exception of the two representatives from transportation providers, the appointee of the Springfield-Clark County Transportation Coordinating Committee, and the City's Transportation Coordinator, shall serve more than two consecutive terms. After a member has served during two consecutive terms, he shall be ineligible for reappointment to the committee until one year has expired since his last date of service on the committee.

(b) Any vacancy on the committee shall be filled as in the case of the original appointment, as set forth herein, for the unexpired term of the member whose vacancy is so filled.

(c) All members of the committee shall serve without compensation and shall be subject to removal from office by a majority vote of the City Commission.

(d) Persons eligible for service on the committee shall meet the following qualifications, in addition to any qualifications described in Subsection 174.01(a):

- (1) Except as otherwise provided in Subsection 174.01(a), persons serving on another City board or commission shall not be eligible to serve on the committee.
- (2) Except as otherwise provided in Subsection 174.01(a), elected public officials shall not be eligible to serve on the committee. A member of a City employee's family, as defined in Section 111.04, shall not be eligible for service.

(Ord. 12-110. Passed 4-10-12.)

- (3) Except as otherwise provided in this section, if any member of the committee fails to meet any of the qualifications stated in Subsection (d) (1) and (2) hereof, the office shall immediately become vacant.

- (4) The City Commission, by ordinance and upon finding that the particular expertise of a potential appointee or member is needed on the committee, may waive any or all of the requirements of Subsection (d)(1) hereof for such appointee or member.

(e) If any member of the committee is absent from three of any six consecutive regular, monthly meetings, or if such member is unwilling or unable to attend a regularly scheduled prearranged discussion of the public business of his board which fails to qualify as a "meeting" for lack of quorum, his office shall immediately become vacant. Such member shall have the opportunity to explain his absence to the City Commission and may be reappointed by a majority vote of the City Commission to complete the balance of his term.

(Ord. 95-96. Passed 3-14-95.)

174.02 OFFICERS; MEETINGS; RECORDS; QUORUM; REPORTS.

(a) The committee shall elect from its membership a chairperson and such other officers as it may deem necessary. No chairperson shall serve more than two years of a period of six consecutive years. The term "year" means twelve consecutive months. The committee shall adopt rules and regulations consistent with law and ordinance. Meetings of the committee shall be held one each quarter, and at such additional times as the

committee may determine; provided, however, the chairperson may cancel a meeting if no member has proposed business to be conducted at the meeting. The time of regular meetings shall be specified in the rules and regulations of the committee. Special meetings shall be called by the chairperson. There shall be a fixed place of meeting.

(b) The committee shall keep minutes of its proceedings, showing the action of the committee and the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of all of its official action, and all of which shall be filed promptly in the office of the City Clerk. The presence of six voting members shall constitute a quorum. The committee shall act by resolution and a copy of each resolution duly adopted shall be filed in the office of the City Clerk. The Transportation Coordinator or his duly authorized representative shall serve as secretary to the committee.

(c) The secretary shall make such annual and other reports as may be required by the City Commission.

174.03 POWERS AND DUTIES.

Without limitation on the general powers or authority necessary or incidental to the purposes for which the committee is appointed, the duties of the committee shall be to study matters affecting and concerning public transportation available to disabled persons within the City and to make recommendations and to advise the City Commission, the Springfield/Clark County Transportation Coordinating Committee and local transit agencies from time to time on policy matters, public facilities, transportation equipment and transportation programs intended to provide service to disabled persons in the City. The committee shall study such other matters as the City Manager or the City Commission may designate from time to time.

The powers and duties of the committee are advisory in nature only and under no circumstances shall the committee have the power to enter into financial obligations on the part of the City or in any way to incur any liability or obligation on the part of the City.

(Ord. 92-118. Passed 4-14-92.)

TITLE NINE - Employment Provisions

Chap. 175. Employee Classification Compensation Plan.

Chap. 185. Fringe Benefits.

Chap. 187. Fidelity Bonds.

Chap. 188. Police Division.

Chap. 189. Promotional Examinations for Police and Fire Divisions.

CHAPTER 175

Employee Classification Compensation Plan

- 175.01 Establishment of Plan.**
- 175.02 Collective bargaining agreements.**
- 175.03 Development and maintenance of salary ranges.**
- 175.04 Salary ranges.**
- 175.05 Transfers, promotions and demotions.**
- 175.06 Salary decreases.**
- 175.07 Part-time employees.**
- 175.08 Conformity to Federal law.**
- 175.09 Composition of Plan.**
- 175.10 Class title.**
- 175.11 Class specifications.**
- 175.12 Use of Plan.**
- 175.13 Maintenance of Plan.**
- 175.14 Allocation appeals.**

CROSS REFERENCES

Worker's Compensation - see Ohio Const., Art. II, Sec. 35; Ohio R.C. Ch. 4123

Wages and hours on public works - see Ohio Const., Art. II, Sec. 37; Ohio R.C. Ch. 4115

175.01 ESTABLISHMENT OF PLAN.

(a) The City Manager shall, by administrative regulation recorded in his City Manager's Journal, develop, establish and maintain an Employee Classification Plan which shall conform to the provisions of this chapter.

(b) The Plan shall include the basic salary schedule and the schedule of salary ranges, consisting of minimum and maximum rates of pay and intermediate steps for all classes of positions included in the City Employee Classification Plan as established by the City Manager.

(c) The Plan shall provide a complete inventory of all positions in the City service and descriptions and specifications for each class of employment. In the Plan, titles shall be standardized and each of them shall be indicative of a definite range of duties and responsibilities and shall have the same meanings throughout the City service.

(d) In the event of a conflict between any section in Title Nine of this Part One - Administrative Code and a provision contained in a collective bargaining agreement entered into by the City and its employees, the provision contained in such collective bargaining provision shall prevail.

(e) The Plan shall be developed, established and maintained in such a manner so as not to frustrate or circumvent the independence of operation of

the Finance and Law Departments and the office of the City Clerk.
(Ord. 90-688. Passed 12-18-90.)

175.02 COLLECTIVE BARGAINING AGREEMENTS.

Collective bargaining agreements shall not become effective until approved by an ordinance enacted by the City Commission.
(Ord. 90-688. Passed 12-18-90.)

175.03 DEVELOPMENT AND MAINTENANCE OF SALARY RANGES.

(a) Salary ranges shall be linked directly to the Plan of position classifications and shall be determined with due regard to ranges of pay of other classes, relative particular occupational categories, prevailing rates for similar employment in private establishments in the City area, rates of pay in other jurisdictions, the financial policies of the City and other economic considerations. The minimum and maximum and intermediate steps of each salary range shall be those rates in the basic salary schedule which most nearly reflect these factors.

(b) Prior to the preparation of each annual budget, as well as at other appropriate times, the City Manager may make or direct to be made, such comparative studies as he may deem necessary, of the factors affecting the level of salary ranges. On the basis of information derived from such studies, the City Manager shall adopt such changes in the salary ranges as are pertinent to maintaining the fairness and adequacy of the Plan. The rate of pay for each employee shall be adjusted to the appropriate step in conformation with the adjustment of the salary range for the class.

(c) General salary increases affecting all City employees shall not become effective until approved by an ordinance enacted by the City Commission.

(d) At sometime during the first quarter of each even numbered year the City Manager shall provide the City Commission with a review and report on the City's then current Employee Classification Compensation Plan.
(Ord. 90-688. Passed 12-18-90.)

175.04 SALARY RANGES.

The salary ranges are intended to furnish administrative flexibility in recognizing individual differences between positions allocated to the same class, in providing employee incentives and rewarding employees for meritorious service.

The following shall be the general policy with respect to the use of the pay steps within salary ranges:

- (a) The minimum rate of pay for a class shall be paid to any person on his original appointment to a position of a class except when, as determined by the department head and approved by the City Manager, the new employee possesses exceptional qualifications warranting employment at a higher rate in the pay range.
- (b) Within-range increases shall be from one pay step to the next higher step, every twelve months, to Step F: provided, however, that in extraordinary circumstances applicable to the particular employee and documented in summary form, the City Manager may permit increases of one or more steps and may grant such increases in less than twelve months. However, each such increase shall not be automatic, but shall be based upon merit and shall be specifically recommended by the department head and approved by the City Manager; and provided further that all within-range adjustments are subject to the availability of funds as determined by the City Commission. Salary increases or decreases resulting from the adjustments of salary ranges in accordance with Section 175.03 shall not prevent within-range increases in accordance with this section. All employees on the City's payroll as of December 31, 1992, shall have their performance reviewed for the purpose of determining whether a within-range increase shall be granted nine months after their most recent performance evaluation, for the first such review after January 1, 1993. Thereafter, all subsequent reviews will follow at twelve-month intervals, as set forth in this paragraph (b).

(Ord. 92-398. Passed 12-28-92.)

175.05 TRANSFERS, PROMOTIONS AND DEMOTIONS.

When an employee is transferred, promoted or demoted, his/her rate of pay for the new position shall be determined as follows:

- (a) Transfers. An employee transferred, to another position in the same class shall continue to receive the same pay rate until he/she is promoted or demoted or until his/her rate is adjusted in accordance with the provisions of Sections 175.03 and 175.04.
- (b) Promotions. An employee promoted to a position in any class having a higher pay range shall receive a salary increase as follows:
 - (1) If his/her rate of pay in the lower class does not fall within the range of pay in the higher class, his/her rate of pay shall be increased to the minimum rate for the higher class.
 - (2) If his/her rate of pay in the lower class falls within the range of pay for the higher class, the employee shall be advanced to the next higher step.
 - (3) If the rate of pay of the employee in the lower class is higher than the maximum rate of pay in the higher class, he/she shall receive no salary increase on promotion.
 - (4) If upon or after the promotion of any employee, the City Manager determines that the increase of compensation payable to such employee occasioned by such promotion is not sufficient to afford adequate compensation for any additional duties and responsibilities imposed as a result of such promotion, the City Manager may direct that such employee be advanced to the next higher step of the appropriate salary range.
- (c) Demotions. An employee demoted from a position in one class to another having a lower pay range shall receive a salary decrease of not less than one step. A one step decrease shall mean the following:
 - (1) If the rate of pay of the employee in a higher class is above the maximum salary for the lower class, his/her rate of pay shall be decreased to the maximum rate of the lower class, unless the decrease shall be less than one step, in which case his/her pay shall be reduced to the next lower step in the pay range.
 - (2) If the rate of pay of the employee in the higher class is within the pay range of the lower class, his/her rate of pay shall be decreased by one pay step.

(Ord. 90-688. Passed 12-18-90.)

175.06 SALARY DECREASES.

The City Manager for just causes may reduce the salary of an employee within the pay range prescribed for the class. Notice of intention to effect such a reduction in pay and the reasons for such action shall be given to the employee, and the department head, ten days prior to the effective date of

the reduction.
(Ord. 90-688. Passed 12-18-90.)

175.07 PART-TIME EMPLOYEES.

All employees of the City who are hired on a part-time basis shall be paid hourly for the work performed for the City in accordance with the appropriate classification of the position to which the employee has been assigned and in proportion to the amount stated in the basic salary schedule.
(Ord. 90-688. Passed 12-18-90.)

175.08 CONFORMITY TO FEDERAL LAW.

Notwithstanding any provision of the Codified Ordinances of the City, the provisions of the United States Fair Labor Standards Act of 1938 as amended shall apply and control on matters, at minimum wages and overtime where such provisions are made applicable to the City by such Act.
(Ord. 90-688. Passed 12-18-90.)

175.09 COMPOSITION OF PLAN.

The Plan shall be comprised of:

- (a) An assembly into classes of positions which are of approximately equivalent difficulty and responsibility, which may be appropriately filled with persons possessing the same general qualifications, and for which equitable compensation can be paid under similar working conditions from the same pay range;
- (b) A class title, descriptive of the work of each class, which shall identify each class and which shall be coded by number for personnel control and payroll accounting purposes;
- (c) Written class specifications for each class of positions containing a description of the nature of the work and of the relative responsibility of the positions in the class, examples of work which are illustrative of the duties of the positions assigned to the class, requirements of work in terms of knowledge, abilities and skills necessary for the performance of the work, and a statement of experience and training desirable for recruitment into the class; and
- (d) An allocation list showing the class title of each position in the City service, as identified by the name of the employee holding such position. The Plan shall be set up to reflect positions by major groupings of allied positions such as clerical, administrative, fiscal, engineering and technical; and each grouping shall have an identifying code number bracket.

(Ord. 90-688. Passed 12-18-90.)

175.10 CLASS TITLE.

Class titles or designated code symbols, shall be used in all personnel, accounting, budgeting payroll, appropriation and financial records. No person shall be appointed to, or employed in a position in the City under a title not included in the Plan. Titles used in the course of departmental routine to indicate level of authority or administrative rank may continue to be used for such purposes.
(Ord. 90-688. Passed 12-18-90.)

175.11 CLASS SPECIFICATIONS.

The specifications of the classes of positions in the Plan and their various parts shall be used as a guide in the classification of positions and have the following force and effect:

- (a) The specifications are descriptive and not restrictive. They are intended to indicate the kinds of positions that are allocated to the several classes, as determined by their duties and responsibilities, and shall not be construed as declaring to any extent, or in any way, what the minimum or maximum duties or responsibilities of any position shall be, or as limiting or in any way modifying the power of any appointing authority or administrative officer to assign, direct and control the work of employees under his supervision. The use of particular expression or illustration shall not be held to exclude others not mentioned that are of similar kind and quality;
- (b) In determining the class to which any position should be allocated, the specification of each class shall be considered as a whole. Consideration shall be given to the duties, specific tasks, responsibilities, qualification requirements and relationships to other classes as together affording a statement of the employment that the class is intended to embrace;
- (c) Qualifications commonly required of all incumbents of the different classes, such as acceptable physical condition, freedom from disabling defects, United States citizenship, suitable age, honesty, sobriety and industry shall be deemed to be implied as qualification requirements for entrance to each class even though they may not be specifically mentioned in the specifications.

(Ord. 90-688. Passed 12-18-90.)

175.12 USE OF PLAN.

The Plan shall be used:

- (a) In preparing public announcements of examinations or vacancies;
- (b) As a guide in preparing examinations which may be used to appraise the qualifications of applicants for work in specific classes;
- (c) In determining promotional sequence and developing employee training programs;
- (d) In determining salaries to be paid for various types of work and establishing and maintaining an equitable compensation plan;
- (e) In determining personal service items in the budgets for the various organizational units of the City government;
- (f) In providing uniform job terminology which is clearly understandable to City officers, employees and the general public; and
- (g) In setting up appropriate employment lists from which personnel may be certified to fill vacancies.

(Ord. 90-688. Passed 12-18-90.)

175.13 MAINTENANCE OF PLAN.

The City Manager shall be responsible for the proper maintenance of the Plan so that it shall reflect continuously on a current basis, the duties being performed by each employee in the City and the class to which each position is allocated.

The City Manager shall make necessary amendments to the Plan, including the addition of required new classes, revision of existing classes and deletion of obsolete classes. Changes and reallocations within the Plan shall be made as follows:

- (a) The City Manager shall analyze or cause to be analyzed the duties and responsibilities to be assumed by incumbents of proposed new positions and using such appraisal as a basis, assign the position to the appropriate class within the Plan if such class already exists. A new class specification shall be prepared to cover each additional new position which is created and for which the Plan does not provide a satisfactory job description;

- (b) Changes in the duties and responsibilities of a position involving either the addition, reduction or modification of assignments shall be reported to the City Manager by the department head concerned. If the changes are determined to be permanent and are sufficiently significant to justify reallocation to a different classification, the City Manager shall assign the position to the class which is appropriate under the modified circumstances; provided, however, that the effective date of such different classification may, at the option of the City Manager, be made retroactive up to the time when such change in duties and responsibilities of the position effected was reported to him;
- (c) The City Manager shall periodically review or cause to be reviewed, the classification of positions and audit duties and responsibilities and on the basis of his appraisal, make such changes as are necessary to keep the Plan up to date and in step with current conditions.

Reallocations of positions under the provisions of this section shall be the responsibility of the City Manager, but he shall give due consideration to the recommendations of the administrative officials concerned.

(Ord. 90-688. Passed 12-18-90.)

175.14 ALLOCATION APPEALS.

If an employee believes his position has been improperly allocated or reallocated to a class, he may appeal to a Review Panel consisting of the Finance Director, City Manager and Law Director, or their designees. Department heads shall also have the right to appeal any changes made to the Compensation Plan which affect their department. The procedure for such appeals shall be as follows:

- (a) A written appeal shall be prepared in duplicate on forms provided by the City Manager;
- (b) The appeal shall set forth the reasons therefor;
- (c) The appellant shall file the original of the appeal with the City Manager and the copy with the Law Director;
- (d) The Review Panel shall consider all such appeals and shall provide reasonable opportunity for each appellant to be heard;
- (e) The Review Panel shall notify, in writing, the appellant of its decision. Any decision of the Review Panel, under this provision, which allocates a position of an employee to a different class in the Employee Classification Plan shall be retroactive to the date the appeal was filed.

(Ord. 90-688. Passed 12-18-90.)

CHAPTER 185

Fringe Benefits

(Entire Chapter 185 amended by Ordinance No. 06-426, passed December 5, 2006)

- 185.01 Employee defined.**
- 185.02 Holidays.**
- 185.03 Holiday paid leave of absence; exceptions.**
- 185.04 Work on holidays.**
- 185.05 Holiday leave payment.**
- 185.06 Vacation leave.**
- 185.07 Calculating vacation leave.**
- 185.08 Use of vacation.**
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- 185.12 Donation of sick leave.**
- 185.13 Unused sick leave.**
- 185.14 Transfer of unused sick leave.**
- 185.15 Sick leave rules.**
- 185.16 Injury leave.**
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- 185.18 Repealed by Ordinance No. 22-319.**
- 185.19 Personal days.**
- 185.20 Other paid leave.**
- 185.21 Overtime.**
- 185.22 Compensatory time.**
- 185.23 Shift differential.**
- 185.24 License allowance.**
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- 185.28 Life insurance.**
- 185.29 Residency.**
- 185.30 Tuition reimbursement.**
- 185.31 Grievance procedure.**
- 185.32 Benefits for permanent part-time employees.**

185.01 EMPLOYEE DEFINED.

“Employee” as used in this Chapter 185 means a person appointed to a permanent position of employment with The City of Springfield, Ohio, except:

- (a) persons holding position within bargaining units certified by the State Employment Relations Board,
- (b) persons subject to individual employment agreements,
- (c) elected officials, and
- (d) persons employed by the Clark County Municipal Court through appointment by the judge(s) and clerk of the Clark County Municipal Court.

185.02 HOLIDAYS.

(a) The following days of each year shall be observed as holidays for all employees:

- (1) January 1--New Year's Day
- (2) Martin Luther King Day--third Monday in January
- (3) Presidents Day--third Monday in February
- (4) Memorial Day--last Monday in May
- (5) Juneteenth National Independence Day--June 19th
- (6) Independence Day--July 4th
- (7) Labor Day--first Monday in September
- (8) Veterans' Day--November 11th
- (9) Thanksgiving Day--last or next to last Thursday in November
- (10) Day after Thanksgiving
- (11) Christmas Eve--last work day before Christmas
- (12) Christmas Day--December 25th
- (13) Employee's Birthday

In the event any of the above mentioned holidays falls on a Saturday, the same shall be observed on the preceding day; if any of the above mentioned holidays falls on a Sunday, the same shall be observed on the succeeding day. The term holiday as used in this chapter will apply to the preceding or succeeding day of observance.

(b) Holidays may not be accumulated beyond the calendar year in which they occur.

(c) The birthday holiday may be used anytime throughout the calendar year in which the birthdate occurs provided that the employee was or is actually employed on such birthdate. Any employee who terminates his or her service with the City prior to his or her birthdate, having used the birthday holiday, shall have deducted from any final compensation due an amount reflecting the prior payment for such birthday holiday. Birthday holidays must be used during the calendar year in which the birthdate occurs and cannot be carried over for use in any subsequent calendar year.

(d) Holidays that have occurred for which an employee has not been paid shall, upon leaving City employment for any reason, be paid for those holidays which have occurred during the calendar year.

(Ord. 21-227. Passed 8-3-2021.)

185.03 HOLIDAY PAID LEAVE OF ABSENCE; EXCEPTIONS.

(a) Each full time employee shall be entitled to leave of absence with pay on each of the holidays listed in Section 185.02. Payment for each holiday shall be equivalent to one day's regular pay, provided that such employee shall have worked or have been in approved leave status on the employee's regular work days immediately preceding and immediately following the holiday.

(b) Employees whose regular schedule of work includes work on holidays, shall work on holidays pursuant to that schedule and shall be granted a substitute day off with pay to be scheduled with approval of the employee's manager.

185.04 WORK ON HOLIDAYS.

(a) An employee compensated on an hourly basis, who is required to work on a holiday, shall be paid at twice the employee's regular hourly rate for actual time worked on the holiday, rounded to the nearest one-tenth (1/10) hour, provided such work has been authorized and directed by management. Authorization after the fact will only be granted in cases of extraordinary emergency.

(b) No overtime will be paid for work on the Employee's birthday holiday.

(c) Notwithstanding the provisions of paragraph (a) above, in the event that a person or organization schedules a conference or training program on a holiday, and the City Manager or his designee determines that the conference or training program would be beneficial to the operations of the City, any employee attending such a program will not be paid pursuant to paragraph (a), but instead will receive their regular rate of pay for such holiday and one additional day off with pay. Such additional day shall be taken at a time approved by the director of the department in which the person is employed with due regard to the preference of such employee consistent with efficient operation.

185.05 HOLIDAY LEAVE PAYMENT.

(a) Each Assistant Chief within the Fire Division, following written notification to the Chief of the Fire Division, may elect to receive a cash payment in lieu of all or part of his paid annual holidays for five (5) consecutive calendar years within the six (6) calendar years immediately prior to service retirement eligibility. Such employees who elect to exercise this provision shall be paid for any remaining unused holidays for which he is entitled at the straight-time rate in effect at the end of the last full pay period of the relevant year. Such payment shall be made in January following the calendar year in which the holidays were unused.

(b) Each Captain within the Police Division, following written notification to the Chief of the Police Division, may elect to receive a cash payment in lieu of all or part of his paid annual holidays for five (5) consecutive calendar years within the six (6) calendar years immediately prior to service retirement eligibility. Such employees who elect to exercise this provision shall be paid for any remaining unused holidays for which he is entitled at the straight-time rate in effect at the end of the last full pay period of the relevant year. Such payment shall be made in January following the calendar year in which the holidays were unused.

(Ord. 20-83. Passed 3-24-2020.)

185.06 VACATION LEAVE.

(a) Full time employees of the City hired before May 31, 2006, except Captains in the Police Division, shall accrue vacation leave in accordance with the following schedule:

Length of Employment	Vacation Accrual Rate
Upon completion of 6 mos.	24 hrs
After 6 mos.	1.23 hrs / pay period
After 1 year	4 hrs / pay period
After 4 years	4.92 hrs / pay period
After 9 years	5.54 hrs / pay period
After 14 years	6.46 hrs / pay period

After 19 years	7.08 hrs / pay period
After 24 years	7.69 hrs / pay period
After 29 years	8.62 hrs / pay period

(b) Captains in the Police Division hired before May 31, 2006, shall accrue vacation in accordance with the following schedule:

Length of Employment	Vacation Accrual Rate
During the first year	3.69 hrs / pay period
After 1 year	4.31 hrs / pay period
After 4 years	5.23 hrs / pay period
After 9 years	5.85 hrs / pay period
After 14 years	6.77 hrs / pay period
After 19 years	8.0 hrs / pay period

(c) Full time employees of the City, hired on or after May 31, 2006 shall accrue vacation leave in accordance with the following schedule:

Length of Employment	Vacation Accrual Rate
Upon hire	80 hrs lump sum
Upon completion of 6 mos.	24 hrs lump sum
After 1 year	6.16 hrs/pay period

(Ord. 22-261. Passed 8-16-2022.)

(d) The above accrual schedules presume that the employee is in paid status for 80 hours in the pay period. Vacation accrual will be prorated for any pay period in which the employee is in paid status less than 80 hours.

185.07 CALCULATING VACATION LEAVE.

- (a) In calculating length of employment under Section 185.06, an employee shall be credited with prior period(s) of employment with the City.
- (b) Employees who were credited with service with another public employer under prior ordinances shall continue to receive such credit, but no employee hired after the effective date of this ordinance shall receive such credit.
- (c) In determining length of employment under Section 185.06, an employee shall be credited with military service in addition to service with the City, provided the employee entered military service directly from City employment and returned to City service immediately following completion of the military service.

185.08 USE OF VACATION.

An employee may use vacation to obtain absence with pay. The time scheduled for use of vacation leave shall be approved by management in accordance with policies established by the City Manager.

185.09 UNUSED VACATION.

- (a) Employees may carry over from one calendar year to the next, accrued and unused vacation leave up to a maximum of 320 hours. Vacation leave accrued and unused in excess of this limitation shall be cancelled on December 31st of the calendar year. With the written approval of the City Manager, an employee may exceed the maximum limitation only at the end of the calendar year preceding the employee's intended retirement. In cases where strict adherence to the carryover limitation of 320 hours would result in undue hardship to an employee or undue inconvenience to an employee's department, the City Manager may grant an exception to this rule.
(Ord. 22-260. Passed 8-16-2022; Ord 24-273. Passed 9-24-2024.)

(b) Upon termination of employment, an employee shall receive an amount equal to the employee's accrued unused vacation leave hours multiplied by the employee's regular hourly rate. The regular hourly rate of a salaried employee shall be calculated by dividing the employee's annual salary by 2080.

(c) Upon layoff, an employee shall have the option to be paid for accrued and unused vacation time up to the date of layoff in the manner described in the preceding paragraph. An employee desiring to exercise such option shall do so in writing directed to the City prior to the effective date of the layoff. In the event that an employee is on layoff status for a period of one continuous year, payment of accrued, unused vacation time to such an employee shall be made in conformity with subsection (b) hereof.

185.10 SICK LEAVE ACCRUAL.

Each full time employee shall accrue sick leave at the rate of .0575 hours for each hour in paid status. Salaried employees shall accrue sick leave at the rate of 4.6 hours per pay period.

185.11 SICK LEAVE USAGE.

- (a) Sick leave shall be used to continue the employee's regular pay when the employee is unable to work for any of the following reasons:
 - (1) The medical condition of the employee,
 - (2) The medical condition of a member of the employee's immediate family residing with the employee such as to require the personal care and attendance of the employee,
 - (3) To attend scheduled appointments for medical or dental examinations or treatments of the employees, or
 - (4) To make arrangements for and attend a funeral of a member of the employee's immediate family.

(b) For the purpose of this Section 185.11 "immediate family" means the employee's spouse, parent, step-parent, child, step-child, sibling, brother-in-law, sister-in-law, father-in-law, mother-in-law, grandparent, grandchild, daughter-in-law, son-in-law, and also includes other relatives who reside with the employee.

185.12 DONATION OF SICK LEAVE.

An employee who has a sick leave balance in excess of 300 hours may donate hours in excess of 300 to another employee who is an eligible donee. An eligible donee is another employee who is terminally ill (as determined by a licensed physician) who has exhausted all accumulated paid leave. The City Manager shall establish rules and procedures for donation of sick leave.

185.13 UNUSED SICK LEAVE.

- (a) An employee who retires or otherwise terminates employment in any manner except by discharge for cause or death and who on such termination date has been in the employ of the City of Springfield for a period of ten years or more, having accumulated over 300 hours of sick leave, shall be paid sixty two and one-half percent (62.5%) for all accumulated sick leave in excess of 300 hours.

(b) An employee who is laid off and who has accumulated over 300 hours of sick leave and has been in the employ of the City for a period of ten years or more, shall have the option of receiving the payment for unused sick leave authorized in subsection (a) hereof. Such option may be exercised at any time after notice of layoff to such employee who has been given but no later than the time when such employee ceases to be laid off and in no event later than one continuous year after layoff status commences. An employee shall do so by submitting a written request therefor.

(c) Payment for unused sick leave shall be made at the employee's regular hourly rate in effect on the date of termination of employment or layoff, as the case may be. An employee electing to receive payment for unused sick leave pursuant to subsections (a) and (b) of this section shall have his accumulated sick hour balance cancelled.

(d) An employee who leaves the employ of the City for a position with a qualifying governmental agency, as defined and provided for by the Ohio Revised Code, and who satisfies the requirements of subsection (a) hereof may elect to be paid for a portion of their accumulated sick leave as provided for in subsection (a) hereof and transfer the remaining portion in excess of the minimum accumulation (300 hours) and excluding those hours used to calculate a partial pay-out under this section to such qualifying governmental agency at the rate of one hundred percent (100%); subject to the limitations of State law and the policies of the entity to which the employee transfers. An employee wishing to exercise this option shall do so by submitting a written request therefor to the Director of Finance and Human Resources Director no later than two weeks prior to such transfer. (Ord. 22-168. Passed 5-24-2022.)

(e) An employee who dies while employed by the City, and who has been in the employ of the City of Springfield for a period of ten years or more as of the date of death, shall have paid to his/her estate one-hundred percent (100%) of all accumulated sick leave hours. The rate utilized to calculate such payment shall be the regular hourly rate in effect for the employee at the time of death.

(f) An employee who shall become disabled, apply for and be found to be eligible for disability retirement under the provisions of Ohio law, shall use all accumulated sick leave prior to going on disability retirement. However, in the event the City should find it necessary to declare any such person's position vacant or for other reason except discharge for cause find it necessary to terminate an employee who is going on disability retirement before the employee has exhausted his accumulated sick leave, then in such event the employee shall be paid one hundred percent (100%) of any accumulated sick leave which he/she has been unable to use.

(g) The accumulated hours referred to in subsection (a), (b), (d), (e) and (f) hereof must be hours accumulated with the City and not transferred in from another agency. In making this calculation, the City shall subtract the number of hours transferred in by the employee under Section 185.14.

185.14 TRANSFER OF UNUSED SICK LEAVE.

Unused sick leave accumulated in the service of a public agency other than this City, pursuant to Ohio R.C. 124.38, shall be credited to any such employee transferring from such public agency to the employment of the City up to a maximum of 300 hours.

185.15 SICK LEAVE RULES.

The City Manager shall establish rules and procedures for the administration of sick leave benefits. Such rules may include methods of verifying the legitimacy of sick leave usage, and the reporting and recording of sick leave usage.

185.16 INJURY LEAVE.

(a) When an employee sustains an injury on duty and acting nonnegligently in the line of duty, the employee shall make application for and actively prosecute claims under the Workers' Compensation laws of Ohio.

Such employee may file a request for injury leave with the City. Such application shall assign to the City all wage loss benefits which the employee may receive through the Workers' Compensation laws for any period of time during which the employee is receiving injury leave benefits from the City.

If an employee refuses to make such assignment, such employee shall be ineligible for injury leave benefits. If the employee fails to comply with the terms of the assignment by failing to turn over to the City all such wage loss benefits through Workers' Compensation laws, such failure shall constitute grounds for termination of employment.

(b) If the application for injury leave benefits is approved by the City, such employee may convert up to 347 hours of his accumulated sick leave balance to injury leave. Such conversion shall be at the rate of three hours of injury leave for every one hour of accumulated sick leave balance.

185.17 EXPERIENCE PAY.

Effective October 31, 2022, each permanent full-time employee shall receive experience pay based on a percentage of the employee's base wage or base salary earnings, excluding overtime hours worked or comp time paid out, based on their total years of completed service in accordance with the schedule below. Completed years of service as used in this section shall mean a period of 365 days, whether continuous or not, in which an employee has been in full-time paid status with the City of Springfield. Eligible employees will receive experience pay along with their regular pay on the standard payroll schedule.

Completed Years of Service	Percentage
5 years	2%
10 years	3%
15 years	4%
20 years	5%
25 years	6%
30 years	7%

(Ord. 22-319. Passed 10-25-22.)

185.18 REPEALED BY ORDINANCE NO. 22-319.

This section was repealed.

185.19 PERSONAL DAYS.

(a) After six months from date of hire, employees shall be entitled to two days of personal leave with pay per year, July 1 to June 30. The days shall be used in units of not less than four hours, and shall not be cumulative or converted for cash payment.

(b) Except for unanticipated personal emergencies, application in writing for personal leave shall be made in advance of the leave requested. If an emergency is such that the application cannot be made in advance, the employee shall notify his immediate supervisor at the first opportunity and shall make written application upon the employee's return to work. The application shall state the reason for the request but does not require specific detailed information.

185.20 OTHER PAID LEAVE.

(a) Any employee who is required to appear in court for any of the following reasons and who agrees to pay the City whatever fees received as a result of such appearance, shall be granted a leave of absence with pay to the extent that such appearance prevents any such employee from performing the employee's employment with the City:

- (1) Any employee who is subpoenaed or directed by the City to appear in any court proceedings which results from the employee's position with the City;
- (2) Any employee who is subpoenaed or directed by the City to appear in any court proceedings in which the City is a party;
- (3) Any employee subpoenaed to appear as a witness in any felony proceedings;
- (4) Any employee subpoenaed to testify before a grand jury; or
- (5) Any employee who is required to serve as a juror in any court proceeding.

(b) Any employee who is subpoenaed to appear in court in any civil proceeding other than as described in subsection (a) above shall be permitted to use vacation benefits in increments as low as one hour for each such subpoenaed appearance.

(c) Employees shall be granted military leave as required by applicable state and federal law.

(d) A City employee who is a certified Disaster Service Volunteer of the American Red Cross may be granted leave from his regularly scheduled work with pay for not to exceed thirty work days in each year to participate in specialized disaster relief services for the American Red Cross, upon request of the American Red Cross for the services of that employee and upon the approval of the City Manager. The City shall compensate an employee granted leave under this subsection (b) at his regular, straight time rate of pay for those regularly scheduled work hours during which the employee is absent from his work.

(e) Employees who donate blood shall be permitted up to two hours of paid leave of absence annually for the purpose of donating such blood. No overtime wages shall be paid for this purpose.

185.21 OVERTIME.

(a) An employee paid on an hourly basis required to work in excess of eight (8) hours on any one day, or in excess of forty (40) hours in any one week, shall be paid for the excess hours at a rate of one and one half times the employee's regular hourly rate, including experience pay.

(b) In determining eligibility for overtime payment under this section, hours in approved paid leave status shall be considered as hours worked.

(c) An employee paid on an hourly basis, who is required to work on a Sunday, shall be paid at twice the employee's regular hourly rate, including experience pay, for actual time worked on the Sunday provided such work has been authorized and directed by management. Authorization after the fact will only be granted in cases of extraordinary emergency.

(d) An employee paid on an hourly basis who works an alternate (flexible) work schedule shall be paid for the excess hours at a rate of one and one half times the employee's regular hourly rate, including experience pay, for the hours that exceed 40 hours in a week.

(e) An employee paid on an hourly basis who is called in to work outside of their normal work schedule shall be credited with the time actually worked for the purpose of computing overtime at the appropriate rate. However, in no event shall they be credited with less than three (3) hours of time at the appropriate overtime rate for any time that is disconnected from their normal schedule. In no case will duplicate call-in fees be paid unless an employee has returned home and the previous call-in period of three (3) hours has expired.

(Ord. 23-269. Passed 8-15-23.)

185.22 COMPENSATORY TIME.

All employees eligible for overtime payment pursuant to Section 185.21 shall be permitted to accrue compensatory time in lieu of overtime payment with the following restrictions:

- (a) Compensatory time hours will be credited at the rate of one and one half (1½) times the overtime hours worked.
- (b) Compensatory time shall be used with the same advance scheduling approval as vacation.
- (c) Usage of compensatory time may be denied if a replacement will be required at an overtime premium rate.
- (d) Compensatory time shall not be accrued beyond the last day of November in any calendar year. All earned but unused compensatory time shall be paid out on the payday of the first full pay period in December at the base rate in effect as of November 30 of such calendar year, including longevity. Employees may accrue compensatory time only up to a maximum of 80 hours per calendar year. All hours in excess of 80 shall be paid as overtime wages.
- (e) Employees entitled to compensatory time pursuant to this section shall be paid upon termination or layoff for any accumulated but unused compensatory time.

185.23 SHIFT DIFFERENTIAL.

(a) Except as provided in Section 185.23(b) below, an employee regularly assigned to the second or third shift shall be paid thirty cents (\$.30) per hour in addition to the regular hourly rate for time worked on the second or third shift.

(b) Employees classified as "Communication Coordinator" shall be paid forty cents (\$.40) per hour in addition to the regular hourly rate for all hours worked on assigned shifts beginning at or after 2:00 P.M. and prior to 4:00 A.M. in lieu of the shift differential provided in subsection (a) above.

(c) Shift differential payments shall be included in calculating the overtime rates provided in Section 185.21.

185.24 LICENSE ALLOWANCE.

(a) All employees who are licensed or certified by the State of Ohio and who use such license or certification in conjunction with the employee's position with the City shall receive the following additional compensation:

- (1) Water and Wastewater Plant Certificate: Class I--\$10.00 per week, Class II--\$15.00 per week, Class III--\$25.00 per week and Class IV--\$50.00 per week.
- (2) Water Distribution Certificate: Class I--\$10.00 per week and Class II--\$15.00 per week.
- (3) Certificate for approval for Laboratory Analysis: \$25.00 per week.
- (4) Federal Aviation Act (F.A.A.) Maintenance License: \$5.00 per week.
- (5) Federal Communication Commission (F.C.C.) Second Class Radio and Telecommunications License: \$5.00 per week.
- (6) Wastewater Collection Certificate: Class I--\$10.00 per week and Class II--\$15.00 per week.
- (7) Chemical Applications License: \$10.00 per week.
- (8) Asbestos Hazard Evaluation Specialist: \$10.00 per week.
(Ord. 24-212. Passed 7-16-2024.)

(b) Any employee who receives additional compensation by reason of Section 185.24(a) and who obtains more than one of the licenses or certificates set forth in Section 185.24(a) shall receive additional compensation for only that one license or certificate used by the employee which provides the highest rate of compensation, unless the City Manager determines that multiple licensure serves the best interests of the City.

185.25 UNIFORM ALLOWANCE.

(a) Captains in the Police Division shall be paid an amount equivalent to the annual uniform allowance provided to members of the Fraternal Order of Police/Ohio Labor Council (Command Officers) unit.
(Ord. 11-95. Passed 4-12-11.)

(b) Assistant Chiefs in the Fire Division shall be paid an amount equivalent to the annual uniform allowance provided to members of the IAFF, Local 333 bargaining unit.
(Ord. 12-109. Passed 4-10-12.)

(c) The uniform allowance under this Section 185.25 shall be paid in semi-annual payments in April and October.
(Ord. 09-78. Passed 3-31-09.)

185.26 MEDICAL INSURANCE.

All full-time employees and the Mayor and City Commissioners shall be provided with medical benefit coverage in accordance with the City of Springfield

Employee Benefit Plan. The City Manager may amend the said City of Springfield Employee Benefit Plan from time to time, as he deems necessary, including the amount of the employee contribution to said plan, without further legislative action being required.

185.27 DENTAL INSURANCE.

All full-time employees and the Mayor and City Commissioners shall be provided with dental benefit coverage in accordance with the City of Springfield Employee Benefit Plan. The City Manager may amend the plan from time to time, as deemed necessary, including the amount of the employee contribution to said plan without further legislative action being necessary.

185.28 LIFE INSURANCE.

(a) Each full-time employee, excepting salaried professional and management employees, shall, commencing on their ninety-first day of continuous employment, be furnished by the City at no cost to the employee a fifteen thousand dollar (\$15,000) term life insurance certificate with additional provisions for accidental death, dismemberment, and waiver of premium coverage should the insured employee become totally disabled prior to age sixty.

(b) Each full-time employee in the salaried professional and management group shall, commencing on their ninety-first day of continuous employment, be furnished by the City at no cost to the employee a term life insurance certificate with additional provisions for accidental death, dismemberment and waiver of premium coverage should the insured employee become totally disabled prior to age sixty. The amount of such insurance shall be equal to twenty-five thousand dollars (\$25,000), plus one thousand dollars (\$1,000) for each two thousand dollars (\$2,000) that such person receives in base annual salary in excess of fifteen thousand dollars (\$15,000). However, notwithstanding any other provision of this section, in no event shall the amount of such insurance coverage exceed fifty thousand dollars (\$50,000.00).

(c) Coverage shall be provided for eligible employees on authorized leave of absence due to sickness or injury, for a period not to exceed six months.

(d) Each elected City Commissioner and the Mayor, during their term commencing on the 91st day of their first term, shall be furnished by the City at no cost to the Commissioner or Mayor, a fifty thousand dollar (\$50,000) term life insurance certificate with additional provisions for accidental death, dismemberment and waiver of premium coverage should the insured Commissioner or Mayor become totally disabled prior to age sixty.

185.29 RESIDENCY.

Captains in the Police Division and Assistant Chiefs in the Fire Division are required to reside within Clark County or any county adjacent to Clark County, Ohio.

185.30 TUITION REIMBURSEMENT.

All full-time employees are eligible to participate, from and after the first anniversary of their continuous service with the City, in a tuition reimbursement program subject to the terms and conditions which follow.

- (a) The Department of Human Resources shall have responsibility for overall administration of the tuition reimbursement program. The Human Resources Director shall have the authority to interpret provisions of this section consistent with the policy objectives stated in the enacting legislation.

(Ord. 22-168. Passed 5-24-2022.)

- (b) To be eligible for tuition reimbursement, a course must be only taken at an accredited educational institution. The course must either be directly job-related or required pursuant to a degree program that is related to the City's mission or is reasonably related to a promoted position within the employees' classification series. Determinations of eligibility under this paragraph shall be within the sole discretion of the Human Resources Director and shall be final.

(Ord. 22-168. Passed 5-24-2022.)

- (c) For courses determined to be eligible, the City will pay one hundred percent (100%) of the tuition, registration, and lab fees up to a maximum of three thousand dollars (\$3,000.00) per calendar year for undergraduate courses, and up to a maximum of five thousand dollars (\$5,000.00) per calendar year for advanced degree programs. The City will not reimburse costs for books, housing, travel, meal or similar expenses. The City will reimburse tuition costs for only such undergraduate course as the employee earns either a "pass" or a grade of "C", and only such graduate courses as the employee earns a "pass" or a grade of "B".

- (d) To be eligible for tuition reimbursement, an employee must notify his or her department director, in writing, of the intention to participate in the tuition reimbursement program no later than September 1st of the calendar year prior to the year in which the employee intends to begin classes. In addition, applications for tuition reimbursement must be submitted not later than sixty (60) days prior to registration for an eligible course. In addition to the employee's department director, the Human Resources Director also must approve any application as a pre-condition to tuition reimbursement. The employee's department director must indicate his or her approval once the eligible course is completed for tuition costs to be reimbursed. Only those costs which are not otherwise covered by, e.g., GI Bill, scholarships, and other collateral sources, will be reimbursed. Evidence of the employee's final grade and the educational institution's invoice must be attached to the request for reimbursement.

(Ord. 22-168. Passed 5-24-2022.)

- (e) All employees receiving tuition reimbursement must continue their employment with the City for at least one year following completion of any course for which reimbursement was received. If an employee voluntarily leaves the City employment within that time, he or she must repay all moneys previously reimbursed back to the City for courses begun or completed within a one-year period prior to their separation.

- (f) Notwithstanding any provision of this Section to the contrary, participation in this tuition reimbursement program is expressly subject to budgetary limitations. Whenever the City Manager determines, in his sole discretion, that there are insufficient funds for participation in this tuition reimbursement program, that determination shall be final.

185.31 GRIEVANCE PROCEDURE.

An employee of the City may present in writing any grievance which the employee may have to the head of the employee's department. Within five working days thereafter, such department head shall afford such employee an opportunity to be heard and to present evidence relevant to such grievance. Within ten working days after hearing such grievance, the department head shall render a decision in writing thereon, which may contain such orders or directives as may be reasonably required to resolve the grievance and to prevent the recurrence of the type of incident or practice which gave rise to such grievance. A copy of such decision shall be delivered to each person affected thereby.

Any person affected by any such decision may, within five working days from the date he receives a copy thereof, appeal such decision by filing a notice of such appeal with the City Manager. Within ten working days from the filing of such notice, the City Manager or his designated representative shall conduct a hearing upon such appeal and shall permit any person affected by the decision appealed from to be heard. The City Manager, or his designee, shall, upon conclusion of such hearing, affirm, reverse or modify the decision appealed from, as the facts may warrant, and the decision shall be rendered in writing within fifteen days from the date of conclusion of such hearing.

185.32 BENEFITS FOR PERMANENT PART-TIME EMPLOYEES.

An employee serving in a permanent part-time position shall receive the benefits described in this Section 185.32.

- (a) Holidays. Permanent part-time employees shall be entitled to a paid leave of absence on each of the holidays listed in Section 185.02(a) 1-11, provided that the listed holiday occurs on a day when the employee is regularly scheduled to work. The period of paid absence shall be limited to the employee's regular work day.

- (b) Vacation.

1. Permanent part-time employees shall receive 40 hours of paid vacation leave after the completion of one year of continuous service. After the completion of one year of continuous service, such employees shall accrue paid vacation leave at the rate of .0769 hours of leave for each hour in paid status.

(Ord. 22-261. Passed 8-16-2022.)

2. The time scheduled for use of vacation shall be approved by management in accordance with policies established by the City Manager.

- (c) Sick Leave. Permanent part-time employees shall receive sick leave benefits as described in Sections 185.10, 185.11, 185.12, 185.13, 185.14 and 185.15 above.

- (d) Permanent part-time employees shall receive injury leave benefits as described in Section 185.16 above.

- (e) Longevity. Permanent part-time employees shall not receive longevity payments.

- (f) Personal Day. After six months from date of hire, permanent part-time employees shall be entitled to eight hours of personal leave with pay per year, July 1 to June 30. The personal leave day shall be used in units of not less than two hours and shall not be cumulative or converted for cash payment. The provision of Section 185.19(b) shall govern the usage of the personal day.

- (g) Other Paid Leave. Permanent part-time employees shall receive the leave benefits described in Section 185.20 above.

- (h) Overtime. Permanent part-time employees shall be permitted to work overtime (only with the prior written consent of the employee's department head). Overtime compensation shall be limited to that required by state or federal law. Permanent part-time employees shall not be eligible for compensatory time.

- (i) Shift Differential. No shift differential shall be paid to permanent part-time employees.

- (j) License Bonus. No license bonus shall be paid to permanent part-time employees.

- (k) Insurance Benefits. No medical or dental insurance benefits shall be provided to permanent part-time employees.

(EDITOR'S NOTE: The reference to Section 185.02(a) 1-12 was updated to reflect observance of the Juneteenth National Independence Day

beginning 2021.)

CHAPTER 187

Fidelity Bonds

- 187.01 Individual bonds.**
- 187.02 Blanket bond.**
- 187.03 Excess blanket bond.**
- 187.04 Miscellaneous blanket bond.**
- 187.05 Recording bonds.**
- 187.06 Application of chapter.**

CROSS REFERENCES

Bond of City Commission member--see CHTR. Sec. 6
Blanket bonds--see Ohio R.C. 3.06
Failure to give bond--see Ohio R.C. 3.30, 731.49 et seq.
Validity of bond--see Ohio R.C. 3.34, 733.71, 3929.14 et seq.
Power to fix--see Ohio R.C. 731.04, 731.08
Notice when new bond required--see Ohio R.C. 731.50, 733.69
Approval of bonds--see Ohio R.C. 733.70

187.01 INDIVIDUAL BONDS.

Pursuant to authority of the City Charter, the following officers, and no others, shall execute, prior to entering upon the performance of their official duties, individual bonds in not less than the penal amount set forth opposite the title of their respective office:

- (a) City Treasurer \$100,000
- (b) City Commissioners \$ 10,000
- (c) Clerk of Municipal Court \$100,000

187.02 BLANKET BOND.

Pursuant to Ohio R.C. 3.06, the officers and employees of the following departments, and no others, may be covered by a blanket bond purchased by the City in the penal amount of twenty-five thousand dollars (\$25,000) indemnifying the City against loss occasioned by the failure of the officers and employees of such departments to faithfully perform their respective duties:

Office of City Manager
Office of Clerk of Commission
Municipal Court
Department of Central Services
Department of Development
Department of Finance
Department of Health
Department of Law
Department of Parks and Recreation
Department of Public Safety - Fire Division
Department of Public Safety - Police Division
(Ord. 88-245. Passed 7-12-88.)

187.03 EXCESS BLANKET BOND.

The officers and employees of the following departments, and no others, may be covered by an excess blanket bond purchased by the City in the penal sum of seventy-five thousand dollars (\$75,000) indemnifying the City against loss occasioned by embezzlement or any other dishonest act:

Office of City Manager
Office of Clerk of Commission
Municipal Court
Department of Central Services
Department of Development
Department of Finance--Purchasing Division
Department of Finance--Utility Billing Division
Department of Health
Department of Parks and Recreation
Department of Public Safety--Fire Division
Department of Public Safety--Police Division
(Ord. 88-245. Passed 7-12-88.)

187.04 MISCELLANEOUS BLANKET BOND.

All officers and employees of the City, except those specified in Sections 187.01 through 187.03, may be covered by a blanket bond in the penal amount of five-thousand dollars (\$5,000) indemnifying the City against loss occasioned by embezzlement or any other dishonest act.

187.05 RECORDING BONDS.

Each bond authorized by this chapter, upon its approval, shall be delivered to the Finance Director, who shall immediately record it in a record provided for that purpose and file and carefully preserve it in his office.

187.06 APPLICATION OF CHAPTER.

Any section of this Administrative Code, or other ordinance, resolution, part of ordinance, word or phrase in conflict with the provisions of this chapter shall be modified, changed and altered to conform to the provisions of this chapter. This chapter is not deemed to change, alter, modify or repeal the provisions of any other section of this Administrative Code or other ordinance except as to bonding requirements.

CHAPTER 188

Police Division

188.01 Leave of absence with pay on holidays; exceptions.

188.02 Paid sick leave.

188.03 Emergency medical attention.

188.04 Life insurance.

188.05 Residence requirement.

188.06 Stand-by pay for clerk-stenographers.

188.07 Lateral entry; selection of entry-level police officer without competitive civil service examination.

CROSS REFERENCES

Police Division--see CHTR. Sec. 92

Established--see ADM. 139.04

188.01 LEAVE OF ABSENCE WITH PAY ON HOLIDAYS; EXCEPTIONS.

(a) Except as hereinafter provided, the Chief and Assistant Chief of the Police Division shall be entitled to leave of absence with pay on each of the holidays and shall receive compensation therefor equivalent to one day's regular pay.

(b) In order for an employee to receive his regular pay for the holiday he shall work his regularly scheduled day immediately preceding and succeeding the holiday. Employees on sick leave, vacation or injury leave shall be considered as working their regular schedule for pay purposes.

(c) The birthday holiday is not a holiday for overtime or premium pay purposes. If an employee's birthday falls on his regularly scheduled day off or on another holiday, he shall be given a compensatory day off commensurate with the needs of the department.

(Ord. 72-90. Passed 5-2-72.)

188.02 PAID SICK LEAVE.

Pursuant to Ohio R.C. 124.38, each full-time employee of the City shall be entitled to four and six-tenths hours with pay for every eighty hours of service, to include sick leave, authorized vacation, paid holidays and overtime, but not leave of absence or lay-off; such sick leave to be granted by the appointing authority for absence due to illness, injury, exposure to contagious disease, which could be communicated to other employees, or to serious illness of death in the employee's immediate family.

(Ord. 72-90. Passed 5-2-72.)

188.03 EMERGENCY MEDICAL ATTENTION.

(a) The acting head of the Police Division is authorized to call a surgeon to render surgical attention in an emergency to policemen disabled in the discharge of their duty.

(b) Bills for services rendered in accordance with subsection (a) hereof shall be presented to the City Commission and upon approval of the Commission and the City Manager, the Director of Finance is authorized to issue his warrant for the payment of such bill.

(Ord. 72-90. Passed 5-2-72.)

188.04 LIFE INSURANCE.

(a) All City police, through the rank of Captain shall be furnished with an eight thousand dollar (\$8,000) term life insurance policy with provision for accidental death and dismemberment coverage to be effective as of December 1, 1974. Such coverage is to be at no cost to the persons covered.

(b) On January 1, 1975, an additional two thousand dollars (\$2,000) of term life insurance and accidental death and dismemberment coverage shall be provided at no cost to the persons covered.

(Ord. 74-279. Passed 11-19-74.)

188.05 RESIDENCE REQUIREMENT.

All members of the Police Division shall reside within Clark County.

188.06 STAND-BY PAY FOR CLERK-STENOGRAPHERS.

The Chief of Police or other supervisory personnel within the Police Division authorized by the Chief of Police may require any non-bargaining unit member of the Police Division employed as a clerk-stenographer to make themselves available on a stand-by basis during the employee's non-routine work hours to provide stenography services for the Police Division. The Chief of Police or other supervisory personnel authorized by the Chief of Police shall determine that such stand-by services are needed and shall designate and inform the person who is needed to serve in a stand-by capacity prior to the commencement of such stand-by period. Any employee required to serve in a stand-by capacity shall keep the Police Division informed as to where they are and make themselves available for work during such stand-by period. Any such employee shall report to work within thirty minutes of notification that their services are needed. Any employee required to serve in a stand-by capacity pursuant to this section shall receive the following compensation:

(a) Any employee serving in a stand-by capacity who is not required to report to work shall receive compensation equal to one hour of work at one and one-half times the employee's regular base compensation for each eight-hour period of stand-by service the employee is required

- to serve but during which the employee is not required to report to work;
- (b) Any employee serving in a stand-by capacity who is required to report for work shall receive compensation at the rate of one and one-half the employee's regular base compensation for each hour of work performed; or, if less than two hours of work is required, then for two hours of work at one and one-half times the employee's regular base compensation.

In no event shall an employee receive compensation pursuant to both subsections (a) and (b) above for the same eight-hour period of stand-by service, and any compensation received pursuant to subsection (a) above shall not inure to the benefit of the employee for any other purpose. (Ord. 88-62. Passed 2-9-88.)

188.07 LATERAL ENTRY; SELECTION OF ENTRY-LEVEL POLICE OFFICERS WITHOUT COMPETITIVE CIVIL SERVICE EXAMINATION.

Pursuant to the provisions of Section 47 of the Charter of The City of Springfield, Ohio, the City Commission has determined that certain candidates for appointment to the position of police officer may be considered for appointment without participating in a competitive civil service examination process. Such candidates shall be selected pursuant to the procedures and criteria set forth hereafter, and shall have such seniority rights and probationary period as set forth herein.

- (a) Selection Procedures and Criteria. Pursuant to appointing authority which may be delegated by the City Manager under Section 21(1) of the Charter of The City of Springfield, Ohio, the Chief of Police and Human Resources Director shall together review resumes and applications to determine which applicants meet the lateral entry criteria hereinafter described. Persons shall be eligible for consideration by way of lateral entry, and without participating in a competitive civil service examination process, if they are currently employed as a police officer, deputy sheriff or state highway patrol officer and if they maintain current State of Ohio Peace Officer Certification. Two separate lists for the position of police officer may be maintained, one determined by conducting the competitive civil service examination process and the other by way of the lateral entry procedures. The Chief of Police and Human Resources Director together may decide to consider a candidate from either list to fill a vacancy.

As with candidates for appointment who participate in a competitive civil service examination process, lateral entry candidates must submit to a thorough background investigation, polygraph examination, psychological evaluation, and an oral interview. A conditional job offer may be extended to a lateral entry candidate, but only subject to a complete physical examination which must be passed in order to be appointed to the position of police officer.

In addition to possessing current Ohio Peace Officer Training Certificates, lateral entry candidates must have a minimum of one year's experience up to the date of application in their current position as either a police officer, deputy sheriff or state highway patrol officer. Part-time officers or sheriffs and candidates who may be laid off will not be considered under lateral entry processes, but, instead, may be eligible to participate in the competitive civil service examination process. Lateral entry candidates may come from any sized jurisdiction.

In addition to any criteria set forth in this Section, lateral entry candidates must meet the minimum qualifications for appointment to the position of police officer as may, from time-to-time, be enforced for candidates who participate in the competitive civil service examination process.

(Ord. 22-168. Passed 5-24-2022.)

- (b) Seniority. Seniority in the Police Division for lateral entry candidates who are appointed to the position of police officer shall be determined based upon the date of hire with the City. Seniority for promotion or lay-off purposes for such officers shall also begin with the day of appointment as a police officer in the Springfield Police Division.
- (c) Rate of Compensation. Successful lateral entry candidates for appointment to the position of police officer shall receive compensation at a rate between current entry level pay and Step 4 of such pay-scale as may, from time-to-time, appear in the collective bargaining agreement between the City and the Springfield Police Patrolman's Association ("SPPA").
- (d) Probationary Period. Persons appointed through the lateral entry process to the position of police officer shall serve a probationary period of one year.

(Ord. 98-176. Passed 5-19-98.)

CHAPTER 189

Promotional Examinations for Police and Fire Divisions

189.01 Applicability of chapter.

189.02 Contents.

189.03 Written test.

189.04 Oral test for promotion.

189.05 Credit for efficiency in service.

189.06 Credit for seniority in service.

189.07 Relative weight to be given tests.

189.08 Amendments.

189.01 APPLICABILITY OF CHAPTER.

The provisions of this chapter shall govern promotional examinations for uniformed personnel in the Police and Fire Divisions of the City other than a promotion to the rank of Chief of Police or to the rank of Fire Chief. The provisions of this chapter shall serve to implement the provisions of Charter Section 47 of the Charter, relating to such examinations.

(Ord. 83-476. Passed 10-18-83.)

189.02 CONTENTS.

The examination for promotion of any person in the Police Division or Fire Division shall consist of the following elements or segments as set forth below. Promotions in the Fire Division shall occur by means of an assessment center process that will include parts (a) and (b) below.

- (a) Written test;
- (b) Oral test;

- (c) Credit for efficiency in service; and
 - (d) Credit for seniority in service
- (Ord. 22-51. Passed 2-15-2022.)

189.03 WRITTEN TEST.

(a) The written test for promotion shall, in all cases, be developed by a recognized, competent agency, individual or individuals familiar with the operations of modern police agencies in the case of a test for promotion in the Police Division and with the operations of modern fire agencies in the case of a test for promotion in the Fire Division. Before the written test is developed, the City shall provide such agency, individual or individuals pertinent information regarding the division and rank for which the test is to be given. Such test shall have a minimum passing score which shall be made known to the examinees prior to their taking the test. Passage of the written test shall be a prerequisite for eligibility for promotion and shall be a prerequisite for continuation to any other portion of the examination process set forth in Section 189.02 hereof. In the case of examinations for promotion to the rank of sergeant or lieutenant in the Police Division, however, "passage of the written test" shall mean an examinee shall have received a test score no lower than the score received by the sixth highest ranked examinee.

(Ord. 01-1. Passed 1-2-01; Ord 25-32. Passed 2-11-2025.)

(b) Notwithstanding the provisions of paragraph A. of this section, in the case a test for promotion to the rank of sergeant or lieutenant or captain in the Police Division or to all promoted ranks in the Fire Division, there shall be a type of written test known as an "assessment center" examination, each of which may be developed by an outside agency or by the staff of the Human Resources Department. Assessment centers shall include both written and oral exercises. However, it is recognized there are no source materials which provide a definitive answer for tests of supervisory and/or management skills. In the case of assessment centers, scoring criteria are not answer keys, but are general criteria from which items are scored.

(Ord. 22-51. Passed 2-15-2022; Ord. 22-168. Passed 5-24-2022; Ord 25-32. Passed 2-11-2025.)

189.04 ORAL TEST FOR PROMOTION.

(a) The oral test for promotion shall be accomplished through the assessment center process.

(Ord. 22-51. Passed 2-15-2022; Ord. 22-168. Passed 5-24-2022; Ord 25-32. Passed 2-11-2025.)

(b) Oral tests for the rank of Sergeant in the Police Division shall be administered and developed by a competent agency, individual or individuals not connected with the City and in concert with representatives of the City's Human Resources Department, and representatives of the affected division sitting in an advisory capacity. The oral test shall be given by an interview board consisting of not less than three nor more than five members and a majority of the members must have experience in practical police administration and command experience in a city of comparable size or larger in the case of an oral test for promotion in the Police Division. Members of the interview board shall not reside in Clark County, Ohio. Each board member shall each score the oral test for each examinee and the respective scores of the board members given such examinee shall then be averaged to determine such examinee's score on the test.

(Ord. 22-51. Passed 2-15-2022; Ord. 22-168. Passed 5-24-2022.)

189.05 CREDIT FOR EFFICIENCY IN SERVICE.

Unless otherwise noted in 189.07, credit for efficiency in service shall consist of job related performance evaluations and each such evaluation shall be evidenced by numerical value. A job related performance evaluation for each uniformed employee of the Police and Fire Divisions shall be conducted semi-annually by the City and the numerical score to be used for consideration in the overall examination process for promotion of an examinee shall be the average of the numerical scores of such examinee for his or her last two performance evaluations. Each employee of the divisions shall be provided a copy of each of his or her evaluations as they are completed. The numerical credit for efficiency in service to be applied in the examination process shall be made known to each prospective applicant for promotion prior to the giving of the written test portion of the examination relating to such promotion.

(Ord. 83-476. Passed 10-18-83; Ord 25-32. Passed 2-11-2025.)

189.06 CREDIT FOR SENIORITY IN SERVICE.

Credit for seniority in service shall be determined in accordance with the provisions of Ohio R.C. 124.31 in the case of promotions in the Police Division and Ohio R.C. 124.45 in the case of the Fire Division.

(Ord. 83-476. Passed 10-18-83.)

189.07 RELATIVE WEIGHT TO BE GIVEN TESTS.

The following respective relative percentages of weight shall apply to the respective elements of the examination process described hereunder:

(a) Fire Division Promotional Examination.

(1) Lieutenant

- A. Written test (to qualify for Assessment Center) 0%
- B. Assessment Center 89%
- C. Credit for Seniority in Service 10%
- D. Credit for Efficiency in Service 1%

(2) Captain

- A. Written test (to qualify for Assessment Center) 0%
- B. Assessment Center 89%
- C. Credit for Seniority in Service 10%
- D. Credit for Efficiency in Service 1%

(3) Battalion Chief

- A. Assessment Center 89%
- B. Credit for Seniority in Service 10%
- C. Credit for Efficiency in Service 1%

(4) Assistant Chief

- A. Assessment Center 89%
 - B. Credit for Seniority in Service 10%
 - C. Credit for Efficiency in Service 1%
- (Ord. 22-51. Passed 2-15-2022.)

(b) Police Division Promotional Examination.

(1) Sergeant

- A. Written Test (to qualify for Assessment Center)
- B. Assessment Center 89%
- C. Credit for Seniority in Service 10%
- D. Credit for Efficiency in Service 1%

(2) Lieutenant

- A. Written Test 10%
- B. Assessment Center 70%
- C. Credit for Seniority in Service 10%
- D. Credit for Efficiency in Service 10%

(3) Captain

- A. Assessment Center 80%
- B. Credit for Seniority in Service 10%
- C. Credit for Efficiency in Service 10%

(Ord. 01-1. Passed 1-2-01; Ord. 25-32 Passed 2/11/2025.)

189.08 AMENDMENTS.

Amendments to any of the sections of this chapter shall not be approved by the City Commission unless and until such proposed amendment or amendments, as the case may be, have been reviewed by a committee consisting of three members representing the Administration of the City and three representative members of the safety forces affected by this chapter, and the opportunity to make recommendations with respect to such amendment or amendments has been afforded such committee. In the event that the foregoing six members are unable to reach agreement as a recommendation with respect to such amendment or amendments, then they shall choose a seventh member for the committee to review any proposed amendment or amendments.

(Ord. 91-472. Passed 12-3-91.)

TITLE ELEVEN - Judicial

Chap. 191. Municipal Court

CHAPTER 191

Municipal Court

EDITOR'S NOTE: The Clark County Municipal Court having territorial jurisdiction within Clark County, has been established under Ohio R.C. 1901.01 et seq. Ohio R.C. 1901.25 provides that the Municipal Court may provide by rule how jurors shall be chosen. Jurors' fees in any criminal case involving the violation of a City ordinance shall be paid out of the City Treasury. The Municipal Court, pursuant to Ohio R.C. 1901.26(A), may establish a schedule of fees and costs to be taxed in any action or proceeding, whether civil or criminal. Ohio R.C. 1901.31(F) provides that fines received for violation of Springfield ordinances shall be paid into the City Treasury. Rule 13 of the Ohio Traffic Rules as promulgated by the Ohio Supreme Court provides that a court shall establish a traffic violations bureau and specifies certain restrictions as to the designated offenses and schedule of fines to be accepted as waiver payment in lieu of court appearance.

CROSS REFERENCES

Release of Court Clerk's liability for loss of funds - see Ohio R.C. 131.18 et seq.
Municipal court - see Ohio R.C. Ch. 1901
Bond for Court Clerk required - see Ohio R.C. 1901.31(D)
Notification to Director of liquor law convictions - see Ohio R.C. 4301.991
Record of traffic violations - see Ohio R.C. 4513.37

TITLE THIRTEEN - Taxation TITLE THIRTEEN - Taxation

Chap. 195. Tax on Earned Income.
Chap. 196. Municipal Income Tax on Earned Income.
Chap. 197. Hotel Excise Tax.
Chap. 199. Motor Vehicle License Tax.

CHAPTER 195

Tax on Earned Income

- 195.01 Purpose and taxable years governed by this Chapter 195.**
- 195.02 Definitions.**
- 195.03 Imposition of tax.**
- 195.04 Period of taxation.**
- 195.05 Return and payment.**
- 195.06 Collection at source.**
- 195.07 Declarations.**
- 195.08 Duties of the Commissioner of Taxation; records.**
- 195.09 Investigative powers of Commissioner of Taxation; confidentiality.**
- 195.10 Interest and penalties.**
- 195.11 Collection of unpaid taxes.**
- 195.12 Violations; penalties.**
- 195.13 Income Tax Division; Board of Review.**
- 195.14 Allocation of funds.**
- 195.15 Credit for tax paid to other municipalities; other credits.**
- 195.16 Saving clause.**
- 195.17 Duration of levy and collection of tax.**
- 195.18 Amendments.**
- 195.19 Imposition of additional tax.**
- 195.20 Imposition of supplemental additional tax.**
- 195.21 Renewal of additional tax.**

CROSS REFERENCES

Taxation of income - see CHTR. Sec. 30
Municipal income taxes - see Ohio R.C. Ch. 718
Income Tax Division - see ADM. 125.04

195.01 PURPOSE AND TAXABLE YEARS GOVERNED BY THIS CHAPTER 195.

(a) There is hereby levied a tax at the rate of one and one-half percent (1.5%) on salaries, wages, commissions and other compensation and on net profits, as here and after provided. Not more than nine-tenths of the proceeds of the levy of such tax shall be used to provide funds for the purpose of financing general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City and not less than one-tenth of the proceeds of the levy of such tax shall be used only to provide funds for the purpose of financing capital improvements of the City.

(b) The provisions of this Chapter 195 shall apply only to taxable years beginning prior to January 1, 2016. With the adoption of Ordinance 15-319, this Chapter 195 shall continue in effect and shall continue to govern the administration, collection, and enforcement of the City's municipal income tax for taxable years 2015 and before.

(Ord. 15-319, passed 12-8-15; Ord. 04-365, passed 11-2-04 by election.)

195.02 DEFINITIONS.

The definitions of Ohio Revised Code Sections 718.01, 718.021, 718.03, 718.05, 718.051, 718.08, and 718.14 shall be applicable to this Chapter. As used in this chapter, the following words shall have the meaning ascribed to them in this section, except as and if the context indicates or requires

a different meaning:

- (a) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise owned by two or more persons.
- (b) "Board of Review" means the Board created by and constituted as provided in Section 195.13.
- (c) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, co-partnership, association, corporation or any other entity.
- (d) "City" means the City of Springfield, Ohio.
- (e) "City Attorney" means an attorney in the City's Law Department.
- (f) "Commissioner of Taxation" means the City employee designated by the City's Finance Director to perform the duties of the Commissioner of Taxation. The Commissioner of Taxation is the tax administrator for the City for the purposes of applying this Chapter.
- (g) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency. The term "corporation" includes an S corporation.
- (h) "Employee" means every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee.
- (i) "Employer" means an individual, co-partnership, association, corporation, government body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
- (j) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.
- (k) "Net profit," for taxable years prior to January 1, 2004, means the net gain from the operation of a business, profession or enterprise after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes and in the case of an unincorporated entity, without deduction of salaries paid to partners or other owners, or of taxes imposed by this Chapter and Federal and all other taxes based on income. For taxable years beginning on and after January 1, 2004, the term "net profit," as applied to sole proprietorships, shall have the meaning set forth in the preceding sentence, as modified by the third paragraph of Ohio Revised Code Subsection 718.01(E). For taxable years beginning on and after January 1, 2004, the term "net profit," as applied to business entities other than sole proprietorships, is defined in Ohio Revised Code Section 718.01.
- (l) "Nonresident" means an individual domiciled outside the City of Springfield, Ohio.
- (m) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Springfield, Ohio.
- (n) "Person" includes individuals, firms, companies, business trusts, estates, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person," as applied to an association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof, and any employee having control supervision or charged with the responsibility of tax law compliance on the part of a natural person, co-partnership, fiduciary, association or corporation.
- (o) "Resident" means an individual domiciled in the City of Springfield, Ohio.
- (p) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Springfield, Ohio.
- (q) "Taxable year," for taxable years prior to January 1, 2004, means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year, the period for which such return is made. Unless approved by the Commissioner of Taxation, the taxable year of an individual shall be a calendar year. For taxable years beginning on and after January 1, 2004, "taxable year" is defined in Ohio Revised Code Section 718.01.
- (r) "Taxpayer" means a person, whether an individual, co-partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax. On and after January 1, 2004, the term "taxpayer" is further defined in Ohio Revised Code Section 718.01.
- (s) The singular shall include the plural, and the masculine shall include the feminine and the neuter.
(Ord. 03-381. Passed 11-25-03.)
- (t) The phrase, "work done or services performed or rendered in the City," includes all work done or services performed within the corporate boundaries of the City and all work done or services performed as a result of employment in the City.
(Ord. 09-106. Passed 4-28-09.)
- (u) "Other compensation" means other forms of income of the kind and character of salaries, wages, and commissions, and also income such as gambling winnings and prizes awarded.
(Ord. No. 09-327. Passed 12-8-09.)

195.03 IMPOSITION OF TAX.

(a) An annual tax at the rate and for the purposes specified in Section 195.01 hereof shall be imposed during the effective period of this chapter upon the following:

- (1) On all salaries, wages, commissions and other compensation earned, received, accrued or in any other way set apart unto residents of the City;
- (2) On all salaries, wages, commissions and other compensation earned, received, accrued or in any other way set apart unto nonresidents for work done or services performed or rendered in the City;
- (3) A. On the portion attributable to the City of the net profits earned, received, accrued or in any other way set apart unto all resident unincorporated businesses, professions or other activities derived from work done or service performed or rendered and business or other activities conducted in the City; and
B. On the portion of the distributive share of the net profits earned, received, accrued or in any other way set apart unto a resident partner or owner of a resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity;
- (4) A. On the portion attributable to the City of the net profits earned, received, accrued or in any other way set apart unto all non-resident unincorporated businesses, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City; and
B. On the portion of the distributive share of the net profits earned, received, accrued or in any other way set apart unto a resident partner or owner of a non-resident unincorporated business entity not attributable to the City and not levied against such unincorporated business entity; and
- (5) On the portion attributable to the City of the net profits earned, received, accrued or in any other way set apart unto all corporations derived from work done or services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.

(b) The portion of the net profits attributable to the City of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the City shall be determined as provided in Ohio R.C. 718.02, and in accordance with the rules and regulations adopted by the Commissioner of Taxation pursuant to this chapter.

(c) Exception. The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, the compensation for personal services of individuals under eighteen years of age, unemployment compensation provided by a government entity, poor relief, proceeds of life insurance, workers' compensation payments, alimony income or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Ohio R.C. 718.01 to the extent that such net profits are exempted from municipal income taxes under such section. The items of income described in subdivisions (1) and (2) of the first paragraph of Ohio Revised Code Section 718.01(E) shall not be exempt from taxation or from withholding taxes imposed under this Chapter.
(Ord. 03-381. Passed 11-25-03.)

195.04 PERIOD OF TAXATION.

The tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned, received, accrued or in any way set apart unto taxpayers during the effective period of this chapter; provided, however, that no income earned, received, accrued or in any way set apart unto a taxpayer shall be taxed more than once by the City.
(Ord. 86-459. Passed 7-22-86.)

195.05 RETURN AND PAYMENT.

(a) Except as provided in Section 195.05(l), all individuals eighteen years of age and older, who were residents of the City during any part of a taxable year shall make and file a return, as described in this Section, on or before the fifteenth day of the fourth month following the end of such individual's taxable year. Each taxpayer or person who engages in business, or whose salaries, wages, commissions and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax is due thereon, make and file a return on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year, with the Commissioner of Taxation setting forth:

- (1) The aggregate amounts of salaries, wages, commissions and other compensation earned, received, accrued or in any way set apart unto him, and/or gross income from such business less expenses which the Board of Review may allow by regulation;
- (2) The amount of tax imposed by this chapter on such earnings and profits; and
- (3) Such other pertinent statements, information returns or other information as the Commissioner may require, including a statement that the figures used in the return are the figures used in the return for federal income tax adjusted to set forth only such income as is taxable under the provisions of this chapter.

(b) When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within three and one-half months from the end of such fiscal year or other period.

(c) Except as otherwise provided in Ohio Revised Code Section 718.051, beginning January 1, 2004, any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a municipal income tax return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Commissioner of Taxation. The request for extension shall be filed not later than the last day for filing the municipal income tax return as prescribed by this Chapter. The Commissioner of Taxation shall grant such a request for extension filed before January 1, 2004, for a period not less than the period of the federal extension request. For taxable years beginning after 2003, the extended due date of the income tax return required to be filed under this Chapter shall be the last day of the month following the month to which the due date of the federal income tax return has been extended. The Commissioner of Taxation may deny a taxpayer's request for extension only if the taxpayer fails to timely file the request, fails to file a copy of the request for the federal extension, owes the City any delinquent municipal income tax or any penalty, interest, assessment, or other charge for the late payment or nonpayment of the municipal income tax, or has failed to file any required income tax return, report, or other related document for a prior tax period. No penalty shall be assessed in those cases in which the return is filed within the period as extended; however, the amount by which the actual tax found to be due exceeds the payment submitted with the tentative return shall bear interest, pursuant to the provisions of Section 195.10, from the due date established in subdivision (a) of this Section 195.05.

(d) The taxpayer making such return shall, at the time of the filing thereof, pay to the Commissioner the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 195.06, or where any portion of such tax shall have been paid by the taxpayer pursuant to the provision of Section 195.07, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing such return.

(e) All individuals, businesses, employers, brokers or others doing business who engage persons, either on an employer-employee basis or as independent contractors, and are not subject to withholding, shall report to the City the name, address and total amount of all salaries, wages, commissions and other compensation in excess of six hundred dollars (\$600.00) earned, received, accrued or in any other way set apart unto each taxpayer which is subject to the tax under this chapter. All contractors shall indicate the total amount of payments, which have accumulated to more than six hundred dollars (\$600.00), to any subcontractor or contract employee who did business in, or is a resident of the City in a report to the City which shall indicate the names, addresses, and amounts paid. All reports made pursuant to this subsection shall be filed with the City on or before April 15 of each year.

(f) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Commissioner shall require such additional information as may be necessary to ascertain whether net profits allocable to the City are being distorted by the shifting of income, apportionment of expenses, or other devices available to a common control. If the Commissioner finds that a person's net profits allocable to the City are distorted by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall adjust such transactions so as to produce a fair and proper allocation of net profits to the City. If necessary, the Commissioner may require the filing of a consolidated return.

(g) An amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject

to the requirements and/or limitations contained in subsection (i) hereof. A taxpayer may not change the method of filing, accounting, or apportionment of net profits after the due date for filing the original return.
(Ord. No. 09-327. Passed 12-8-09.)

(h) A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may, provided the taxpayer files his request with the Commissioner within three years after the tax was due or the return was filed, whichever is later, have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment or part thereof shall be refunded, provided that no refund shall be made or tax collected where the refund or total tax liability is less than one dollar (\$1.00).
(Ord. 09-106. Passed 4-28-09.)

(i) A claiming of credit for amounts paid to any other municipality shall constitute an assignment and a transfer to the City of all right, title and interest of the taxpayer claiming the credit in and to any claim for refund of the amounts so paid to the other municipality. In the event of a refund not received by the City in an amount equal to the credit claimed by reason of tax payments made to another municipality and subject to reciprocity, then the taxpayer shall be liable to the City for and as taxes due from the date of the filing of the annual return upon which the credit was claimed of the amounts by which the claimed credit exceeds the amount of refund received by the City, with interest pursuant to Section 195.10.

(j) Within three months after determination of any federal tax liability affecting a taxpayer's City tax liability, such taxpayer shall make and file an amended City return showing income subject to City tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

(k) Individuals who were not residents of the City at any time during a taxable year and who had all of their income subject to taxation under this Chapter for such taxable year withheld upon pursuant to Section 195.06 are not required to file a return under this Section.

(l) A resident who is over 65 years of age and has had no taxable income in the year for which a return would otherwise be due and the immediately preceding three (3) years need not file a return.
(Ord. 03-381, passed 11-25-03; Ord. 15-229, passed 9-1-15.)

195.06 COLLECTION AT SOURCE.

(a) Except as prohibited by Ohio Revised Code 718.03, each employer within or doing business within the City who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct at the time of the payment of such salary, wage, commission or other compensation, provided such salary, wage, commission, or other compensation are qualifying wages, the tax at the rate specified in Section 195.01 on the gross salary, wage, commission or other compensation due by the employer to such employee and shall on or before the last day specified below make a return and pay the Commissioner of Taxation the amount of tax so deducted.

- (1) The term "banking day", for purposes of this section, means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions;
- (2) "Month" means a calendar month;
- (3) "Partial monthly withholding period" means the period ending on the third, seventh, eleventh, fifteenth, nineteenth, twenty-second, twenty-fifth, or last day of a month, as the context requires;
- (4) "Undeposited taxes" means the taxes an employer is required to deduct and withhold from an employee's compensation pursuant to this chapter that have not been remitted to the Tax Commissioner pursuant to this section.
- (5) Every employer required to deduct and withhold any amount under this chapter shall file a return and shall pay the amount required by law as follows:
 - A. If, at the end of each calendar quarter, undeposited taxes total one thousand dollars (\$1,000) or less, payment of the undeposited taxes for that calendar quarter shall be made no later than thirty days following the last day of March, June, September, and December of each year;
 - B. If subsection (a)(5)A. hereof does not apply, payment of undeposited taxes for each month shall be made no later than ten banking days following the close of the month during which the undeposited taxes were withheld;
 - C. If, for any partial monthly withholding period, undeposited taxes total more than fifteen thousand dollars (\$15,000), payment of the undeposited taxes shall be made within three banking days following the end of the partial monthly withholding period during which the fifteen thousand dollar (\$15,000) limitation was exceeded. Every employer required to deduct and withhold any amount under this chapter shall make payment by electronic funds transfer pursuant to subsection 195.06(e) and (f). Nothing in this subsection (5)C. shall be construed as relieving an employer from complying with subsection (a)(5)B. hereof.

Ord. 95-152. Passed 5-2-95.)

- (6) The requirements of subsection (a)(5) hereof are met if the amount paid is not less than ninety-five percent (95%) of the actual tax withheld for the prior quarterly, or monthly, or partial monthly withholding period, and the underpayment is not due to willful neglect. Any underpayment of withheld tax shall be paid by the last day prescribed for the next regular payment for a monthly or quarterly withholding period or within thirty days of the date on which the withheld tax was due for a partial monthly withholding period.
- (7) If the Tax Commissioner believes that quarterly or monthly payments would result in a delay that might jeopardize the collection of withholding payments, he may order that the payments be made weekly, or more frequently if necessary, and the payments shall be made no later than three banking days following the close of the period for which the jeopardy payment order is made. An order requiring weekly or more frequent payments shall be delivered to the employer personally or by certified mail and remains in effect until the Tax Commissioner notifies the employer to the contrary.
- (8) In addition to the returns required to be filed and payments required to be made under subsection (a)(5) hereof, every employer required to deduct and withhold taxes shall file, not later than the twenty-eighth day of February of each year, an annual return covering the aggregate amount deducted and withheld during the entire preceding year for the tax imposed under this chapter. At the time of filing that return, the employer shall pay over any amount deducted and withheld during the preceding year and not previously paid. The employer shall make the annual report, to each employee and to the Tax Commissioner, of the compensation paid and each tax withheld, as the Tax Commissioner by rule shall prescribe.
- (9) Each employer required to deduct and withhold any tax is liable for the payment of that amount required to be deducted and withheld.
(Ord. 89-675. Passed 12-19-89.)

(b) Such employer in collecting such tax shall be deemed to hold the same until payment is made by such employer to the City as a trustee for the

benefit of the City and any such tax collected by such employer from his employee shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer.

(c) Provided, however, that no person shall be required to withhold the tax on the wages or other compensation paid domestic servants employed exclusively in or about such person's residence, but such servants shall be subject to the provisions of Section 195.05.

(d) The officer or employee having control or supervision of or charged with the responsibility of filing the return and making payment is personally liable for failure to file the return or pay the tax due as required by this section. The officer or employee shall be personally liable for the tax he failed to return or pay as well as any related interest and penalties. The dissolution of a corporation does not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or pay tax due.

(e) Except as otherwise provided in this paragraph, the payment of taxes by electronic funds transfer does not affect an employer's obligation to file the returns as required under this Section 195.06. The Director of Finance may adopt rules governing the format for filing the returns under this Section 195.06 by employers who remit undeposited taxes by electronic funds transfer. The rules may permit the filing of returns at less frequent intervals than required by subsection 195.06(a)(5) if the Director of Finance determines that remittance by electronic funds transfer warrants less frequent filing of returns. Taxpayers shall be permitted to make filings and remit tax payments using the Ohio business gateway, and the Director of Finance shall adopt no rule which conflicts with those rules adopted by the Tax Commissioner for the State of Ohio governing use of the Ohio business gateway.

(f) The Director of Finance shall adopt rules governing the remittance of taxes by electronic funds transfer as required under this Chapter. The rules shall govern the modes of electronic funds transfer and under what circumstances each mode is acceptable, the content and format of electronic funds transfers, the coordination of payment by electronic funds transfer and filing of associated tax reports and returns, and any other matter that in the opinion of the Director of Finance facilitates payment by electronic funds transfer. The Director of Finance may grant an exemption to an employer from the duty to make payment by electronic funds transfer, upon application, for such exemption by the employer and the employer's demonstration to the Director of Finance that the requirement to make payment by electronic fund transfer will impose a substantial hardship upon the employer. The Director of Finance may implement means of acknowledging, upon the request of a taxpayer, receipt of tax remittances made by electronic funds transfer, and may adopt rules governing acknowledgments. The cost of acknowledging receipt of electronic remittances shall be paid by the person requesting acknowledgment.

(Ord. 03-381. Passed 11-25-03.)

195.07 DECLARATIONS.

(a) Every taxpayer or person who anticipates any taxable income which is not subject to Section 195.06, or who engages in any business, profession, enterprise or activity, or upon the request of the Commissioner of Taxation, shall file a realistic declaration setting forth the taxpayer's estimated tax liability.

(b) Such declaration shall be filed on or before April 15 of each year during the life of this chapter, or within three and one-half months of the date the taxpayer becomes subject to tax for the first time.

(c) Such declaration shall be filed upon a form or forms furnished by, or obtainable upon request from, the Commissioner of Taxation which form or forms may require a statement that the figures used in making such declaration are the figures used in making the declaration of the estimate for the federal income tax adjusted to set forth only such income as is taxable under the provisions of this chapter. Taxpayers shall be permitted to make filings and remit tax payments using the Ohio business gateway, and the Commissioner of Taxation shall prescribe only such forms as are compatible with those rules adopted by the Tax Commissioner for the State of Ohio governing use of the Ohio business gateway.

(d) If the taxpayer is an individual, the taxpayer shall remit payment of the taxpayer's estimated tax liability as follows:

- (1) Twenty-two and one-half percent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the fifteenth day of April or the day on which the annual tax return for the prior year is required to be filed disregarding any extension, whichever is later;
- (2) Forty-five percent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the thirty-first day of July;
- (3) Sixty-seven and one-half percent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the thirty-first day of October;
- (4) Ninety percent of the taxpayer's estimated tax liability for the year referred to in subparagraph (d)(1), (2), and (3) of this section shall be remitted on or before the thirty-first day of January.

(e) If the taxpayer is not an individual, the taxpayer shall remit payment of the taxpayer's estimated tax liability as follows:

- (1) Twenty-two and one-half percent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the day on which the annual tax return for the prior year is required to be filed disregarding any extension or, in the case of a fiscal year taxpayer, the fifteenth day of the fourth month of the taxpayer's fiscal year;
- (2) Forty-five percent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the fifteenth day of June or, in the case of a fiscal year taxpayer, the fifteenth day of the sixth month of the taxpayer's taxable year;
- (3) Sixty-seven and one-half percent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the fifteenth day of September or, in the case of a fiscal year taxpayer, the fifteenth day of the ninth month of the taxpayer's taxable year;
- (4) Ninety percent of the taxpayer's estimated tax liability for the current year shall be remitted on or before the fifteenth day of December or, in the case of a fiscal year taxpayer, the fifteenth day of the twelfth month of the taxpayer's taxable year.

(f) If upon the filing of the return required by Section 195.05, it appears that the taxpayer did not pay ninety percent (90%) of his tax liability, as shown on such return, on or before January 31, the difference between ninety percent (90%) of the taxpayer's tax liability and the amount of estimated tax he actually paid on or before January 31, shall be subject to the interest provisions of Section 195.10; however, any taxpayer:

- (1) who is an individual who resides in the City but was not domiciled in the City on the first day of January of the current calendar year; or
- (2) who has remitted, pursuant to subparagraph (d) or (e) of this section, an amount at least equal to one hundred percent of the taxpayer's tax liability for the preceding year as shown on the return filed by the taxpayer for the preceding year, provided that the return for the preceding year reflected a twelve-month period and the taxpayer filed a return for the preceding year;

shall not be assessed any interest for any increased taxes found to be due in the current year.

(g) Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration within three and one-half months after

the start of each fiscal year or period, accompanied by a payment of at least the minimum remittance amount for the immediately preceding remittance date specified in subparagraph (d) or (e) of this section, depending upon whether the taxpayer is or is not an individual.

(h) Any amount deducted and withheld for taxes from the compensation of an individual shall be considered as estimated taxes paid in equal amounts on each of the payment dates prescribed by subparagraph (d) of this section.

(j) On or before the tax return due date prescribed in Section 195.05 for the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 195.05.

(Ord. 03-381. Passed 11-25-03.)

195.08 DUTIES OF THE COMMISSIONER OF TAXATION; RECORDS.

(a) It shall be the duty of the Commissioner of Taxation to collect and receive the tax imposed by this chapter, in the manner prescribed by this chapter, from the taxpayers. It shall also be his duty to keep an accurate record for a minimum of five years showing the amount received by him from each taxpayer required to file a declaration and/or make a return and the date of such receipt. Records need not be kept longer than five years unless an account is not paid in full, or unless an investigation is pending on an account.

(b) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Commissioner of Taxation shall fix the amount of tax due the City from the taxpayer and shall send to such taxpayer by first class mail a written statement showing the amount of tax so fixed, together with interest and penalties thereon, if any.

(c) For good cause shown, the Commissioner of Taxation, with the concurrence of a City Attorney, may waive penalties and/or interest, compromise a claim for taxes due and enter into payment agreements with taxpayers.

(Ord. 86-459. Passed 7-22-86.)

195.09 INVESTIGATIVE POWERS OF COMMISSION OF TAXATION; CONFIDENTIALITY.

(a) The Commissioner of Taxation, or any employee authorized by the Commissioner of Taxation, is hereby authorized to examine the books, papers, records and federal tax returns of any employer or of any taxpayer or other person for the purpose of verifying the accuracy of any return made or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer, supposed taxpayer or other person is hereby directed and required to furnish upon written order by the Commissioner of Taxation, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Commissioner of Taxation is hereby authorized to order any person reasonably believed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he reasonably believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) Whoever fails to comply with an order of the Commissioner of Taxation issued pursuant to this section shall be guilty of a misdemeanor of the first degree, punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not exceeding six months, or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with a judicial order. Any person knowingly and willfully divulging such information in violation of this chapter, unless required to do so by Federal or State law, shall, upon conviction therefore, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00). Each disclosure shall constitute a separate offense. In addition to the above penalties, any employee of the City who violates the provisions of this section relative to disclosure of confidential information shall be immediately dismissed from the service of the City, or if such employee is in the classified civil service, proper removal charges shall immediately be brought against such employee and other steps taken in conformity to the rules and regulations of the Civil Service laws applicable thereto.

(Ord. 86-459. Passed 7-22-86.)

195.10 INTEREST AND PENALTIES.

(a) All taxes due from taxpayers and moneys withheld by employers under the provisions of this chapter and remaining unpaid after they have become due shall bear interest, in addition to the amount of the unpaid tax or withholdings, at the rate of one percent (1%) per month or part thereof.

(b) In addition to interest as provided in subsection (a) hereof, penalties for nonpayment of taxes due from taxpayers, moneys required to be withheld by employers under the provisions of this chapter, and for failure to timely file tax returns are hereby imposed as follows:

- (1) In the case of taxpayers upon whom such taxes are imposed, ten percent (10%) of the amount of the unpaid tax if paid after the same has become due; provided that penalty shall not be assessed on an additional tax assessment made by the Commissioner of Taxation when a return has been filed in good faith and the tax paid thereon within the time prescribed herein; and provided further, that neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, providing an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability.

- (2) A. In the case of employers required to withhold taxes from employees under the provisions of this chapter, a penalty at the rate of:

Penalty (Percent)	Tax Payment Relative to Due Date
10%	Within 30 days
15%	Within 60 days
20%	Within 90 days
25%	more than 90 days

- B. A penalty is imposed on employers, required to remit withheld taxes by electronic transfer who fail to make remittances by means of electronic transfer as required under subsection 195.06(e) and (f), in the amount of 10 percent of the sum which the employer was required to remit by electronic transfer.

(Ord. 95-152. Passed 5-2-95)

- (3) In the case of taxpayers who fail to file tax returns when due as required by this chapter, the following penalties:

Penalty	Complete Tax Return is Filed
\$25.00	Not more than 30 days late
\$50.00	More than 30 but not more than 120 days late
\$100.00	More than 120 days late

- (4) Individuals not subject to the tax pursuant to this chapter for a taxable year, not a resident of the City for an entire taxable year, under eighteen years of age for the entire taxable year, or a member of the armed forces of the United States for the entire taxable year shall not be subject to the penalties imposed by this section for each taxable year in which one of the conditions stated in this subsection (b)(4) applies. Filings shall be deemed to be timely made if postmarked by the due date.

(Ord. 89-676. Passed 12-19-89.)

195.11 COLLECTION OF UNPAID TAXES.

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. No additional assessment of taxes shall be made after the period described in Ohio R.C. 718.06, except in the case of fraud, omission of twenty-five percent (25%) or more of the income subject to this tax, or failure to file a return; unless that taxpayer has waived his rights under such Ohio Revised Code Section; provided, however, in those cases in which the 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 Commissioner of Taxation shall be three years from the time of the final determination of the Federal tax liability.

(Ord. 86-459. Passed 7-22-86.)

195.12 VIOLATIONS; PENALTIES.

- (a) Any taxpayer or person who knowingly and willfully;
- (1) Fails, neglects, or refuses to make any return or declaration required by this chapter; or
 - (2) Makes any incomplete, false, or fraudulent return; or
 - (3) Fails, neglects, or refuses to pay the tax, penalties, or interest imposed by this chapter; or
 - (4) Fails, neglects, or refuses to withhold the tax from his employees or remit such withholding to the Commissioner of Taxation; or
 - (5) Refuses to disclose to the Commissioner of Taxation any information with respect to the income or net profits of a taxpayer; or
 - (6) Fails, to comply with the provisions of this chapter; or
 - (7) Attempts to do anything whatever to avoid the payment of the whole or any part of the tax penalties or interest imposed by this chapter, shall be guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both, for each offense.

- (b) All prosecutions under this section shall be commenced within the time specified in Ohio R. C. 718.12.

- (c) The failure of any employer or taxpayer or person to receive or procure a return, declaration, or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.

(Ord. 03-381. Passed 11-25-03.)

195.13 INCOME TAX DIVISION; BOARD OF REVIEW.

- (a) There is hereby established within the Finance Department of the City an Income Tax Division, which Division shall be responsible for all matters constituting the subject matter of this chapter. The Division, in addition to the City Manager, shall consist of a Board of Review, as hereinafter defined, a Commissioner of Taxation and such other officers and employees as may be provided for by the City Commission.

- (b) The Board of Review shall consist of the City Manager, Finance Director, and the Law Director, or their respective designees. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions. The Board of Review may adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration, operation and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns and payments.

- (c) The Board of Review shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Ohio Revised Code 149.43. Hearings requested by a taxpayer before the Board of Review are not meetings of a public body subject to Ohio Revised Code Section 121.22. All hearings by the Board of Review may be conducted privately and the provisions of Section 195.09 with reference to the confidential character of information required to be disclosed by the chapter shall apply to such matters as may be heard before the Board of Review on appeal.

- (d) Whenever the Commissioner of Taxation issues a ruling or decision regarding a municipal income tax obligation that is subject to appeal, as provided in this Section or in an ordinance or regulation of the City, the Commissioner of Taxation shall notify the taxpayer, in writing, at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.

- (e) Any person aggrieved with any ruling or decision of the Commissioner of Taxation which is made under the authority conferred by this chapter and who has filed with the City the required returns or other documents pertaining to the municipal income tax obligation at issue in the ruling or decision may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Commissioner of Taxation and the Board of Review shall, on hearing such ruling or decision, have jurisdiction to affirm, reverse, and modify any such ruling or decision, or any part thereof.

- (f) Appeals of the Board of Review shall be made in writing and shall state why the ruling or decision of the Commissioner of Taxation should be deemed incorrect or unlawful. The Board of Review shall schedule a hearing within forty-five days after receiving a written appeal, unless the

taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board of Review and may be represented by an attorney-at-law, certified public accountant, or other representative. The Board of Review may affirm, reverse, or modify the Commissioner of Taxation's decision or any part of that decision. The Board of Review shall issue a final decision on the appeal within ninety days after the Board of Review's final hearing on the appeal, and send a copy of its final decision, by ordinary mail, to all of the parties to the appeal within fifteen days after issuing its decision. The taxpayer or the Commissioner of Taxation may appeal the decision of the Board of Review as provided in Ohio Revised Code Section 5717.011.

(Ord. 03-381. Passed 11-25-03.)

195.14 ALLOCATION OF FUNDS.

(a) Funds collected under the provisions of this Chapter shall be applied for the following purposes:

- (1) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this Chapter and the costs of administering and enforcing the provisions hereof.
- (2) Such part thereof as if appropriated from time to time by the City Commission for current operating expenses and capital improvements. Provided, however, that at least ten (10) percent of such proceeds shall be placed in the permanent improvement funds of the City, and, as appropriated from time to time, shall be used for, and only for, capital improvement purposes of the City, including debt service charges on notes and bonds issued for capital improvements of The City of Springfield, Ohio.

(b) The term "appropriated" as used in this section shall mean appropriations made by the City Commission in the manner required by law and the provisions of the City Charter.

(Ord. 04-365. Passed 11-2-04 by election.)

195.15 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES OTHER CREDITS.

(a) Every individual taxpayer who resides in the City but earned, received, accrued or in any other way had set aside unto him net profits, salaries, wages, commissions or other compensation for work done or service performed or rendered outside the City, if it is established that he has paid a municipal income tax or a Joint Economic Development District income tax on such net profits, salaries, wages, commissions or other compensation to another municipality or to a Joint Economic Development district income tax, shall be allowed a credit on the tax imposed by this chapter in an amount equal to fifty percent (50%) of the tax so paid by him or on his behalf to such other municipality or to a Joint Economic Development District income tax. Notwithstanding the foregoing, in no event shall such credit exceed fifty percent (50%) of the tax assessed by this chapter on such net profits, salaries, wages, commissions or other compensation earned, received, accrued or in any other way had set aside unto him in such other municipality or municipalities or a Joint Economic Development District income tax where such tax is paid. There shall be no carry forward or carry backward of such tax credit to any tax year other than the tax year in which the tax, upon which the credit is based, was paid to such other municipality or municipalities or to a Joint Economic Development income tax.

(b) Notwithstanding the provisions contained in Section 195.11, or any other provisions inconsistent herewith, a claim for refund or credit under this section shall be made in such manner as the Board of Review may by regulation provide. No such claim for refund or credit shall be allowed unless made on or before the date for filing the taxpayer's final return, unless such taxpayer's employer has filed with the Commissioner of Taxation a record showing the tax withheld from such taxpayer's wages, salaries, or commissions for other municipalities or for a Joint Economic Development District income tax, and the taxpayer releases a City wage statement and such other information as deemed necessary by the Commissioner of Taxation.

(c) Taxpayers shall be allowed the credits established under Ohio Revised Code Sections 718.021, 718.121, and 718.14, but only to the extent as limited by Ohio Revised Code Chapter 718.

(Ord. 03-381. Passed 11-25-03.)

195.16 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax against an individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provision, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the City Commission that this chapter would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof had not been included herein.

(Ord. 86-459. Passed 7-22-86.)

195.17 DURATION OF LEVY AND COLLECTION OF TAX.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 195.11 and 195.12.

(b) All returns for all or any part of the last effective year of this chapter shall be filed on or before the dates provided in Sections 195.05, 195.06, and 195.07 and any tax shown due thereon shall be paid by the dates provided in such sections.

(Ord. 86-459. Passed 7-22-86.)

195.18 AMENDMENTS.

(a) The City Commission reserves the right to amend, supplement, or repeal this chapter at any time.

(b) In the event that taxes collected under this chapter during the period of imposition thereof exceed the existing and anticipated reasonable needs and requirements of the City for the objects and purposes set forth in Section 195.14, the City Commission shall repeal this chapter or provide for a downward revision of the tax rate as the circumstances may require.

(Ord. 86-459. Passed 7-22-86.)

195.19 IMPOSITION OF ADDITIONAL TAX.

In addition to the tax provided for under Section 195.01, which is levied at a rate of one and one-half percent (1-1/2%), an annual tax of one-half

percent (1/2%) for the purposes specified in Section 195.01 hereof shall be imposed on and after July 1, 2000, and ending June 30, 2015. Such tax shall be levied and collected in the same manner as the tax provided for in Section 195.01. Provided, however, that during the period that a tax levied on salaries, wages, commissions, and other compensation and on net profits, is at an aggregate rate of two percent (2%) or more, there shall be a reduction in the tax levy upon the tax lists or duplicate of property listed for taxation according to value for all the purposes of The City of Springfield, Ohio, of 2.7 mills less than the total number of mills levied in behalf of the City in fiscal year 1975, beginning in fiscal year 2001 and for each year through fiscal year 2015.
(Ord. 99-457. Passed 5-4-99 by election.)

195.20 IMPOSITION OF SUPPLEMENTAL ADDITIONAL TAX.

In addition to the tax provided for under Sections 195.03 and 195.19, an annual tax of one-half percent (1/2%) for the purposes specified in Section 195.01 hereof shall be imposed on and after January 1, 1984, and ending December 31, 1986. Such tax shall be levied and collected in the same manner as the tax provided for in Section 195.03.
(Ord. 86-459. Passed 7-22-86.)

195.21 RENEWAL OF ADDITIONAL TAX.

(a) In addition to the tax provided for under Section 195.01, which is levied at a rate of one-and-one-half percent (1-1/2%), an annual tax of one-half percent (1/2%) shall be imposed on and after July 1, 2015, and ending June 30, 2030. Such tax shall be levied and collected in the same manner as the tax provided for in Section 195.01. The proceeds of such tax shall be used for current operating expenses and capital improvements; provided, however, that at least ten percent (10%) of such proceeds shall be placed in the permanent improvement funds of the City, and, as appropriated from time to time, shall be used for, and only for, capital improvement purposes of the City, including debt service charges on notes and bonds issued for capital improvements of The City of Springfield, Ohio.

(b) During the period that a tax levied on salaries, wages, commissions, and other compensation, and on net profits, is at an aggregate rate of two percent (2%) or more, there shall be a limitation on the tax levy upon the tax lists or duplicate of property listed for taxation according to value for all the purposes of The City of Springfield, Ohio, to .6 (6/10) of a mill for each one dollar of valuation through fiscal year 2030, without the approval of a majority of electors voting upon such levy.
(Ord. 14-159 Passed 5-6-14 by electorate 3,249 for, 2,163 against.)

CHAPTER 196

Municipal Income Tax on Earned Income

(Effective January 1, 2016 For taxable years beginning with taxable year 2016, Pursuant to Ordinance No. 15-319, Passed December 8, 2015)

- 196.01** Authority to levy tax; purposes of tax; rate.
- 196.011** Authority to levy tax.
- 196.012** Purposes of tax and tax rate.
- 196.013** Allocation of funds.
- 196.02** Effective date.
- 196.03** Definitions.
- 196.04** Income subject to tax for individuals.
- 196.041** Determining municipal taxable income for individuals.
- 196.042** Domicile.
- 196.043** Exemption for certain judges.
- 196.05** Collection at source.
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- 196.06** Income subject to net profit tax.
- 196.061** Determining municipal taxable income for taxpayers who are not individuals.
- 196.062** Net profit; Income subject to net profit tax; alternative apportionment.
- 196.063** Consolidated federal income tax return.
- 196.064** Tax credit for businesses that foster new jobs in Ohio.
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- 196.07** Declaration of estimated tax.
- 196.08** Credit for tax paid.
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- 196.091** Return and payment of tax.
- 196.092** Return and payment of tax; Individuals serving in combat zone.
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- 196.14 Confidentiality.**
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- 196.17 Assessment; Appeal based on presumption of delivery.**
- 196.18 Local board of tax review; Appeal to local board of tax review.**
- 196.19 Actions to recover; Statute of limitations.**
- 196.20 Adoption of regulations and rules.**
- 196.97 Collection after termination of chapter.**
- 196.98 Savings clause.**
- 196.99 Violations; Penalty.**

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

196.011 AUTHORITY TO LEVY TAX.

(A) The tax on income and the withholding tax established by this Chapter 196 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 196 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 on income and the withholding tax established by this Chapter 196 are imposed through exercise of the City's power of local government granted to the City in Article XVIII, Section 3 of the Ohio Constitution and imposed in accordance with Section 30 of the City's Charter.

(C) The tax is an annual tax levied on the earned income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The City shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.

196.012 PURPOSES OF TAX AND TAX RATE.

(A) There is hereby levied a tax at the rate of one and one-half percent (1.5%) on salaries, wages, commissions and other compensation and on net profits, as here and after provided. Not more than nine-tenths of the proceeds of the levy of such tax shall be used to provide funds for the purpose of financing general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City and not less than one-tenth of the proceeds of the levy of such tax shall be used only to provide funds for the purpose of financing capital improvements of the City. [This is the tax adopted in Ordinance 69-190 and Ordinance 04-365. In this Chapter 196, this tax is referred to as "the tax provided for under Section 195.01"]

(B) In addition to the tax provided for under Section 195.01, which is levied at a rate of one-and-one-half percent (1-1/2%), and referred to in the preceding subsection 196.012(A), an annual tax of one-half percent (1/2%) shall be imposed on and after July 1, 2015, and ending June 30, 2030. Such tax shall be levied and collected in the same manner as the tax provided for in Section 195.01 and as provided for in this Chapter 196. The proceeds of such tax shall be used for current operating expenses and capital improvements; provided, however, that at least ten percent (10%) of such proceeds shall be placed in the permanent improvement funds of the City, and, as appropriated from time to time, shall be used for, and only for, capital improvement purposes of the City, including debt service charges on notes and bonds issued for capital improvements of The City of Springfield, Ohio. [This is the tax adopted in Ordinance 14-159]

Editor's Note: Section (C) below is in effect through December 31, 2022 and will be replaced with new Section (C) as underlined below on January 1, 2023. The new Section (C) was adopted by Ordinance No. 21-152 passed May 4, 2021, by a vote of the electorate.

(C) In addition to the tax provided for under Section 196.012(A), which is levied at a rate of one-and-one-half percent (1-1/2%), and referred to in the preceding subsection 196.012(A), and the tax provided for under Section 196.012(B) which is levied at the rate of one-half percent (1/2%), a tax at the rate of four-tenths of one percent (0.4%) shall be imposed on and after July 1, 2017, and ending December 31, 2022. Such tax shall be levied on salaries, wages, commissions and other compensation and on net profits, as here and after provided, and collected in the same manner as the tax provided for in Section 195.01 and as provided for in this Chapter 196. The proceeds of such tax shall be used for public safety and other operating expenses and street and other capital improvements; provided, however, that at least ten percent (10%) of such proceeds shall be placed in the permanent improvement funds of the City, and, as appropriated from time to time, shall be used for, and only for, capital improvement purposes of the City, including debt service charges on notes and bonds issued for capital improvements of The City of Springfield, Ohio. [This is the tax adopted in Ordinance 17-118.]

(C) In addition to the tax provided for under Section 196.012 (A), which is levied at a rate of one-and-one-half percent (1-1/2%), and referred to in the preceding subsection 196.012 (A), and the tax provided for under Section 196.012 (B) which is levied at the rate of one-half percent (1/2%), a tax at the rate of four-tenths of one percent (0.4%) shall be imposed on and after January 1, 2023, and ending December 31, 2032. Such tax shall be levied on salaries, wages, commissions and other compensation and on net profits, as here and after provided, and collected in the same manner as the tax provided for in Section 195.01 and as provided for in this Chapter 196. The proceeds of such tax shall be used for public safety and other operating expenses and street and other capital improvements; provided, however, that at least ten percent (10%) of such proceeds shall be placed in the permanent improvement funds of the City, and, as appropriated from time to time, shall be used for, and only for, capital improvement purposes of the City, including debt service charges on notes and bonds issued for capital improvements of The City of Springfield, Ohio. [This is the tax adopted in Ordinance 21-152.]

(D) For any tax year ending in 2017, a taxpayer may calculate the tax due under Chapter 196 of the Codified Ordinances by using 2.2% of the taxpayer's Municipal Taxable Income. [This paragraph adopted in Ordinance 17-118]

196.013 ALLOCATION OF FUNDS.

(A) Funds collected under the provisions of this Chapter shall be applied for the following purposes:

- (1) Such part thereof as shall be necessary to defray all costs of collecting the taxes levied by this Chapter and Chapter 195 and the costs of administering and enforcing the provisions hereof.
- (2) Such part thereof as if appropriated from time to time by the City Commission for current operating expenses and capital improvements. Provided, however, that at least ten (10) percent of such proceeds shall be placed in the permanent improvement funds of the

City, and, as appropriated from time to time, shall be used for, and only for, capital improvement purposes of the City, including debt service charges on notes and bonds issued for capital improvements of The City of Springfield, Ohio.

(B) The term "appropriated" as used in this section shall mean appropriations made by the City Commission in the manner required by law and the provisions of the City Charter.

196.02 EFFECTIVE DATE.

(A) Ordinance 15-319, effective December 8, 2015, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 196 apply to taxable years beginning 2016 and succeeding taxable years.

(B) Ordinance 15-319 does not repeal the existing sections of Chapter 195 for any taxable year prior to 2016, but rather provides for the levy, collection and administration of the taxes adopted in Ordinances No. 69-190, 04-365 and No. 14-159 to comply with the requirements imposed in House Bill 5 adopted by the 130th General Assembly, effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the City shall continue to administer, audit, and enforce the income tax of the City under ORC 718 and ordinances and resolutions of the City as that Chapter 195 and those ordinances and resolutions existed before January 1, 2016.

196.03 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 [57] LVII of the Ohio Revised Code, unless a different meaning is clearly required. Except as provided in ORC Section 718.81, 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 [57] 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 [57] LVII of the Ohio Revised Code.

(Ord. No. 17-285. Passed 12-5-17.)

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 ORC Section 718.81, as used in this chapter:

(Ord. No. 17-285. Passed 12-5-17.)

- (1) **"ADJUSTED FEDERAL TAXABLE INCOME,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(D) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - (A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
 - (B) Add an amount equal to five per cent of intangible income deducted under division (1)(A) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
 - (C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - (D)
 - (i) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - (ii) Division (1)(D)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
 - (E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
 - (F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
 - (G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;
 - (H) Except as limited by divisions (1)(H)(ii), (iii) and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.
 - (i) The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
 - (ii) No person shall use the deduction allowed by division (1)(H) of this section to offset qualifying wages.
 - (iii)
 - (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (1)(H)(i) of this section.
 - (b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (1)(H)(i) of this section.
 - (iv) [Intentionally Left Blank]
 - (v) Nothing in division (1)(H)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (1)(H)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (1)(H)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (1)(H)(iii)(a) of this section shall apply to the amount carried forward.
- (I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section 196.063 of this Chapter.
- (J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable

income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 196.063 of this Chapter.

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

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

(2) (A) **"ASSESSMENT"** means any of the following:

- (i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;
- (ii) A full or partial denial of a refund request issued under Section 196.096 (B)(2) of this Chapter;
- (iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 196.062(B)(2) of this Chapter; or
- (iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 196.062(B)(3) of this Chapter.
- (v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this Section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 196.18 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 196.096 (B)(3) of this Chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the City, 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) [Intentionally Left Blank]

(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) **"CITY"** means The City of Springfield, Ohio. For purposes of this Chapter, the term "City" is synonymous with the term "Municipality" as used in ORC Chapter 718.

(9) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.

(10) **"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.

(11) **"DOMICILE"** means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.

(12) **"EXEMPT INCOME"** means all of the following:

(A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state.

(B) Intangible income.

(C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (12)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.

(D) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

(E) Compensation paid under section 3501.28 or 3501.36 of the 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 is not exempt. The City does 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 (12)(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 a resident or domiciled in the City.

- (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 either (1) wages as defined in section 3121(a) of the Internal Revenue Code or (2) net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code.
- (O) All of the municipal taxable income earned by individuals under eighteen years of age.
- (P) (i) Except as provided in divisions (12)(P)(ii), (iii), and (iv) of this section, qualifying wages described in division (B)(1) or (E) of Section 196.052 of this Chapter to the extent the qualifying wages are not subject to withholding for the City under either of those divisions.
 - (ii) The exemption provided in division (12)(P)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
 - (iii) The exemption provided in division (12)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of Section 196.052 of this Chapter.
 - (iv) The exemption provided in division (12)(P)(i) of this section does not apply to qualifying wages if both of the following conditions apply:
 - (a) For qualifying wages described in division (B)(1) of Section 196.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of Section 196.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;
 - (b) The employee receives a refund of the tax described in division (12)(P)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.
- (Q) (i) Except as provided in division (12)(Q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the City on not more than twenty days in a taxable year.
 - (ii) The exemption provided in division (12)(Q)(i) of this section does not apply under either of the following circumstances:
 - (a) The individual's base of operation is located in the City,
 - (b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (12)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 196.052 of this Chapter.
 - (iii) Compensation to which division (12)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.
 - (iv) For purposes of division (12)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.
- (R) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.
- (S) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (12) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.
- (13) **"FORM 2106"** means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (14) **"GENERIC FORM"** means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.
- (15) **"INCOME"** means the following:
 - (A) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (23)(D) of this section.
 - (ii) For the purposes of division (15)(A)(i) of this section:
 - (a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (15)(A)(iv) of this section;
 - (b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.
 - (iii) Division (15)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 12(N) of this Section.
 - (iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.
 - (B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the City, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
 - (C) For taxpayers that are not individuals, net profit of the taxpayer.
 - (D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to

another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 196.081 of this Chapter.

- (16) **"INTANGIBLE INCOME"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.
- (17) **"INTERNAL REVENUE CODE"** means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.
- (18) **"LIMITED LIABILITY COMPANY"** means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (19) **"LOCAL BOARD OF TAX REVIEW"** and **"BOARD OF TAX REVIEW"** means the entity created under Section 196.18 of this Chapter.
- (20) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 718.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.
- (21) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:
 - (i) For a person other than an individual, income apportioned or situated to the City under Section 196.062 of this Chapter. (Ord. 17-285. Passed 12-5-17.)
 - (ii) For an individual who is a resident, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (21)(B) of this section.
 - (iii) For an individual who is a nonresident of the City, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the City under Section 196.062 of this Chapter, then reduced as provided in division (21)(B) of this section.(B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (21)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.
- (22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.
- (23) (A) **"NET PROFIT"** for a person other than an individual means adjusted federal taxable income.
 - (B) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (23)(B) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1)(H) of this section.
 - (C) For the purposes of this chapter, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
 - (D) (i) For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.
 - (ii) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.
 - (iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this section.
 - (iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.
 - (v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.
 - (vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.
- (24) **"NONRESIDENT"** means an individual that is not a resident of the City.
- (25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
- (27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal

- income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (28) **"PENSION"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
- (29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
- (30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.
- (31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.
- (32) [Intentionally Left Blank]
- (33) [Intentionally Left Blank]
- (34) **"QUALIFYING WAGES"** means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- (A) Deduct the following amounts:
- (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
 - (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
 - (iii) [Intentionally Left Blank]
 - (iv) [Intentionally Left Blank]
 - (v) Any amount included in wages that is exempt income.
- (B) Add the following amounts:
- (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
 - (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.
 - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.
 - (iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.
 - (vi) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;
 - (b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
 - (c) For no succeeding taxable year will the amount constitute wages; and
 - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.
- (35) **"RELATED ENTITY"** means any of the following:
- (A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
 - (B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
 - (C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;
 - (D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.
- (36) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.
- (37) **"RESIDENT"** means an individual who is domiciled in the City as determined under Section 196.042 of this Chapter.
- (38) **"S CORPORATION"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (39) **"SCHEDULE C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (40) **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (41) **"SCHEDULE F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.
- (43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains; dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting

principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

- (44) **"TAX ADMINISTRATOR"** means the City's employee designated by the Finance Director and charged with direct responsibility for administration of this Chapter, and also includes the following:
- (A) A municipal corporation acting as the agent of the City to administer this Chapter;
 - (B) A person retained by the City to administer this Chapter, but only if the City does not compensate the person in whole or in part on a contingency basis;
 - (C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.
 - (D) "Tax Administrator" does not include the tax commissioner.
(Ord. 17-285. Passed 12-5-17.)
- (45) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15.
- (46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (47) (A) **"TAXPAYER"** means a person subject to a tax levied on income by the City in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.
- (B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
 - (a) The limited liability company's single member is also a limited liability company.
 - (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
 - (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.
 - (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
 - (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
 - (ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.
- (48) **"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 City, 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.
- (49) **"TAX COMMISSIONER"** means the tax commissioner appointed under section 121.03 of the Revised Code.

(Ord. 17-285. Passed 12-5-17.)

196.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS.

196.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS.

- (A) "Municipal Taxable Income" for a resident of the City 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 (21)(B) of Section 196.03 of this Chapter, equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 196.03 (15) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 196.03(34).
 - (ii) "Net profit" is included in "income", and is defined in Section 196.03 (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 196.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 196.062(E).
 - (iii) Section 196.03(15) provides the following: offsetting and net operating loss carryforward treatment in (15)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (15)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (15)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (15)(A)(iv).
 - (iv) "Pass Through Entity" is defined in Section 196.03(27).
 - (b) "Exempt Income" is defined in Section 196.03 (12) of this Chapter.
 - (c) Allowable employee business expense deduction is described in (21)(B) of Section 196.03 of this Chapter, and is subject to the limitations provided in that section.
 - (d) [Intentionally Left Blank]
- (B) "Municipal Taxable Income" for a nonresident of the City 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 situated to the City as provided in Section 196.062 of this Chapter, reduced by allowable employee business expense deduction as found in (21)(B) of Section 196.03 of this Chapter, equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 196.03(15) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 196.03(34).
 - (ii) "Net profit" is included in "income", and is defined in Section 196.03(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 196.03. "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 196.03(27).
- (b) "Exempt Income" is defined in Section 196.03(12) of this Chapter.
- (c) "Apportioned or situated to the City as provided in Section 196.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the City. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 196.062(E).
- (d) "Allowable employee business expense deduction" as described in (21)(B) of Section 196.03 of this Chapter, is subject to the limitations provided in that section. For a nonresident of the City, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the City.
- (e) [Intentionally Left Blank]

196.042 DOMICILE.

(A) As used in this section:

- (1) An individual is presumed to be domiciled in the City for all or part of a taxable year if the individual was domiciled in the City on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in the City for all or part of the taxable year.
- (2) An individual may rebut the presumption of domicile if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the City for all or part of the taxable year.

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

- (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 City. For the purposes of this division, an individual has one "contact period" with the City if the individual is away overnight from the individual's abode located outside of the City and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the City. 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.

196.043 EXEMPTION FOR CERTAIN JUDGES.

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.

196.05 COLLECTION AT SOURCE.

196.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

- (A) (1) Each employer, agent of an employer, or other payer located or doing business in the City shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the City multiplied by the applicable rate of the City's income tax, except for qualifying wages for which withholding is not required under Section 196.052 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 City when the employee is a resident.
- (B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the City the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, 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) or (B)(1)(c) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.
 - (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 City 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 City in any month of the preceding calendar quarter exceeded two hundred dollars. Payments under division (B)(1)(b) of this section shall be made to the Tax Administrator not later than fifteen days after the last day of each month.
 - (c) Taxes required to be deducted and withheld shall be remitted semimonthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted on behalf of the Municipality in the preceding calendar year exceeded eleven

thousand nine 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 year exceeded one thousand dollars. The payment under division (B)(1)(c) of this section shall be made to the Tax Administrator not later than one of the following:

- (i) If the taxes were deducted and withheld or required to be deducted and withheld during the first fifteen days of a month, the third banking day after the fifteenth day of that month;
- (ii) If the taxes were deducted and withheld or required to be deducted and withheld after the fifteenth day of a month and before the first day of the immediately following month, the third banking day after the last day of that month.

(Ord. No. 16-244, passed 8-30-16.)

- (d) An employer, agent of an employer or other payer is required 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 City if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the City shall be remitted to the City at the same time that the federal tax withholding payment is due.

(C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the City as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the City requires all resident individual taxpayers to file a tax return under section 196.091 of this Chapter,

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

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

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

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

(H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the City during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

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

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

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

196.052 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.
 - (a) 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.
 - (b) 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 the City if the employee performed such services in the City 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 City.
 - (b) The employee performed services at one or more presumed worksite locations in the City. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in 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 City and has requested that the employer withhold tax from the employee's qualifying wages as provided in section 196.051 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 City.
- (2) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in the City only if the employee spent more time performing services for or on behalf of the employer in the City than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
 - (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 ORC Chapter 718, 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 the City exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to the City for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in the City.
- (2) An employer required to begin withholding tax for the City under division (D)(1) of this section may elect to withhold tax for the City for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in the City.
- (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 City, if the City is where the employee's principal place of work is located but is not the employee's domicile, 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 the City, 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 City if the employer's fixed location is located in the City and if the employer qualifies as a small employer as defined in Section 196.03 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 196.051 of this Chapter.

196.06 INCOME SUBJECT TO NET PROFIT TAX.

196.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS.

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

- (A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, equals "Municipal Taxable Income".
- (1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.
 - (a) "Net Profit" for a person other than an individual is defined in Section 196.03(23).
 - (b) "Adjusted Federal Taxable Income" is defined in Section 196.03(1) of this Chapter.
 - (2) "Exempt Income" is defined in Section 196.03(12) of this Chapter.
 - (3) "Apportionment" means the apportionment as determined by Section 196.062 of this Chapter.
 - (4) [Intentionally Left Blank]

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

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

- (A) Net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of municipal income taxation in the same proportion as the average ratio of the following:
- (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 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 sentence, 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 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 196.052 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 City to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the City, the taxpayer may request, or the Tax Administrator of the City may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
- (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 City;
 - (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 196.19 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 196.19 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.
- (D1) For tax years beginning January 1, 2016, through December 31, 2017, for the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:
- (1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation 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.

- (c) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, 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.
 - (2) Gross receipts from the sale of services shall be situated to the City to the extent that such services are performed in the City.
 - (3) To the extent included in income, gross receipts from the sale of real property located in the City shall be situated to the City.
 - (4) To the extent included in income, gross receipts from rents and royalties from real property located in the City shall be situated to the City.
 - (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the City based upon the extent to which the tangible personal property is used in the City.
- (Ord. 17-285. Passed 12-5-17.)
- (D2) For tax years beginning on or after January 1, 2018, for the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:
- (1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation only if, regardless of where title passes, the property meets either 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.
- (Ord. 17-285. Passed 12-5-17.)
- (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 under this Chapter provided the property generating the net profit is located in the City or the City is the municipal corporation in which the individual taxpayer that receives the net profit resides. The City shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.
- (F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the City provided the real estate is located in the City. Net profit reported by the real estate agent or broker shall be allocated to the City based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (2) An individual who is a resident of the City shall report the individual's net profit from all real estate activity on the individual's annual tax return. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 196.081 of this Chapter.
- (G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (12)(L) and (34)(A)(iv) of Section 196.03 of this Chapter, by the City, to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to the City. In no case shall a taxpayer be required to add to its net profit that was apportioned to the City any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.
- This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to the City under this section.
- (H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

196.063 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) For tax years beginning on or after January 1, 2018, when a taxpayer makes the election allowed under section 718.80 of the Revised Code,

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.

(Ord. 17-285. Passed 12-5-17.)

- (5) For tax years beginning on or after January 1, 2018, when an election is made under section 718.80 of the Revised Code is terminated, a valid election made under section 718.86 of the Revised Code is binding upon the tax administrator for the remainder of the five-year period.

(Ord. 17-285. Passed 12-5-17.)

- (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 City. 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 196.03(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 196.03 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 196.062 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 situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
- (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 196.062 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 situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- (4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
- (a) The corporation filing the consolidated 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 196.062 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 situated to a municipal corporation;
- (b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
- (F) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 196.062 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.

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

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

196.065 TAX CREDITS TO FOSTER JOB RETENTION.

The City, 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 City. If a credit is granted under this section, it shall be measured as a percentage of the income tax revenue the City derives from the retained employees of the taxpayer, and shall be for a term not exceeding fifteen years. Before the City passes an ordinance allowing such a credit, the City and the taxpayer shall enter into an agreement specifying all the conditions of the credit.

196.07 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 to the City for income tax imposed under this Chapter for the current taxable year.
 - (2) "Tax liability" means the total taxes due to the City for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.
- (B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least 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) [Intentionally Left Blank]
- (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 196.091 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 City 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 tax years beginning January 1, 2016, through December 31, 2017, 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.
(Ord. 17-285. Passed 12-5-17.)
 - (e) For tax years beginning on or after January 1, 2018, for an individual, on or before the fifteenth day of the first month of the following taxable year, ninety per cent 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.
(Ord. 17-285. Passed 12-5-17.)
- (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 196.091 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 196.10 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 196.091 of this Chapter for that year.
- (3) The taxpayer is an individual who resides in the City 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.

196.08 CREDIT FOR TAX PAID.

196.081 CREDIT FOR TAX PAID TO OTHER OHIO MUNICIPALITIES OR TO OHIO JOINT ECONOMIC DEVELOPMENT DISTRICTS OR JOINT ECONOMIC DEVELOPMENT ZONES; CREDIT OF TAX PAID ON INCOME GENERATED OUTSIDE OF OHIO.

(A) Every individual who resides in the City but who receives net profits, qualifying wages, or other municipal taxable income for work done or services performed or rendered in Ohio but outside the City, and who is liable to and has paid to another municipality or 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 an income tax on the same income taxable and taxed under this Chapter, shall be allowed a credit in an amount equal to fifty percent (50%) of the tax levied by the other Ohio municipality or an Ohio joint economic development zone created under section 715.691 or an Ohio joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code. Notwithstanding the foregoing, in no event shall such credit exceed fifty percent (50%) of the tax imposed by this chapter on the same income. There shall be no carry forward or carry backward of such tax credit to any tax year other than the tax year in which the tax was paid to such other Ohio municipality or an Ohio joint economic development zone created under section 715.691 or an Ohio joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code.

(B) Taxpayers shall be allowed the credits established under Ohio Revised Code Sections 718.021, 718.121, but only to the extent as limited by Ohio Revised Code Chapter 718.

(C) Taxpayers are allowed a nonrefundable credit against the tax imposed under this Chapter on income generated outside of Ohio, with the credit to be in the amount of 100% of the non-Ohio municipality authorized tax paid on that same income in the authorizing non-Ohio municipality in which the income was generated; provided the tax for which the credit is claimed is of the same nature or having the same practical effect as the tax imposed under this Chapter. Notwithstanding the foregoing, in no event shall such credit exceed one hundred percent (100%) of the tax imposed by this chapter on the same income. The burden of proof is on the taxpayer to show that the tax for which the taxpayer claims a credit is of the same nature or having the same practical effect as the tax imposed under this Chapter and that the tax for which the taxpayer claims a credit was imposed on the same income taxed by the City against which the taxpayer is claiming a credit. The section applies only to income generated in the United States of America and is intended to and limited to preventing a violation of the Commerce Clause of the United States Constitution as prohibited in *Comptroller of the Treasury of Maryland v. Wynne*, 575 U.S. ___, 135 S.Ct. 1787, 191 L.Ed.2d 813, 25 Fla.L.Weekly Fed. S 233. (2015)

196.082 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.

196.083 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND.

(A) Income tax that has been deposited or paid to the City, but should have been deposited or paid to another municipal corporation, is allowable by the City as a refund, but is subject to the three-year limitation on refunds as provided in Section 196.096 of this Chapter.

(B) Income tax that should have been deposited or paid to the City, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the City. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 196.096, the City will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the City claims is due. If the City's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the City, 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 196.096 of this Chapter.

(D) Nothing in this section requires a City to allow credit for tax paid to another municipal corporation if the City has reduced credit for tax paid to another municipal corporation. Section 196.081 of this Chapter regarding any limitation on credit shall prevail.

196.09 ANNUAL RETURN.

196.091 RETURN AND PAYMENT OF TAX.

- (A) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the City 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 City under subsection 196.051(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 City.
- (3) All resident individuals, eighteen years of age and older during any part of a tax year, shall file an annual municipal income tax return for such tax year with the City, regardless of income or liability.
- (4) A resident who is age 65 or older and has no taxable income in the year for which a return would otherwise be due and no taxable income in the immediately preceding three (3) years, need not file a return.
- (B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.
- (C) If an individual is unable to complete and file a return or notice required by the City 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) Spouses may 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 City.
 - (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 City to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.
 - (6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.
- (G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the City or Tax Administrator.
- (b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the Tax Administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the City or Tax Administrator.
- (c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.
- (2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the City in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.
- (3) With respect to taxpayers to whom Section 196.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 196.092 of this Chapter, the provision in Section 196.092 of this Chapter prevails.
- (H) (1) For taxable years beginning after 2015, the City shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars or less.
- (2) Any taxpayer not required to remit tax to the City for a taxable year pursuant to division (H)(1) of this section shall file with the City an annual net profit return under division (F)(3) and (4) of this section.
- (I) (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 under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the timestamp assigned by the first electronic system receiving that payment. For purposes of this section, "receiving that payment" refers to the transfer of funds from the account of the taxpayer. Such funds are no longer under the control of the taxpayer once the timestamp has occurred.
- (J) The amounts withheld for the City by an employer, the agent of an employer, or other payer as described in section 196.051 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 City and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.
- (K) Each return required by the City to be filed in accordance with this 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 City shall accept for filing a generic form of any income tax return, report, or document required by the City 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 City 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 City'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 196.052 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 City for a taxable year if both of the following N2(a) and N2(b) conditions apply:
- (a) The person was required to file a tax return with the City for the immediately preceding taxable year because the person performed services at a worksite location within the City, 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 City, and does not expect to be subject to the City's income tax for the taxable year.
- (c) The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the City. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within The City of Springfield, Ohio, make any sales in The City of Springfield, Ohio, or otherwise become subject to the tax levied by The City of Springfield, Ohio during the taxable year. If the affiant does become subject to the tax levied by The City of Springfield, Ohio for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with The City of Springfield, Ohio, if such a registration is required by The City of Springfield, Ohio's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.
- (d) 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 City 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. No. 16-244, passed 8-30-16.)

196.092 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 City for both an extension of time for filing of the return and an extension of time for payment of taxes required by the City 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 City 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 City 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.

196.093 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 taxpayers, or other persons does not affect the legal rights of the City or taxpayers as otherwise permitted by law.

(E) Nothing in this section shall be construed as limiting or removing the authority of the City to administer, audit, and enforce the provisions of its municipal income tax.

196.094 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.

196.095 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 City 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 196.19 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 this section for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the City 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 196.096 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.

196.096 REFUNDS.

- (A) Upon receipt of a request for a refund, the Tax Administrator of the City, 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 City:
- (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 196.18 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 196.10 of this Chapter.

(E) As used in this section, "withholding tax" has the same meaning as in section 196.10 of this Chapter.

196.10 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 City 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 the City pursuant to applicable law, including at any time before January 1, 2016.
- (4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.
- (5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or the City by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
- (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
- (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
- (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
- (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B) (1) This section 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 City 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.

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

- (1) Interest shall be imposed at the rate, per annum, set out in Section 196.10(A)(4), above, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.
- (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.
- (3) With respect to any unpaid withholding tax, a penalty not exceeding fifty percent of the amount not timely paid shall be imposed.
(Ord. 17-285. Passed 12-5-17.)
- (4) With respect to returns other than estimated income tax returns, the City imposes a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

(D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the City 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 City 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, with the concurrence of the Law Director, 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 by the Tax Administrator and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(G) The City may impose on the taxpayer, employer, any agent of the employer, or any other payer the City's post-judgment collection costs and fees, including attorney's fees.

196.11 AUDIT.

(A) At or before the commencement of an audit, as defined in Section 196.03(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.

196.12 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.

196.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.

196.131 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 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, with the concurrence of the Law Director, 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 196.062 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 196.051 of this Chapter.

196.132 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 City 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 City:

- (1) Compromise a claim, with the concurrence of the Law Director;
- (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, with the concurrence of the Law Director, may 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.

196.133 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 City 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.

196.134 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 196.10 of this Chapter, in addition to any applicable penalty described in section 196.99 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 196.10 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 196.99 of this Chapter for a violation of section 196.15 of this Chapter and any other penalties that may be imposed by the Tax Administrator by law.

196.14 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 City is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the City as authorized by ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the City 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 City from publishing or disclosing statistics in a form that does not disclose information with respect to

particular taxpayers.

196.15 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 City or the Tax Administrator.

196.16 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 City 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 City'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 City'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 City in order to obtain a more favorable opinion, the taxpayer may be in violation of section 196.15 of this Chapter.

(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.

196.17 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 percent, as determined by voting rights, of the addressee's business.

- (2) If a person elects to appeal an assessment on the basis described in division (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.

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

- (A) (1) The legislative authority of the City 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. Two members shall be appointed by the legislative authority of the City, and may not be employees, elected officials, or contractors with the City 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 City. This member may be an employee of the City, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.
- (3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the City 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 City 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.

(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.

196.19 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 196.18 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 196.096 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 City does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 196.18 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 196.096 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.

196.20 ADOPTION OF REGULATIONS AND RULES.

(A) The City Commission may adopt regulations to administer the income tax imposed under this Chapter.

(B) The Tax Administrator may adopt rules consistent with the terms of this chapter to facilitate administration of this Chapter.

(C) All regulations and rules adopted under this section shall be published and posted on the internet.

196.97 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 196.19.

(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 196.091 as though the same were continuing.

196.98 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 City 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.

196.99 VIOLATIONS; PENALTY.

(A) Except as provided in division (B) of this section, whoever violates Section 196.15 of this Chapter, division (A) of Section 196.14 of this Chapter, or Section 196.051 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 196.14 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 third degree on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the first degree; on each subsequent offense within one year after the first offense, the person 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 City as required by Section 196.051; 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.

(E) 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.

(F) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 196.03, 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.

CHAPTER 197

Hotel Excise Tax

197.01 Definitions.

197.02 Levy of tax; rate.

197.03 Consumer to pay tax; collection and reporting of tax by vendor.

197.04 Records.

197.05 Monthly return by vendor; payments.

197.06 Late penalty.

197.07 Sale of entire business; successor liabilities.

197.08 Tax paid by consumer.

197.09 Vendor to collect tax; rebate prohibited.

197.10 Filing reports and returns.

197.11 268 Hotel/Motel Excise Tax Fund.

197.99 Penalty.

CROSS REFERENCES

Power to levy - see Ohio R.C. 5739.08, 5739.09

197.01 DEFINITIONS.

(a) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations and combinations of individuals of any form.

(b) "Sale" and "selling" means all transactions occurring within the City of Springfield, Ohio, occurring on and after August 1, 1978, by which lodging by a hotel is or is to be furnished to transient guests.

(c) "Vendor" means the person by whom lodging is or is to be furnished by a hotel pursuant to any sale.

(d) "Consumer" means the person to whom lodging by a hotel is or is to be furnished pursuant to any sale.

(e) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.

(f) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.
(Ord. 78-299. Passed 8-9-78.)

197.02 LEVY OF TAX; RATE.

(a) For the purpose of providing revenue for the use of the general fund of the City, an excise tax is hereby levied on each sale made in this City. The tax hereby levied is three percent (3%) of the price involved in each sale.

(b) Beginning January 1, 1990 an excise tax in addition to the tax described in subsection (a) of this section is hereby levied on each sale made in this City at the rate of three percent (3%) of the price involved in each sale. Such additional tax is levied pursuant to Ohio R.C. 5739.024(B). Fifty percent (50%) of the revenue from the tax imposed by this subsection (b) shall be deposited to the 268 Hotel/Motel Excise Tax Fund.
(Ord. 89-677. Passed 12-19-89.)

197.03 CONSUMER TO PAY TAX; COLLECTION AND REPORTING OF TAX BY VENDOR.

The tax imposed by Section 197.02 shall be paid by the consumer to the vendor, and each vendor shall collect from the consumer, as a trustee for the City, the full and exact amount of the tax payable on each sale, in the manner and at the times provided as follows:

- (a) If the price is, at or prior to the sale, paid in currency passed from hand to hand by the consumer or his agent to the vendor or his agent, the vendor or his agent shall collect the tax with and at the same time as the price.
- (b) If the price is otherwise paid or to be paid, the vendor or his agent shall, at or prior to the sale, charge the tax imposed by Section 197.02 to the account of the consumer, which amount shall be collected by the vendor from the consumer in addition to the price. Such sale shall be reported on and the amount of the tax applicable thereto shall be remitted with the return for the period in which the sale is made, and the amount of the tax shall become a legal charge in favor of the vendor and against the consumer.

(Ord. 78-299. Passed 8-9-78.)

197.04 RECORDS.

(a) Each vendor shall keep complete and accurate records of sales, together with a record of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and other pertinent documents. Such records and other documents shall be preserved for a period of four years, unless the Director of Finance, in writing, consents to their destruction within that period, or by order requires that they be kept longer.

(b) The Director of Finance, or any employee authorized by the Director of Finance, is hereby authorized to examine the books, papers, records and federal tax returns of any vendor or other person for the purpose of verifying the accuracy of any return made or, if no return was made, to ascertain the tax due under this chapter. Every such vendor, supposed vendor, or other person is hereby directed and required to furnish upon written order by the Director of Finance, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

(c) The Director of Finance is hereby authorized to order any person reasonably believed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any sale which was or should have been returned for taxation or any transaction tending to affect such sale, and for this purpose may compel the production of books, papers, records and federal tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he reasonably believes such persons have knowledge of such income or information pertinent to such inquiry.

(Ord. 86-518. Passed 8-19-86.)

197.05 MONTHLY RETURN BY VENDOR; PAYMENTS.

Each vendor shall, on or before the last day of March, 1990, and on or before the tenth day of each month thereafter, make and file a return for the preceding month, on forms prescribed by the Director of Finance, showing the receipts from sales; the amount of tax due from the vendor to the City for the period covered by the return; the amount of tax required to be collected by the vendor from the consumer by application of the rate specified in Section 197.02 and such other information as the Director deems necessary for the proper administration of this chapter. The Director may extend the time for making and filing returns and may remit all or any part of amounts or penalties which may become due under this chapter, and may adopt rules and regulations relating thereto. Such return shall be filed by mailing the same to the City Treasurer, together with payment of the amount of tax shown to be due thereon.

(Ord. 90-162. Passed 3-20-90.)

197.06 LATE PENALTY.

If all or any portion of the tax levied by Section 197.02 is not paid by the time required under Section 197.05, there shall be added to the amount of any such unpaid tax a penalty of ten percent (10%) thereof.

(Ord. 78-299, Passed 8-9-78; Ord. 16-130, Passed 5-24-16.)

197.07 SALE OF ENTIRE BUSINESS; SUCCESSOR LIABILITIES.

If any person liable for the tax levied by Section 197.02 sells his business or stock of merchandise or quits his business, the tax and penalty imposed by or pursuant to this chapter on sales made prior to that time shall become due and payable immediately, and such person shall make a final return within fifteen days after the date of selling or quitting business. His successor shall withhold a sufficient amount of the purchase money to cover the amount of such tax and penalties due and unpaid until the former owner produces a receipt from the City Treasurer showing that the taxes and penalties have been paid, or a certificate indicating that no taxes are due. If the purchaser of the business or stock of goods fails to withhold purchase money, he shall be personally liable for the payment of the taxes and penalties accrued and unpaid during the operation of the business by the former owner.

(Ord. 78-299. Passed 8-9-78.)

197.08 TAX PAID BY CONSUMER.

No consumer shall fail or refuse to pay the full and exact tax as required by this chapter, or refuse to comply with any section thereof.

(Ord. 78-299. Passed 8-9-78.)

197.09 VENDOR TO COLLECT TAX; REBATE PROHIBITED.

No vendor shall fail to collect the full and exact tax as required by this chapter, or refund, remit or rebate, to a consumer, either directly or indirectly and, by whatsoever means, any of the tax levied by Section 197.02, or make in any form of advertising, verbal or otherwise, any statements which might imply that he is absorbing the tax, or paying the tax for the consumer by an adjustment of prices, or selling at a price including the tax, or rebating the tax in any other manner.

(Ord. 78-299. Passed 8-9-78.)

197.10 FILING REPORTS AND RETURNS.

No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility

of filing returns, shall fail to file any return or report required to be filed by Section 197.05, or file or cause to be filed any incomplete, false or fraudulent return, report or statement or aid or abet another in the filing of any false or fraudulent return, report or statement.
(Ord. 78-299. Passed 8-9-78.)

197.11 268 HOTEL/MOTEL EXCISE TAX FUND.

Fifty percent (50%) of all funds received from the tax levied in Section 197.02(b) shall be deposited with the City Treasurer upon receipt by the City and shall be accounted for and known as the 268 Hotel/Motel Excise Tax Fund and, when appropriated by the City Commission, shall be spent solely to make contributions to convention and visitors bureaus operating within Clark County, Ohio.
(Ord. 89-677. Passed 12-19-89.)

197.99 PENALTY.

(a) Whoever fails to comply with an order issued pursuant to Section 197.04 is guilty of a misdemeanor of the first degree. Each day's continued violation is a separate offense.
(Ord. 86-518. Passed 8-19-86.)

(b) Whoever violates Section 197.09 or Section 197.10 is guilty of a misdemeanor of the second degree.

(c) Whoever violates or fails to comply with any section other than Sections 197.04, 197.09 or 197.10 is guilty of a misdemeanor of the fourth degree.
(Ord. 78-299. Passed 8-9-78.)

CHAPTER 199

Motor Vehicle License Tax

199.01 Levy.

199.02 Duration.

199.03 Payment.

199.04 Reductions and exemptions.

199.05 Disposition of proceeds.

199.06 Additional levies.

199.07 Duration of additional tax.

199.08 Payment of additional tax.

199.09 Reductions and exemptions for additional tax.

199.10 Disposition of proceeds from additional tax.

CROSS REFERENCES

Power to levy - see Ohio R. C. 4504.06, 4504.172

199.01 LEVY.

(a) There is hereby levied an annual license tax upon the operation of motor vehicles on the public roads or highways for the purpose of paying the costs and expenses of enforcing and administering the tax provided for in this section; and for planning, constructing, improving, maintaining and repairing public roads, highways and streets; maintaining and repairing bridges and viaducts; paying the City's portion of the costs and expenses of cooperating with the department of highways in the planning, improvement and construction of state highways; paying the City's portion of the compensation, damages, cost and expenses of planning, constructing, reconstructing, improving, maintaining and repairing roads and streets; paying any costs apportioned to the City under Ohio R. C. 4907.47; paying debt service charges on notes or bonds of the City issued for such purposes; purchasing, erecting and maintaining street and traffic signs and markets; purchasing, erecting and maintaining traffic lights and signals; and to supplement revenue already available for such purposes.

(b) Such tax shall be at the rate of five dollars (\$5.00) per motor vehicle on each and every motor vehicle the district of registration of which, as defined in Ohio R.C. 4503.10 is in the City.

(c) As used in this chapter the term "motor vehicle" means any and all vehicles included within the definition of motor vehicle in Ohio R. C. 4501.01 and 4505.01.
(Ord. 73-39. Passed 2-27-73.)

199.02 DURATION.

The tax imposed by Section 199.01 shall apply to and be in effect for the registration year commencing April 16, 1974, and shall continue in effect and application during each registration year thereafter.
(Ord. 73-39. Passed 2-27-73.)

199.03 PAYMENT.

The tax imposed by Section 199.01 shall be paid to the Registrar of Motor Vehicles of the State of Ohio or to a Deputy Registrar at the time application for registration of a motor vehicle is made as provided in Ohio R. C. 4503.10.
(Ord. 73-39. Passed 2-27-73.)

199.04 REDUCTIONS AND EXEMPTIONS.

The tax imposed by Section 199.01 shall be subject to reductions in the manner provided in Section 4503.11 of the Ohio Revised Code and the exemptions provided in Section 4503.16, 4503.17, 4503.171, 4503.173, 4503.41, 4503.43, and 4503.46 of the Ohio Revised Code.
(Ord. 94-162. Passed 5-3-94.)

199.05 DISPOSITION OF PROCEEDS.

All moneys derived from the tax hereinbefore levied shall be used by the City only for the purposes described in Section 199.01.
(Ord. 73-39. Passed 2-27-73.)

199.06 ADDITIONAL LEVIES.

(a) There are hereby levied two annual license taxes, pursuant to Sections 4504.172 and 4504.173 of the Ohio Revised Code and in addition to that levied in Section 199.01, upon the operation of motor vehicles on the public roads or highways for the purpose of paying the cost and expenses of enforcing and administering the tax provided for in this section; and to supplement revenue already available to the City under this chapter and Sections 4504.04, 4504.06, 4504.17, or 4504.171 of the Ohio Revised Code.

(b) Such additional taxes shall be at the rate of two separate Five Dollars (\$5.00) taxes per motor vehicle on each and every motor vehicle in the district the registration of which, as defined in Section 4503.10 of the Ohio Revised Code, is in the City.

(c) As used in this chapter, the term "motor vehicle" means any and all vehicles included within the definition of motor vehicle in Section 4501.01 and 4505.01 of the Ohio Revised Code.

(Ord. 19-134. Passed 5-21-19.)

199.07 DURATION OF ADDITIONAL TAX.

(a) The additional Five Dollars (\$5.00) tax imposed by Section 199.06, pursuant to Section 4504.172 of the Ohio Revised Code, shall apply to be in effect for the registration year commencing January 1, 1995, and shall continue in effect and application during each registration year thereafter.

(b) The additional Five Dollars (\$5.00) tax also imposed by Section 199.06, pursuant to Section 4504.173 of the Ohio Revised Code, shall be effective July 3, 2019, commencing with registration year January 1, 2020, and shall continue in effect and application during each registration year thereafter.

(Ord. 94-162. Passed 5-3-94; Ord. 19-134. Passed 5-21-19; Ord. 19-180. Passed 7-2-19.)

199.08 PAYMENT OF ADDITIONAL TAX.

The tax imposed by Section 199.06 shall be paid to the Registrar of Motor Vehicles of the State of Ohio or to a Deputy Registrar at the time application for registration of a motor vehicle is made as provided in Section 4503.10 of the Ohio Revised Code.

(Ord. 94-162. Passed 5-3-94.)

199.09 REDUCTIONS AND EXEMPTIONS FOR ADDITIONAL TAX.

The tax imposed by Section 199.06 shall be subject to reductions in the manner provided in Section 4503.11 of the Ohio Revised Code and the exemptions provided in Sections 4503.16, 4503.17, 4503.171, 4503.14, and 4503.43 of the Ohio Revised Code.

(Ord. 94-162. Passed 5-3-94.)

199.10 DISPOSITION OF PROCEEDS FROM ADDITIONAL TAX.

All monies derived from the tax hereinbefore levied under Section 199.06 shall be used by the City only for the purposes described in Section 199.06.

(Ord. 94-162. Passed 5-3-94.)

CODIFIED ORDINANCES OF SPRINGFIELD

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

- Chap. 301. Definitions.
- Chap. 303. Enforcement, Application and Penalty.
- Chap. 305. Traffic Control.
- Chap. 307. Impounding Vehicles.

TITLE THREE - Streets and Traffic Control Devices

- Chap. 311. Street Obstructions and Special Uses.
- Chap. 313. Traffic Control Devices.

TITLE FIVE - Vehicles

- Chap. 331. Operation Generally.
- Chap. 333. OVI; Willful Misconduct; Speed.
- Chap. 335. Licensing; Accidents.
- Chap. 337. Safety and Equipment.
- Chap. 339. Commercial and Heavy Vehicles.
- Chap. 341. Commercial Drivers.

TITLE SEVEN - Parking

- Chap. 351. Parking Generally.
- Chap. 353. Parking Meters.
- Chap. 355. Taxicab Stands.
- Chap. 357. Junk Vehicles.

TITLE NINE - Pedestrians, Bicycles and Motorcycles

Chap. 371. Pedestrians.

Chap. 373. Bicycles, Motorcycles and Skateboards.

Chap. 375. Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles.

Chap. 377. Electric Scooters (E-Scooters).

CODIFIED ORDINANCES OF SPRINGFIELD PART THREE - TRAFFIC CODE TITLE ONE - Administration

Chap. 301. Definitions.

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CHAPTER 301

Definitions

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CROSS REFERENCES

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301.01 MEANING OF WORDS AND PHRASES.

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

301.02 AGRICULTURAL TRACTOR.

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

301.03 ALLEY.

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

301.031 BEACON; HYBRID BEACON.

- (a) "Beacon" means a highway traffic signal with one or more signal sections that operate in a flashing mode.
 (ORC 4511.01(KKK))
- (b) "Hybrid beacon" means a type of beacon that is intentionally placed in a dark mode between periods of operation where no indications are displayed and, when in operation, displays both steady and flashing traffic control signal indications.
 (ORC 4511.01(LL))

301.04 BICYCLE; MOTORIZED BICYCLE; MOPED; ELECTRIC BICYCLE.

- (a) "Bicycle" means every device, other than a device that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which a person may ride, and that has two or more wheels, any of which is more than fourteen inches in diameter.
 (ORC 4511.01(G))
- (b) "Motorized bicycle" or "moped" means any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that may be pedaled, and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces not more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.
 "Motorized bicycle" or "moped" does not include an electric bicycle. (ORC 4511.01(H))
- (c) "Electric bicycle" means a "class 1 electric bicycle", a "class 2 electric bicycle", or a "class 3 electric bicycle" as defined in this section. (ORC 4511.01(RRR))
 - (1) "Class 1 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty miles per hour. (ORC 4511.01(SSS))
 - (2) "Class 2 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that may provide assistance regardless of whether the rider is pedaling and is not capable of providing assistance when the bicycle reaches the speed of twenty miles per hour. (ORC 4511.01(TTT))
 - (3) "Class 3 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty-eight miles per hour. (ORC 4511.01(UUU))

301.05 BUS.

"Bus" means every motor vehicle designed for carrying more than nine passengers and used for the transportation of persons other than in a ridesharing arrangement as defined in Ohio R.C. 4511.01, and every motor vehicle, automobile for hire or funeral car, other than a taxicab or motor vehicle used in a ridesharing arrangement, designed and used for the transportation of persons for compensation.
 (ORC 4511.01(L))

301.06 BUSINESS DISTRICT.

"Business district" means the territory fronting upon a street or highway, including the street or highway, between successive intersections where fifty percent or more of the frontage between such successive intersections is occupied by buildings in use for business, or where fifty percent or more of the frontage for a distance of 300 feet or more is occupied by buildings in use for business, and the character of such territory is indicated by official traffic control devices.
 (ORC 4511.01(NN))

301.07 COMMERCIAL TRACTOR.

"Commercial tractor" means every motor vehicle having motive power designed or used for drawing other vehicles and not so constructed as to carry any load thereon, or designed or used for drawing other vehicles while carrying a portion of such other vehicles, or the load thereon, or both.
 (ORC 4511.01(I))

301.08 CONTROLLED-ACCESS HIGHWAY.

"Controlled-access highway" means every street or highway in respect to which owners or occupants of abutting lands and other persons have no legal right or access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such street or highway. (ORC 4511.01(CC))

301.09 CROSSWALK.

"Crosswalk" means:

- (a) That part of a roadway at intersections ordinarily included within the real or projected prolongation of property lines and curb lines or, in the absence of curbs, the edges of the traversable roadway;

- (b) Any portion of a roadway at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface;
- (c) Notwithstanding subsections (a) and (b) hereof, there shall not be a crosswalk where authorized signs have been placed indicating no crossing. (ORC 4511.01(LL))

301.10 DRIVER OR OPERATOR.

"Driver" or "operator" means every person who drives or is in actual physical control of a vehicle. (ORC 4511.01(Y))

301.11 EMERGENCY VEHICLE.

"Emergency vehicle" means emergency vehicles of municipal, township or county departments or public utility corporations when identified as such as required by law, the Ohio Director of Public Safety or local authorities, and motor vehicles when commandeered by a police officer. (ORC 4511.01(D))

301.12 EXPLOSIVES.

"Explosives" means any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion that contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by a detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb.

Manufactured articles shall not be held to be explosives when the individual units contain explosives in such limited quantities, of such nature or in such packing, that it is impossible to procure a simultaneous or a destructive explosion of such units, to the injury of life, limb or property by fire, by friction, by concussion, by percussion or by a detonator, such as fixed ammunition for small arms, firecrackers or safety fuse matches. (ORC 4511.01(T))

301.13 EXPRESSWAY.

"Expressway" means a divided arterial highway for through traffic with full or partial control of access with an excess of fifty percent of all crossroads separated in grade. (ORC 4511.01(ZZ))

301.14 FLAMMABLE LIQUID.

"Flammable liquid" means any liquid that has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed cup test device. (ORC 4511.01(U))

301.15 FREEWAY.

"Freeway" means a divided multi-lane highway for through traffic with all crossroads separated in grade and with full control of access. (ORC 4511.01(YY))

301.16 GROSS WEIGHT.

"Gross weight" means the weight of a vehicle plus the weight of any load thereon. (ORC 4511.01(V))

301.161 HIGHWAY MAINTENANCE VEHICLE.

"Highway maintenance vehicle" means a vehicle used in snow and ice removal or road surface maintenance, including a snow plow, traffic line striper, road sweeper, mowing machine, asphalt distributing vehicle, or other such vehicle designed for use in specific highway maintenance activities. (ORC 4511.01(QQQ))
(Ord. 14-288. Passed 11-12-14.)

301.162 HIGHWAY TRAFFIC SIGNAL.

"Highway traffic signal" means a power-operated traffic control device by which traffic is warned or directed to take some specific action. "Highway traffic signal" does not include a power-operated sign, steadily illuminated pavement markers, warning light, or steady burning electric lamp. (ORC 4511.01(MMM))
(Ord. 14-288. Passed 11-12-14.)

301.17 INTERSECTION.

"Intersection" means:

- (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways that join at any other angle might come into conflict. The junction of an alley or driveway with a roadway or highway does not constitute an intersection unless the roadway or highway at the junction is controlled by a traffic control device.
- (b) If a highway includes two roadways that are thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway constitutes a separate intersection. If both intersecting highways include two roadways thirty feet or more apart, then every crossing of any two roadways of such highways constitutes a separate intersection.
- (c) At a location controlled by a traffic control signal, regardless of the distance between the separate intersections as described in subsection (b) of this section:
 - (1) If a stop line, yield line, or crosswalk has not been designated on the roadway within the median between the separate intersections, the two intersections and the roadway and median constitute one intersection.
 - (2) Where a stop line, yield line, or crosswalk line is designated on the roadway on the intersection approach, the area within the crosswalk and any area beyond the designated stop line or yield line constitute part of the intersection.
 - (3) Where a crosswalk is designated on a roadway on the departure from the intersection, the intersection includes the area that extends to the far side of the crosswalk. (ORC 4511.01(KK))

301.18 LANED STREET OR HIGHWAY.

"Laned street or highway" means a street or highway the roadway of which is divided into two or more clearly marked lanes for vehicular traffic. (ORC 4511.01(GG))

301.183 LOW-SPEED MICROMOBILITY DEVICE.

"Low-speed micromobility device" means a device weighing less than 100 pounds that has handlebars, is propelled by an electric motor or human power, and has an attainable speed on a paved level surface of not more than twenty miles per hour when propelled by the electric motor. (ORC 4511.01(WWW); Ord. 22-244. Passed 8-2-22.)

301.185 MEDIAN.

"Median" means the area between two roadways of a divided highway, measured from edge of traveled way to edge of traveled way, but excluding turn lanes. The width of a median may be different between intersections, between interchanges, and at opposite approaches of the same intersection. (ORC 4511.01(NNN))

301.19 MOTORCYCLE.

"Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter," "autocycle," "cab-enclosed motorcycle" or "motorcycle" without regard to weight or brake horsepower. (ORC 4511.01(C)) "Autocycle" and "cab-enclosed motorcycle" are defined in 335.09(b) and (c) of the Springfield Codified Ordinance. (Ord. 17-289. Passed 12-5-17.)

301.20 MOTOR VEHICLE.

"Motor vehicle" means every vehicle propelled or drawn by power other than muscular power, except motorized bicycles, electric bicycles, road rollers, traction engines, power shovels, power cranes and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less. (ORC 4511.01(B))

301.201 OPERATE.

"Operate" means to cause or have caused movement of a vehicle. (ORC 4511.01(HHH))

301.21 PARK OR PARKING.

"Park or parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

301.22 PEDESTRIAN.

"Pedestrian" means any natural person afoot. The term includes a personal delivery device as defined in Ohio R.C. 4511.513 unless the context clearly suggests otherwise.

(ORC 4511.01(X); Ord. 22-244. Passed 8-2-22.)

301.23 PERSON.

"Person" means every natural person, firm, copartnership, association or corporation. (ORC 4511.01(W))

301.24 POLE TRAILER.

"Pole trailer" means every trailer or semitrailer attached to the towing vehicle by means of a reach, pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connection.

(ORC 4511.01(O))

301.25 POLICE OFFICER.

"Police officer" means every officer authorized to direct or regulate traffic, or to make arrests for violations of traffic regulations. (ORC 4511.01(Z))

301.251 PREDICATE MOTOR VEHICLE OR TRAFFIC OFFENSE.

"Predicate motor vehicle or traffic offense" means any of the following:

- (a) A violation of Ohio R.C. 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.511, 4511.522, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.66, 4511.661, 4511.68, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.763, 4511.771, 4511.78 or 4511.84;
- (b) A violation of division (A)(2) of Ohio R.C. 4511.17, divisions (A) to (D) of Ohio R.C. 4511.51, or division (A) of Ohio R.C. 4511.74;
- (c) A violation of any provision of Ohio R.C. 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;
- (d) A violation of Ohio R.C. 4511.214.
- (e) A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in subsection (a) to (d) of this section.

(ORC 4511.01(III))

301.26 PRIVATE ROAD OR DRIVEWAY.

(a) "Private road or driveway" means every way or place in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons. (ORC 4511.01(DD))

(b) "Private road open to public travel" means a private toll road or road, including any adjacent sidewalks that generally run parallel to the road, within a shopping center, airport, sports arena, or other similar business or recreation facility that is private owned but where the public is allowed to travel without access restrictions. "Private road open to public travel" includes a gated toll road but does not include a road within a private gated property where access is restricted at all times, a parking area, a driving aisle within a parking area, or a private grade crossing. (ORC 4511.01(OOO))

301.27 PUBLIC SAFETY VEHICLE.

"Public safety vehicle" means any of the following:

- (a) Ambulances, including private ambulance companies under contract to a municipal corporation, township or county and private ambulances and transport vehicles bearing license plates issued under Ohio R.C. 4503.49;
- (b) Motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the State or the Municipality;
- (c) Any motor vehicle when properly identified as required by the Ohio Director of Public Safety, when used in response to fire emergency calls or to provide emergency medical service to ill or injured persons, and when operated by a duly qualified person who is a member of a volunteer rescue service or a volunteer fire department, and who is on duty pursuant to the rules or directives of that service. The Ohio Fire Marshal shall be designated by the Ohio Director of Public Safety as the certifying agency for all public safety vehicles described in this subsection (c);
- (d) Vehicles used by fire departments, including motor vehicles when used by volunteer fire fighters responding to emergency calls in the fire department service when identified as required by the Ohio Director of Public Safety.
Any vehicle used to transport or provide emergency medical service to an ill or injured person, when certified as a public safety vehicle, shall be considered a public safety vehicle when transporting an ill or injured person to a hospital regardless of whether such vehicle has already passed a hospital.

(ORC 4511.01(E))

- (e) Vehicles used by the Commercial Motor Vehicle Safety Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission as specified in Ohio R.C. 5503.34.

301.28 RAILROAD.

"Railroad" means a carrier of persons or property operating upon rails placed principally on a private right of way. (ORC 4511.01(P))

301.29 RAILROAD SIGN OR SIGNAL.

"Railroad sign or signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train. (ORC 4511.01(SS))

301.30 RAILROAD TRAIN.

"Railroad train" means a steam engine, or an electric or other motor, with or without cars coupled thereto, operated by a railroad. (ORC 4511.01(Q))

301.31 RESIDENCE DISTRICT.

"Residence district" means the territory, not comprising a business district, fronting on a street or highway, including the street or highway, where,

for a distance of 300 feet or more, the frontage is improved with residences or residences and buildings in use for business. (ORC 4511.01(OO))

301.32 RIGHT OF WAY.

"Right of way" means either of the following, as the context requires:

- (a) The right of a vehicle or pedestrian to proceed uninterruptedly in a lawful manner in the direction in which it or the individual is moving in preference to another vehicle or pedestrian approaching from a different direction into its or the individual's path;
- (b) A general term denoting land, property or the interest therein, usually in the configuration of a strip, acquired for or devoted to transportation purposes. When used in this context, right of way includes the roadway, shoulders or berm, ditch, and slopes extending to the right-of-way limits under the control of the State or local authority. (ORC 4511.01(UU))

301.321 ROAD SERVICE VEHICLE.

"Road service vehicle" means wreckers, utility repair vehicles, and state, county, and municipal service vehicles equipped with visual signals by means of flashing, rotating, or oscillating lights. (ORC 4511.01(JJJ))

301.33 ROADWAY.

"Roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel, except the berm or shoulder. If a street or highway includes two or more separate roadways, the term "roadway" means any such roadway separately but not all such roadways collectively. (ORC 4511.01(EE))

301.34 SAFETY ZONE.

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and protected or marked or indicated by adequate signs as to be plainly visible at all times. (ORC 4511.01(MM))

301.35 SCHOOL BUS.

"School bus" means every bus designed for carrying more than nine passengers that is owned by a public, private or governmental agency or institution of learning and operated for the transportation of children to or from a school session or a school function, or owned by a private person and operated for compensation for the transportation of children to or from a school session or a school function; provided "school bus" does not include a bus operated by a municipally owned transportation system, a mass transit company operating exclusively within the territorial limits of the Municipality, or within such limits and the territorial limits of municipalities immediately contiguous to the Municipality, nor a common passenger carrier certified by the Public Utilities Commission unless such bus is devoted exclusively to the transportation of children to and from a school session or a school function, and "school bus" does not include a van or bus used by a licensed child care center or type A family child care home to transport children from the child care center or type A family child care home to a school if the van or bus does not have more than fifteen children in the van or bus at any time. "Child care center" and "type A family child care home" have the same meanings as in Ohio R.C. 5104.01. (ORC 4511.01(F), (FFF))

301.36 SEMITRAILER.

"Semitrailer" means every vehicle designed or used for carrying persons or property with another and separate motor vehicle so that in operation a part of its own weight or that of its load, or both, rests upon and is carried by another vehicle. (ORC 4511.01(N))

301.361 SHARED-USE PATH.

"Shared-use path" means a bikeway outside the traveled way and physically separate from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent alignment. A shared-use path also may be used by pedestrians, including skaters, joggers, users of manual and motorized wheelchairs, and other authorized motorized and non-motorized users. A shared-use path does not include any trail that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use. (ORC 4511.01(PPP))

301.37 SIDEWALK.

"Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians. (ORC 4511.01(FF))

301.38 STATE ROUTE.

"State route" means every highway that is designated with an official State route number and so marked. (ORC 4511.01(JJ))

301.39 STOP (WHEN REQUIRED).

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

301.40 STOPPING OR STANDING.

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

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

301.41 STOP INTERSECTION.

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

301.42 STREET OR HIGHWAY; ARTERIAL STREET.

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

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

301.43 THROUGH STREET OR HIGHWAY.

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

301.44 THRUWAY.

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

301.45 TRAFFIC.

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

301.46 TRAFFIC CONTROL DEVICE.

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

301.47 TRAFFIC CONTROL SIGNAL.

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

301.48 TRAILER.

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

301.49 TRUCK.

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

301.50 URBAN DISTRICT.

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

301.51 VEHICLE.

"Vehicle" means every device, including a motorized bicycle and an electric bicycle, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that "vehicle" does not include any motorized wheelchair, any electric personal assistive mobility device, any low-speed micromobility device, or any device, other than a bicycle, that is moved by human power.
(ORC 4511.01(A); Ord. 22-244. Passed 8-2-22.)

301.52 WHEELCHAIR, MOTORIZED.

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

301.53 WASTE COLLECTION VEHICLE.

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

CHAPTER 303

Enforcement, Impounding and Penalty

- 303.01 Compliance with lawful order of police officer; fleeing.**
- 303.02 Traffic direction in emergencies; obedience to school guard.**
- 303.03 Officer may remove ignition key.**
- 303.04 Road workers, motor vehicles and equipment excepted.**
- 303.041 Emergency, public safety and coroner's vehicles exempt.**
- 303.05 Application to persons riding, driving animals upon roadway.**
- 303.06 Freeway use prohibited by pedestrians, bicycles and animals.**
- 303.07 Application to drivers of government vehicles.**
- 303.08 Providing false information to police officer.**
- 303.09 Civil penalties for automated traffic control photographic system.**
- 303.99 General Traffic Code penalties.**
- 303.991 Committing an offense while distracted penalty.**

CROSS REFERENCES

See sectional histories for similar State law
Disposition of unclaimed vehicles - see Ohio R.C. 737.32, 4513.62 et seq.
Citations for minor misdemeanors - see Ohio R.C. 2935.26 et seq.
Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. 4507.16, 4507.34
State point system suspension - see Ohio R.C. 4507.40
Uniform application of Ohio Traffic Law - see Ohio R.C. 4511.06
Marking motor vehicles used by traffic officers - see Ohio R.C. 4549.13
Distinctive uniform required for traffic officers - see Ohio R.C. 4549.15
Exceptions for emergency or public safety vehicles - see TRAF. 331.20, 333.06

303.01 COMPLIANCE WITH LAWFUL ORDER OF POLICE OFFICER; FLEEING.

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

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

(EDITOR'S NOTE: Refer to Ohio R.C. 2921.331 for filing charges under subsection (b) of this section as a violation of subsection (b) is a felony.)

(c) (1) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer.

(2) A violation of subsection (a) of this section is a misdemeanor of the first degree.

(3) A violation of subsection (b) of this section is a felony and shall be prosecuted under appropriate state law.

303.02 TRAFFIC DIRECTION IN EMERGENCIES; OBEDIENCE TO SCHOOL GUARD.

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

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

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

misdemeanor of the third degree.

303.03 OFFICER MAY REMOVE IGNITION KEY.

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

303.04 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.

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

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

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

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

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

(Ord. 17-289, Passed 12-5-17.)

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

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

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

303.05 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.

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

303.06 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.

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

(1) As a pedestrian, occupy any space within the limits of the right-of-way of a freeway, except: in a rest area; on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for pedestrian use; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle; or to obtain assistance;

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

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

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

303.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.

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

303.08 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)

303.09 CIVIL PENALTIES FOR AUTOMATED TRAFFIC CONTROL PHOTOGRAPHIC SYSTEM.

(a) Applicability.

(1) Notwithstanding any other provision of this traffic code, there is hereby adopted a civil enforcement system for red light camera system violations as outlined in this section. The automated traffic control photographic system (ATCPS) imposes monetary liability on the owner of a vehicle, for failure of an operator thereof to comply with traffic control indications in accordance with the provisions of this section.

(2) The Police Division shall be responsible for administering the ATCPS. Specifically, that division shall be authorized to install and operate an automated traffic control signal photographic system within the City.

(3) This section applies whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination. Only the colors green, red and yellow (amber) shall be used, except for special pedestrian signals, and said lights shall indicate and apply to drivers of vehicles as follows:

A. "Green indication" means the same as defined in Section 313.03(a).

B. "Steady yellow indication" means the same as defined in Section 313.03(b).

C. "Steady red indication" means the same as defined in Section 313.03(c).

(4) Intersections in which an ATCPS is installed shall have visible postings upon approach of the intersection indicating that the intersection is

- equipped with an automated traffic control signal monitoring system.
- (5) The Police Division shall administer the ATCPS program and shall maintain a list of system locations within the city limits where traffic-control photographic systems are installed.
- (6) Whenever a Springfield Police Officer witnesses a violation of Section 313.03(c) or Ohio Revised Code Section 4511.13, and has issued a citation pursuant to those sections, this Ordinance does not apply. However, the recorded image may be used as evidence for a violation of Section 313.03(c) or Ohio Revised Code Section 4511.13. Any citation for a violation of Section 313.03(c) or Ohio Revised Code Section 4511.13 issued personally by an officer of the City of Springfield Police Division at an ATCPS location shall not be issued in the manner described under this section. The citation shall be treated in the same manner as prescribed by applicable Traffic or other Rules.
- (7) This section shall not apply to violations involving vehicle or pedestrian collisions.
- (b) Definitions. For purposes of this section, the following words and phrases shall have the meanings indicated.
- (1) "Owner" means the registered owner of a motor vehicle as identified by the Bureau of Motor Vehicles for the state registered or a lessee of a motor vehicle under a lease of 6 months or more.
- (2) "Recorded Images" means images recorded by an automated traffic control signal photographic system on any of the following:
- Two or more photographs; or
 - Two or more microphotographs; or
 - Two or more electronic images; or
 - Two or more Digital images; or
 - Videotape; or
 - Any other medium; and
 - Showing the front or rear of a motor vehicle and on at least one image or portion of tape, clearly identifying the license plate number of the motor vehicle.
- (3) "Automated Traffic Control Signal Photographic System" means a device with one or more motor vehicle sensors, installed to work in conjunction with a traffic control signal, to produce recorded images of motor vehicles entering an intersection against a red signal indication.
- (4) "In Operation" means operating in good working condition.
- (5) "Hearing Officer" means an independent third party, not employed by the City of Springfield.
- (6) "System Location" is the approach to an intersection toward which a photographic, microphotographic, electronic image, digital image, videotape, or any other medium is directed and is in operation. It is the location where the automated traffic control photographic system is installed to monitor offenses under this section.
- (7) "Responsible Party" is the person who was operating the vehicle at the time of the violation or the person who had care, custody, and control of the vehicle at the time of the violation.
- (c) Violation.
- (1) It shall be unlawful for a vehicle to cross the stop line at a system location when the traffic controls signal for that vehicle's direction of travel is emitting a steady red light. The owner of the vehicle shall be responsible for a violation under this section, except when the owner can provide evidence that the vehicle was in the care, custody, and control of another person at the time of the violation, as described in subsection (c)(2).
- (2) The owner of the vehicle shall not be responsible for the violation if, within fifteen (15) calendar days after notification of the liability, the owner furnishes the Police Division with:
- The name and address of the person who leased, rented, or otherwise had the care, custody, and control of the vehicle at the time of the violation; or
 - An affidavit by the owner stating that at the time of the violation, the vehicle or the license plates of the vehicle involved were stolen or were in the care, custody, or control of some person who did not have the owner's permission to use the vehicle. In order to demonstrate that the vehicle or the license plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a police report about the stolen motor vehicle or license plates was filed prior to the violation or within 48 hours after the violation occurred.
- (3) A certified copy of the notice of liability alleging the violation of this Section occurred, sworn to or affirmed by a duly authorized Police Officer of the City of Springfield, with the recorded images produced by an automated traffic control signal photographic system shall be prima facie evidence of the facts contained therein and shall be admissible in a proceeding alleging a violation under this section.
- (4) If the vehicle involved in the violation is a commercial vehicle and the notice of liability is issued to a corporate entity, the corporate entity must provide to the Police Division an affidavit, sworn to or affirmed by the statutory agent of the corporate entity, that:
- States that the person/entity named in the notice of liability was not in operation of the vehicle at the time of the violation; and
 - Provides the name, address, and driver's license identification number of the person who was in operation of the vehicle at the time of the violation.
- (d) Notice of Liability.
- (1) The notice of liability shall be processed by the City or its designee, and shall be served by ordinary mail to the owner's address as given on the motor vehicle registration from the Bureau of Motor Vehicles of the state registered. The notice of liability shall include:
- The name and address of the registered owner of the vehicle;
 - The license plate number of the motor vehicle involved in the violation;
 - The violation charged;
 - The location of the intersection;
 - The date and time of the violation;
 - A copy of the recorded image(s);
 - The amount of the civil penalty imposed and the date by which the civil penalty should be paid and where the payment should be made;
 - A signed statement by a Springfield Police Officer that based on inspection of recorded images, the motor vehicle was being operated in violation of subsection (c)(1) of this section, and a statement that the recorded images are prima facie evidence of a violation of subsection (c)(1) of this section;
 - Information advising the person alleged to be liable of the options as provided in subsection (e)(1) of this section;
 - The time, place, and manner in which an administrative appeal can be initiated and a warning that failure to exercise the options provided under subsection (e)(1) of this section in a timely manner is an admission of liability.
- (2) The City of Springfield or its designee may mail, by ordinary mail, a warning notice in lieu of notice of liability under this section.
- (3) Except as provided in subsection (e)(3)B., a notice of liability issued under this section shall be mailed no later than fifteen (15) calendar days after the alleged violation.
- (4) Except as provided under subsections (e)(3)A. of this section, the Police Division or its designee may not mail a notice of liability to a person who is not the owner of the vehicle.
- (e) Administrative Appeal.
- (1) An owner or responsible party who receives a "notice of liability", under this section may do one of the following:
- Pay the civil penalty, in accordance with instructions on the notice of liability; or
 - Within fifteen (15) calendar days provide the Police Division or its designee information as to the driver of the vehicle, at the time of the violation; or
 - Contest the notice of liability by filing a written request for review of the notice of liability with payment in the amount equal to the amount of the civil penalty to the Police Division or its designee. An individual desiring a hearing must post payment equal to the amount of the civil penalty before an appeal hearing will be scheduled. A written notice of request for review must be filed within fifteen (15) days after receipt of the notification of liability. The failure to give notice of request for review within this time period shall constitute a waiver of the right to contest the notice of liability. A Hearing Officer shall hear reviews. A hearing shall be held within ten (10) business days of the receipt of the request

for review; this time may be extended upon a written request for additional time.

1. The Hearing Officer shall determine whether a preponderance of evidence establishes that a violation of this section occurred and the person requesting the review is liable. A certified copy of the notice of liability alleging the violation of this Section occurred, sworn to or affirmed by a duly authorized Police Officer of the City of Springfield, with the recorded images produced by a traffic control photographic system shall be prima facie evidence of the facts contained therein and shall be admissible in a proceeding alleging a violation under this section. Adjudication of liability shall be based on a preponderance of the evidence.
2. If the Hearing Officer finds sufficient evidence of a violation, but the owner or the responsible party is not liable, the Hearing Officer shall, in writing, issue a decision finding the individual not liable and submit it to the Police Division or its designee.
- (2) If the owner or responsible party chooses to contest the notice of liability, the Hearing Officer may consider any of the following as an affirmative defense of a violation:
 - A. That the driver of the vehicle passed through the intersection in order to yield the right-of-way to an emergency vehicle in accordance with Ohio Revised Code Section 4511.45, or to a funeral procession in accordance with Section 331.24.
 - B. That the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation. In order to demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a police report about the stolen motor vehicle or registration plates was filed prior to the violation or within 48 hours after the violation occurred.
 - C. That this section is unenforceable because at the time and place of the alleged violation, the traffic control signal was not operating properly or the traffic control signal monitoring system was not in proper position and the recorded image is not legible enough to determine the information needed.
 - D. Evidence, other than that adduced pursuant to subsection (e)(2)B. of this section, that the owner or person named in the notice of liability was not operating the vehicle at the time of the violation. To satisfy the evidentiary burden under this subsection, the owner or person named in the notice of liability shall provide to the Hearing Office evidence showing the identity of the person who was operating the vehicle at the time of the violation, including, at a minimum, the operator's name and current address, and any other evidence that the Hearing Officer deems pertinent.
- (3) If the Hearing Officer finds that the person or entity named in the notice of liability was not operating the vehicle at the time of the violation or receives evidence under subsection (e)(2)D. identifying the person driving the vehicle at the time of the violation, the Hearing Officer shall provide to the Police Division or its designee within five (5) calendar days, a copy of any evidence substantiating who was operating the vehicle at the time of the violation.
 - A. Upon the receipt of evidence of the responsible party pursuant to this subsection or pursuant to subsection (c)(2)A., the Police Division or its designee may issue a notice of liability, with the name and address of the responsible party and the information required by subsection (d)(1)B., C., D., E., F., G., H., I., and J. of this section, to the person that the evidence indicates was operating the vehicle at the time of the violation.
 - B. A notice of liability issued under this subsection (e)(3) shall be sent by ordinary mail no later than five (5) business days after receipt of the evidence from the Hearing Officer or the owner.
- (f) Civil Penalties.
 - (1) Unless the driver of the motor vehicle received a citation from a police officer at the time of the violation, the owner or responsible party for the motor vehicle is subject to a civil penalty if the motor vehicle is recorded by an automated traffic control photographic system while being operated in violation of this section.
 - (2) The civil penalty under this section shall be \$100.00. Persons who choose to pay the civil penalty without appearing before a Hearing Officer may do so in the manner indicated on the notice of liability. Persons who fail to pay the civil penalty within fifteen (15) calendar days after receiving a "notice of liability" shall be liable for an additional penalty in the amount of \$30.00.
 - (3) A violation for which a civil penalty is imposed under this section is not a moving violation for the purpose of assessing points under Ohio Revised Code Section 4507.021(16) for minor misdemeanor moving traffic offenses and shall not be recorded on the driving record of the owner or operator of the vehicle and shall not be reported to the Bureau of Motor Vehicles.
- (g) Collection of Civil Penalty. If the civil penalty is not paid, the civil penalty imposed under the provisions of this section shall be collectible, together with any interest and penalties thereon, by civil suit.
(Ord. 05-41. Passed 2-15-05.)

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).

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

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

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

(c) If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of subsection (b) of this section that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the officer shall do both of the following:

- (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.
- (ORC 4511.991)

CHAPTER 305

Traffic Control

305.01 Power to place traffic control devices; considerations.

305.02 Temporary regulations.

305.03 Conformity with State Manual.

305.04 Powers of City Manager.

CROSS REFERENCES

See sectional history for similar State law

Power to designate highway as included in a freeway, expressway or thruway - see Ohio R.C. 4511.011

Uniform system of traffic control devices - see Ohio R.C. 4511.09, 4511.11(D)

Placing and maintaining local traffic control devices - see Ohio R.C. 4511.10, 4511.11

Alteration of prima-facie speed limits - see Ohio R.C. 4511.21, 4511.22(A), 4511.23

Power to erect stop signs at grade crossings - see Ohio R.C. 4511.61

Designation of through streets and erection of stop or yield signs - see Ohio R.C. 4511.65; TRAF. 313.02

Traffic control devices defined - see TRAF. 301.46

305.01 POWER TO PLACE TRAFFIC CONTROL DEVICES; CONSIDERATIONS.

The City Manager, is hereby authorized to place and maintain traffic control devices upon any street or highway under his jurisdiction as are necessary to effectuate the provisions of this Traffic Code, or to regulate, warn or guide traffic, and such other traffic control devices as he shall deem necessary for the proper control of traffic. The City Manager shall determine the location, timing and coordination of such traffic control devices upon the basis of an applicable engineering or traffic investigation and shall consider the following:

- (a) The maximum safety and protection of vehicular and pedestrian traffic from physical injury or property damage.
- (b) The existing and potential traffic movement, volume and conditions.
- (c) The location and frequency of accidents, including studies of remedial measures.
- (d) The recommendations of the Police and Fire Chiefs.
- (e) The acceleration of transportation of persons and property by vehicles so as to expedite travel and promote public safety.

- (f) The convenience and welfare of the general public in parking, standing, loading and unloading, and the use of the streets as affecting business concerns and places of assembly.
 - (g) Economy in the expenditure of money.
- (Ord. 67-14. Passed 1-9-67.)

305.02 TEMPORARY REGULATIONS.

The City Manager, is hereby empowered to make effective the provisions of this Traffic Code, and to make and enforce temporary regulations to cover emergencies or special conditions.

(Ord. 67-14. Passed 1-9-67.)

305.03 CONFORMITY WITH STATE MANUAL.

All traffic control devices placed pursuant to the provisions of this Traffic Code shall conform to the Ohio Manual of Uniform Traffic Control Devices for Streets and Highways, as set forth in Ohio R.C. 4511.09.

305.04 POWERS OF CITY MANAGER.

- (a) The City Manager, is hereby empowered to:
 - (1) Designate any street or highway as a through street or highway and require that all vehicles stop or yield the right of way as may be required before entering the same; or in residence districts designate certain streets or highways or portions thereof not to be through streets or highways despite the erection of stop signs or other official traffic control devices at intersecting streets.
 - (2) Designate any intersection as a stop intersection and require all vehicles to stop at one or more entrances to such intersection.
 - (3) Designate any intersection as a yield intersection and require all vehicles to yield the right of way as required.
 - (4) Designate any street as a one-way street and require that all vehicles thereon be moved in one specific direction.
 - (5) Designate and mark lanes to be used by traffic moving in a particular direction regardless of the center line of the roadway.
 - (6) Erect signs directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction.
 - (7) Designate those portions of any street, where overtaking and passing other traffic or driving to the left of center or center line of the roadway would be especially hazardous, by appropriate signs or markings on the street to indicate the beginning and end of such zones. Such zones may be marked by an auxiliary yellow line placed parallel and to the right of the normal center line or offset marked lane line.
 - (8) Place markers, buttons or signs within or adjacent to intersections and require that a specific course of direction be traveled by vehicles proceeding in lanes by either permitting, prohibiting or requiring turns at such intersections.
 - (9) Install traffic control devices, signals and signs at any location to regulate traffic.

- (10) Establish safety zones, crosswalks, zones of quiet and play streets.
- (11) Close any street or portion thereof to vehicular traffic which is in the process of construction, reconstruction or repair.
- (12) Determine the location of any necessary bus stops and taxicab stands.
- (13) Determine the location and limiting hours of truck loading zones.
- (14) Designate dangerous railroad crossings and erect stop signs thereat.
- (15) Erect "No U Turn" signs at any location to prohibit a vehicle from being turned so as to proceed in the opposite direction.
- (16) Regulate or prohibit the stopping, standing and parking of vehicles on streets, alleys or public property by erecting signs plainly indicating the prohibitions, restrictions or limitations.
- (17) Designate individual parking spaces by markings, which may either be parallel or at a prescribed angle to the curb or edge of the roadway.
- (18) Designate truck routes and streets or parts thereof where either a weight limit restriction or truck exclusion has been imposed by rule or regulation provided such is not in conflict with any legislation.
- (19) Erect signs to prohibit a right turn against a steady red signal at any intersection.
- (20) Determine the location and limiting hours of double parking for loading and unloading. (Ord. 91-90. Passed 3-12-91.)
- (21) Upon application of a mobility-impaired person, issue a residential reserved parking space designation, which shall remain in effect for one calendar year, and determine the location of residential reserved parking spaces for persons who are mobility impaired and have no adequate available off-street parking and regulate or prohibit the stopping, standing and parking of vehicles other than that for which the parking space is established by erecting signs plainly indicating the prohibitions, restrictions, or limitations. The City Manager shall collect fees from each such mobility-impaired person as follows:

Application fee	\$25.00
Sign installation fee	100.00
Annual renewal fee	25.00

(Ord. 05-233. Passed 9-6-05.)

(b) All actions of the City Manager in exercising the powers enumerated above may be revoked by motion by the City Commission of the City of Springfield, Ohio.

(c) No provision of this section shall be effective until signs, signals, markings or other devices giving notice of such local traffic regulation are posted upon or at the entrance to the street or part thereof affected, as may be most appropriate, so that in a proper position they are sufficiently legible to be seen by an ordinarily observant person.

(d) The powers of the City Manager shall not be limited by the specific enumeration of subjects contained in this chapter. The City Manager shall keep a record of all his rules, regulations and proceedings in connection with this chapter. Violation of such rules and regulations shall be a misdemeanor punishable as provided in Section 303.99 of the Traffic Code.

CHAPTER 307

Impounding Vehicles

- 307.01 Establishment and location of vehicle pounds.**
- 307.02 Impounding vehicles parked unlawfully.**
- 307.03 Notifying owner; payment of fees; release of vehicle.**
- 307.04 Protests against payment; release of vehicles; charge against owner.**
- 307.05 Record kept by police; disposition of fees.**

CROSS REFERENCES

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

Impounding parked vehicles creating an obstruction - see TRAF. 351.01

307.01 ESTABLISHMENT AND LOCATION OF VEHICLE POUNDS.

The City Manager is hereby authorized to create vehicle pounds to which vehicles may be removed by police officers or other authorized personnel. Such pounds shall be located at such places as may be directed by the City Manager and may be located at private or commercial parking garages with the facilities for receiving, safeguarding and discharging vehicles.

(Ord. 67-14. Passed 1-9-67.)

307.02 IMPOUNDING VEHICLES PARKED UNLAWFULLY.

Whenever any vehicle, except a bicycle, shall be found in a space where parking is not permitted, or parked in violation of the provisions of this Traffic Code, any member of the Police Division may provide for the removal or conveyance of such vehicle by means of towing or otherwise, to a vehicle pound.

(Ord. 91-259. Passed 6-18-91.)

307.03 NOTIFYING OWNER; PAYMENT OF FEES; RELEASE OF VEHICLE.

It shall be the duty of the police officer impounding or causing to be impounded any vehicle, to inform the owner or any person claiming an impounded vehicle, of the nature and circumstances of the violation for which such vehicle has been impounded. If such owner or other person shall furnish evidence of his identity and ownership, together with a receipt from the Clerk of the Municipal Court or from a member of the Police Division, showing the payment of all fees for the violation of the provisions of this Code, as well as the costs of impounding such vehicle, the impounded vehicle shall be surrendered to him by the police officer or person in charge thereof, who shall take a receipt for the impounded vehicle.

(Ord. 67-14. Passed 1-9-67.)

307.04 PROTESTS AGAINST PAYMENT; RELEASE OF VEHICLES; CHARGE AGAINST OWNER.

In case protest is made against the payment of any impounding or storage fee, the police officer or person in charge of such impounded vehicle shall surrender the impounded vehicle to the claimant, upon satisfactory evidence of the identity and ownership of the person claiming such impounded vehicle, and upon the furnishing of a bond, in an amount as set by rule of the Municipal Court, by the owner or driver of such vehicle to the Clerk of the Municipal Court or his deputy, conditioned that such owner or driver will appear before the Municipal Court to answer to the violation for which such vehicle has been impounded and it shall thereupon be the duty of the police officer having knowledge of the fact forthwith to institute the proper proceedings in the Municipal Court, charge the owner or the driver of such vehicle with the violation of the ordinance or section of the Codified Ordinances for which the vehicle was impounded.

(Ord. 67-14. Passed 1-9-67.)

307.05 RECORD KEPT BY POLICE; DISPOSITION OF FEES.

It shall be the duty of the Police Division to keep a record of the names of all owners of impounded vehicles, the number of their license tags, and the nature and circumstances of each violation, as well as the disposition of each case. It shall be the duty of the Clerk of the Municipal Court to account for all fees collected under this chapter and pass the same on to the City Treasurer.
(Ord. 67-14. Passed 1-9-67.)

TITLE THREE - Streets and Traffic Control Devices

Chap. 311. Street Obstructions and Special Uses.

Chap. 313. Traffic Control Devices.

CHAPTER 311

Street Obstructions and Special Uses

311.01 Placing injurious material or obstruction in street.

311.02 Parades and assemblages.

311.03 Toy vehicles on streets.

CROSS REFERENCES

See sectional history for similar State law

Power to regulate processions or assemblages - see Ohio R.C. 4511.07(C)

Dropping, sifting and leaking loads - see TRAF. 339.08

311.01 PLACING INJURIOUS MATERIAL OR OBSTRUCTION IN STREET.

(a) No person shall place or knowingly drop upon any part of a street, highway or alley any tacks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such street, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

(b) Any person who drops or permits to be dropped or thrown upon any street any noxious, destructive or injurious material shall immediately remove the same.

(c) Any person authorized to remove a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

(d) No person shall place any obstruction in or upon a street without proper authority.

(e) No person, with intent to cause physical harm to a person or vehicle, shall place or knowingly drop upon any part of a highway, lane, road, street or alley any tacks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

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

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

(ORC 4511.74)

311.02 PARADES AND ASSEMBLAGES.

(a) No person, group of persons or organization shall conduct or participate in any parade, assemblage or procession other than a funeral procession upon any street or highway, or block off any street or highway area, without first obtaining a permit from the City Manager.

Applications for such permits shall be made on such forms as may be prescribed and shall contain such information as is reasonably necessary to a fair determination of whether a permit should be issued. Applications shall be filed not less than five days before the time intended for such parade, procession or assemblage.

The permit may be refused or cancelled if:

(1) The time, place, size or conduct of the parade including the assembly areas and route of march would unreasonably interfere with the public convenience and safe use of the streets and highways.

(2) The parade would require the diversion of so great a number of police officers to properly police the line of movement, assembly area and areas contiguous thereto so as to deny normal police protection to the Municipality.

(3) The parade route of march or assembly areas would unreasonably interfere with the movement of police vehicles, fire-fighting equipment or ambulance service to other areas of the Municipality.

(4) The parade would unreasonably interfere with another parade for which a permit has been issued.

(5) The information contained in the application is found to be false, misleading or incomplete in any material detail.

(6) An emergency such as a fire or storm would prevent the proper conduct of the parade.

The permit or any order accompanying it may limit or prescribe reasonable conditions, including the hours, the place of assembly and of dispersal, the route of march or travel and the streets, highways or portions thereof which may be used or occupied.

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

311.03 TOY VEHICLES ON STREETS.

(a) No person on roller skates or riding in or by means of any sled, toy vehicle, skateboard or similar device shall go upon any roadway except while crossing a street on a crosswalk and except on streets set aside as play streets.

(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.

CHAPTER 313

Traffic Control Devices

313.01 Obedience to traffic control devices.

313.02 Through streets; stop and yield right-of-way signs.

313.03 Traffic signal indications.

313.04 Lane-use control signal indications.

313.05 Special pedestrian control signals.

- 313.06 Flashing traffic signals. (Repealed)**
- 313.07 Unauthorized signs and signals, hiding from view, advertising.**
- 313.08 Alteration, injury, removal of traffic control devices.**
- 313.09 Driver's duties upon approaching ambiguous or non-working traffic signal.**
- 313.10 Unlawful purchase, possession or sale.**
- 313.11 Portable signal preemption devices prohibited.**

CROSS REFERENCES

See sectional histories for similar State law

Designation of through streets or stop intersections - see Ohio R.C. 4511.07(F), 4511.65

Uniform system of traffic control devices - see Ohio R.C. 4511.09, 4511.11(D)

Placing and maintaining local traffic control devices - see Ohio R.C. 4511.10, 4511.11

Traffic control devices defined - TRAF. 301.46

313.01 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

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

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

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

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

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

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

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

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

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

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

313.03 TRAFFIC SIGNAL INDICATIONS.

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

(a) Steady Green Signal Indication:

- (1) A. Vehicular traffic facing a circular green signal indication is permitted to proceed straight through or turn right or left, or make a u-turn movement except as such movement is modified by a lane-use sign, turn prohibition sign, lane marking, roadway design, separate turn signal indication, or other traffic control device. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:
 1. Pedestrians lawfully within an associated crosswalk;
 2. Other vehicles lawfully within the intersection.
- B. In addition, vehicular traffic turning left or making a u-turn movement to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
- (2) Vehicular traffic facing a green arrow signal indication, displayed alone or in combination with another signal indication, is permitted to cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications displayed at the same time. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:
 - A. Pedestrians lawfully within an associated crosswalk.
 - B. Other traffic lawfully using the intersection.
- (3) A. Unless otherwise directed by a pedestrian signal indication, as provided in Section 313.05, pedestrians facing a circular green signal indication are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. The pedestrian shall yield the right-of-way to vehicles lawfully within the intersection or so close as to create an immediate hazard at the time that the green signal indication is first displayed.
- B. Pedestrians facing a green arrow signal indication, unless otherwise directed by a pedestrian signal indication or other traffic control device, shall not cross the roadway.

(b) Steady Yellow Signal Indication:

- (1) Vehicular traffic facing a steady circular yellow signal indication is thereby warned that the related green movement or the related flashing arrow movement is being terminated or that a steady red signal indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. The provisions governing vehicular operation under the movement being terminated shall continue to apply while the steady circular yellow signal indication is displayed.
- (2) Vehicular traffic facing a steady yellow arrow signal indication is thereby warned that the related green arrow movement or the related

flashing arrow movement is being terminated. The provisions governing vehicular operation under the movement being terminated shall continue to apply while the steady yellow arrow signal indication is displayed.

- (3) Pedestrians facing a steady circular yellow or yellow arrow signal indication, unless otherwise directed by a pedestrian signal indication as provided in Section 313.05 or other traffic control device, shall not start to cross the roadway.
- (c) Steady Red Signal Indication:
- (1) A. Vehicular traffic facing a steady circular red signal indication, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, traffic shall stop before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, before then before entering the intersection; and shall remain stopped until a signal indication to proceed is displayed except as provided in subsections (c)(1), (2) and (3) of this section.
- B. Except when a traffic control device is in place prohibiting a turn on red or a steady red arrow signal indication is displayed, vehicular traffic facing a steady circular red signal indication is permitted, after stopping, to enter the intersection to turn right, or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be subject to the provisions that are applicable after making a stop at a stop sign.
- (2) A. Vehicular traffic facing a steady red arrow signal indication shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, then before entering the intersection; and shall remain stopped until a signal indication or other traffic control device permitting the movement indicated by such red arrow is displayed.
- B. When a traffic control device is in place permitting a turn on a steady red arrow signal indication, vehicular traffic facing a steady red arrow indication is permitted, after stopping, to enter the intersection to turn right or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be limited to the direction indicated by the arrow, and shall be subject to the provisions that are applicable after making a stop at a stop sign.
- (3) Unless otherwise directed by a pedestrian signal indication as provided in Section 313.05 or other traffic control device, pedestrians facing a steady circular red or steady red arrow signal indication shall not enter the roadway.
- (4) Local authorities by ordinance, or the Director of Transportation on State highways, may prohibit a right or a left turn against a steady red signal at any intersection, which shall be effective when signs giving notice thereof are posted at the intersection.
- (d) Flashing Green Signal Indication: A flashing green signal indication has no meaning and shall not be used.
- (e) Flashing Yellow Signal Indication:
- (1) A. Vehicular traffic, on an approach to an intersection, facing a flashing circular yellow signal indication, is permitted to cautiously enter the intersection to proceed straight through or turn right or left or make a u-turn movement except as such movement is modified by lane-use signs, turn prohibition signs, lane markings, roadway design, separate turn signal indications, or other traffic control devices. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:
1. Pedestrians lawfully within an associated crosswalk;
 2. Other vehicles lawfully within the intersection.
- B. In addition, vehicular traffic turning left or making a u-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
- (2) A. Vehicular traffic, on an approach to an intersection, facing a flashing yellow arrow signal indication, displayed alone or in combination with another signal indication, is permitted to cautiously enter the intersection only to make the movement indicated by such arrow, or other such movement as is permitted by other signal indications displayed at the same time. Such vehicular traffic, including vehicles turning right or left or making a u-turn, shall yield the right-of-way to both of the following:
1. Pedestrians lawfully within an associated crosswalk;
 2. Other vehicles lawfully within the intersection.
- B. In addition, vehicular traffic turning left or making a u-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
- (3) Pedestrians facing any flashing yellow signal indication at an intersection, unless otherwise directed by a pedestrian signal indication or other traffic control device, are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. Pedestrians shall yield the right-of-way to vehicles lawfully within the intersection at the time that the flashing yellow signal indication is first displayed.
- (4) When a flashing circular yellow signal indication is displayed as a beacon to supplement another traffic control device, road users are notified that there is a need to pay additional attention to the message contained thereon or that the regulatory or warning requirements of the other traffic control device, which might not be applicable at all times, are currently applicable.
- (f) Flashing Red Signal Indication:
- (1) Vehicular traffic, on an approach to an intersection, facing a flashing circular red signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. The right to proceed shall be subject to the provisions that are applicable after making a stop at a stop sign.
- (2) Pedestrians facing any flashing red signal indication at an intersection, unless otherwise directed by a pedestrian signal indication or other traffic control device, are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. Pedestrians shall yield the right-of-way to vehicles lawfully within the intersection at the time that the flashing red signal indication is first displayed.
- (3) When a flashing circular red signal indication is displayed as a beacon to supplement another traffic control device, road users are notified that there is a need to pay additional attention to the message contained thereon or that the regulatory requirements of the other traffic control device, which might not be applicable at all times, are currently applicable. Use of this signal indication shall be limited to supplementing stop, do not enter, or wrong way signs, and to applications where compliance with the supplemented traffic control device requires a stop at a designated point.
- (g) General Application: In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.
- (h) Exception: This section does not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by Ohio R.C. 4511.61 and 4511.62. (ORC 4511.13)
- (Ord. 14-288. Passed 11-12-14.)

313.04 LANE-USE CONTROL SIGNAL INDICATIONS.

- (a) The meanings of lane-use control signal indications are as follows:
- (1) A steady downward green arrow: A road user is permitted to drive in the lane over which the arrow signal indication is located.
- (2) A steady yellow "X": A road user is to prepare to vacate the lane over which the signal indication is located because a lane control change is being made to a steady red "X" signal indication.
- (3) A steady white two-way left-turn arrow: A road user is permitted to use a lane over which the signal indication is located for a left turn, but not for through travel, with the understanding that common use of the lane by oncoming road users for left turns also is permitted.
- (4) A steady white one-way left-turn arrow: A road user is permitted to use a lane over which the signal indication is located for a left turn,

without opposing turns in the same lane, but not for through travel.

- (5) A steady red "X": A road user is not permitted to use the lane over which the signal indication is located and that this signal indication shall modify accordingly the meaning of other traffic controls present.

(ORC 4511.131)

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

(ORC 4511.99)

313.05 SPECIAL PEDESTRIAN CONTROL SIGNALS.

(a) Whenever special pedestrian control signals exhibiting the words "walk" or "don't walk", or the symbol of a walking person or an upraised palm are in place, such signals shall indicate the following instructions:

- (1) A steady walking person signal indication, which symbolizes "walk", means that a pedestrian facing the signal indication is permitted to start to cross the roadway in the direction of the signal indication, possibly in conflict with turning vehicles. The pedestrian shall yield the right-of-way to vehicles lawfully within the intersection at the time that the walking person signal indication is first shown.
- (2) A flashing upraised hand signal indication, which symbolizes "don't walk", means that a pedestrian shall not start to cross the roadway in the direction of the signal indication, but that any pedestrian who has already started to cross on a steady walking person signal indication shall proceed to the far side of the traveled way of the street or highway, unless otherwise directed by a traffic control device to proceed only to the median of a divided highway or only to some other island or pedestrian refuge area.
- (3) A steady upraised hand signal indication means that a pedestrian shall not enter the roadway in the direction of the signal indication.
- (4) Nothing in this section shall be construed to invalidate the continued use of pedestrian control signals utilizing the word "wait" if those signals were installed prior to March 28, 1985.

(5) A flashing walking person signal indication has no meaning and shall not be used. (ORC 4511.14)

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

(ORC 4511.99)

313.06 FLASHING TRAFFIC SIGNALS.

(Former Ohio R.C. 4511.15 from which Section 313.06 was derived was repealed by House Bill 349, effective April 20, 2012.)

313.07 UNAUTHORIZED SIGNS AND SIGNALS, HIDING FROM VIEW, ADVERTISING.

(a) No person shall place, maintain or display upon or in view of any street any unauthorized sign, signal, marking or device which purports to be, is an imitation of or resembles a traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or hides from view or interferes with the effectiveness of any traffic control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any street any traffic sign or signal bearing thereon any commercial advertising. This section does not prohibit either the erection upon private property adjacent to streets of signs giving useful directional information and of a type that cannot be mistaken for traffic control devices, or the erection upon private property of traffic control devices by the owner of real property in accordance with Ohio R.C. 4511.211 and 4511.432.

Every such prohibited sign, signal, marking or device is a public nuisance, and the Police Chief is authorized to remove it or cause it to be removed.

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

(ORC 4511.16)

313.08 ALTERATION, INJURY, REMOVAL OF TRAFFIC CONTROL DEVICES.

(a) No person without lawful authority, shall do any of the following:

- (1) Knowingly move, deface, damage, destroy or otherwise improperly tamper with any traffic control device, any railroad sign or signal, or any inscription, shield or insignia on the device, sign or signal, or any part of the device, sign or signal;
 - (2) Knowingly drive upon or over any freshly applied pavement marking material on the surface of a roadway while the marking material is in an undried condition and is marked by flags, markers, signs or other devices intended to protect it;
 - (3) Knowingly move, damage, destroy or otherwise improperly tamper with a manhole cover.
- (b) (1) Except as otherwise provided in this subsection, whoever violates subsection (a)(1) or (3) of this section is guilty of a misdemeanor of the third degree. If a violation of subsection (a)(1) or (3) of this section creates a risk of physical harm to any person, the offender is guilty of a misdemeanor of the first degree. If a violation of subsection (a)(1) or (3) of this section causes serious physical harm to property that is owned, leased, or controlled by a state or local authority, the offender is guilty of a felony and shall be prosecuted under appropriate state law.

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

(ORC 4511.17)

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

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

- (1) Stop at a clearly marked stop line, but if none, stop before entering the crosswalk on the near side of the intersection, or, if none, stop before entering the intersection;
- (2) Yield the right of way to all vehicles in the intersection or approaching on an intersecting road, if the vehicles will constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.
- (3) Exercise ordinary care while proceeding through the intersection.

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

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

(ORC 4511.132)

313.10 UNLAWFUL PURCHASE, POSSESSION OR SALE.

(a) As used in this section, "traffic control device" means any sign, traffic control signal or other device conforming to and placed or erected in accordance with the manual adopted under Ohio R.C. 4511.09 by authority of a public body or official having jurisdiction, for the purpose of

regulating, warning or guiding traffic, including signs denoting the names of streets and highways, but does not mean any pavement marking.

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

- (1) In the course of the individual's employment by the State or a local authority for the express or implied purpose of manufacturing, providing, erecting, moving or removing such a traffic control device;
- (2) In the course of the individual's employment by any manufacturer of traffic control devices other than a State or local authority;
- (3) For the purpose of demonstrating the design and function of a traffic control device to State or local officials;
- (4) When the traffic control device has been purchased from the State or a local authority at a sale of property that is no longer needed or is unfit for use;
- (5) The traffic control device has been properly purchased from a manufacturer for use on private property and the person possessing the device has a sales receipt for the device or other acknowledgment of sale issued by the manufacturer.

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

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

313.11 PORTABLE SIGNAL PREEMPTION DEVICES PROHIBITED.

(a) (1) No person shall possess a portable signal preemption device.

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

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

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

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

(d) As used in this section, "portable signal preemption device" means a device that, if activated by a person, is capable of changing a traffic control signal to green out of sequence.
(ORC 4511.031)

TITLE FIVE - Vehicles

Chap. 331. Operation Generally.

Chap. 333. OVI; Willful Misconduct; Speed.

Chap. 335. Licensing; Accidents.

Chap. 337. Safety and Equipment.

Chap. 339. Commercial and Heavy Vehicles.

Chap. 341. Commercial Drivers.

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.**
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- 331.15 Hand and arm signals.**
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- 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 Vehicular operation on street closed due to rise in water level.
- 331.45 Restrictions on the operation of school buses.

CROSS REFERENCES

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

331.01 DRIVING UPON RIGHT SIDE OF ROADWAY; EXCEPTIONS.

- (a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:
 - (1) When overtaking and passing another vehicle proceeding in the same direction, or when making a left turn under the rules governing such movements;
 - (2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
 - (3) When driving upon a roadway divided into three or more marked lanes for traffic under the rules applicable thereon;
 - (4) When driving upon a roadway designated and posted with signs for one-way traffic;
 - (5) When otherwise directed by a police officer or traffic control device.
- (b) (1) Upon all roadways any vehicle proceeding at less than the prevailing and lawful speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, and far enough to the right to allow passing by faster vehicles if such passing is safe and reasonable, except under any of the following circumstances:
 - A. When overtaking and passing another vehicle proceeding in the same direction;
 - B. When preparing for a left turn;
 - C. When the driver must necessarily drive in a lane other than the right-hand lane to continue on the driver's intended route.
- (2) Nothing in subsection (b)(1) of this section requires a driver of a slower vehicle to compromise the driver's safety to allow overtaking by a faster vehicle.
- (c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic control devices designating certain lanes to the left of the center of the roadway for use by traffic not otherwise permitted to use the lanes, or except as permitted under subsection (a) (2) hereof.
 This subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.
- (d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
 If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.25)

331.02 PASSING TO RIGHT WHEN PROCEEDING IN OPPOSITE DIRECTIONS.

- (a) Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each operator shall give to the other one-half of the main traveled portion of the roadway or as nearly one-half as is reasonably possible.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
 If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.26)

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

- (a) The following rules govern the overtaking and passing of vehicles proceeding in the same direction:
 - (1) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall, except as provided in subsection (a)(3) hereof, signal to the vehicle to be overtaken, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. When a motor vehicle overtakes and passes a bicycle or electric bicycle, three feet or greater is considered a safe passing distance.
 - (2) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and the operator shall not increase the speed of the operator's vehicle until completely passed by the overtaking vehicle.
 - (3) The operator of a vehicle overtaking and passing another vehicle proceeding in the same direction on a divided street or highway as defined in Section 331.31, a limited access highway as defined in Ohio R.C. 5511.02 or a highway with four or more traffic lanes, is not required to signal audibly to the vehicle being overtaken and passed.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
 If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.27)

331.04 OVERTAKING AND PASSING UPON RIGHT.

- (a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
 - (1) When the vehicle overtaken is making or about to make a left turn;
 - (2) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
- (b) The driver of a vehicle may overtake and pass another vehicle only under conditions permitting such movement in safety. The movement shall not be made by driving off the roadway.

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

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

331.05 OVERTAKING, PASSING TO LEFT OF CENTER.

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

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

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

331.06 ADDITIONAL RESTRICTIONS ON DRIVING UPON LEFT SIDE OF ROADWAY.

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

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

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

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

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

331.07 HAZARDOUS OR NO PASSING ZONES.

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

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

(b) Subsection (a) of this section does not apply when all of the following apply:

- (1) The slower vehicle is proceeding at less than half the speed of the speed limit applicable to that location.
- (2) The faster vehicle is capable of overtaking and passing the slower vehicle without exceeding the speed limit.
- (3) There is sufficient clear sight distance to the left of the center or center line of the roadway to meet the overtaking and passing provisions of Section 331.05, considering the speed of the slower vehicle.

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

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

331.08 DRIVING IN MARKED LANES OR CONTINUOUS LINES OF TRAFFIC.

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

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

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

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

331.09 FOLLOWING TOO CLOSELY.

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

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

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

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

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

331.10 TURNING AT INTERSECTIONS.

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

(1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane of the roadway being entered lawfully available to the traffic moving in that lane.

(4) Markers, buttons or signs may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such markers, buttons or signs are so placed, no operator of a vehicle shall turn such vehicle at an intersection other than as directed and required by such markers, buttons or signs.

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

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

331.11 TURNING INTO PRIVATE DRIVEWAY, ALLEY OR BUILDING.

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

(1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.

(2) Upon a roadway where traffic is proceeding in opposite directions, approach for a left turn and a left turn shall be made from that portion of the right half of the roadway nearest the center line thereof.

(3) Upon a roadway where traffic is restricted to one direction, approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

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

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

331.12 "U" TURNS RESTRICTED.

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

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

(ORC 4511.37)

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

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

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

331.13 STARTING AND BACKING VEHICLES.

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

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

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

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

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

331.14 SIGNALS BEFORE CHANGING COURSE, TURNING OR STOPPING.

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

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

turn lane, and a signal shall not be given when the operator's hands are needed for the safe operation of the bicycle or electric bicycle.

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

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

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

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

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

331.15 HAND AND ARM SIGNALS.

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

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

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

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

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

331.16 RIGHT OF WAY AT INTERSECTIONS.

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

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

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

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

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

331.17 RIGHT OF WAY WHEN TURNING LEFT.

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

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

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

331.18 OPERATION OF VEHICLE AT YIELD SIGNS.

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

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

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

331.19 OPERATION OF VEHICLE AT STOP SIGNS.

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

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

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

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

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

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

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

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

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

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

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

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

(Ord. 17-289. Passed 12-5-17.)

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

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

(b) (1) Upon receipt of a report under subsection (a) of this section, the law enforcement agency may conduct an investigation to attempt to determine or confirm the identity of the operator of the vehicle at the time of the alleged violation.

(2) If the identity of the operator at the time of an alleged violation of Section 331.21(a) is established, the law enforcement agency has probable cause to issue either a written warning or a citation for that violation, and the agency shall issue a written warning or a citation to the operator.

(3) If the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency may issue a warning to the person who owned the vehicle at the time of the alleged

violation. However, in the case of a leased or rented vehicle, the law enforcement agency shall issue the written warning to the person who leased or rented the vehicle at the time of the alleged violation.

- (c) (1) Whoever violates Section 331.21(a) based on a report filed under subsection (a) of this section is guilty of a minor misdemeanor and shall be fined one hundred fifty dollars (\$150.00).
- (2) If a person who is issued a citation for a violation of Section 331.21(a) based on a report filed under subsection (a) of this section does not enter a written plea of guilty and does not waive the person's right to contest the citation but instead appears in person in the proper court to answer the charge, the trier of fact cannot find beyond a reasonable doubt that the person committed that violation unless the emergency personnel who filed the report appears in person in the court and testifies.
- (2) If a person who is issued a citation for a violation of Section 331.21(a) based on a report filed under subsection (a) of this section does not enter a written plea of guilty and does not waive the person's right to contest the citation but instead appears in person in the proper court to answer the charge, the trier of fact cannot find beyond a reasonable doubt that the person committed that violation unless the emergency personnel who filed the report appears in person in the court and testifies.
- (ORC 4511.454)
- (d) As used in this section:
- (1) "License plate" includes any temporary motor vehicle license registration issued under Ohio R.C. 4503.182 or similar law of another jurisdiction.
- (2) "Public safety vehicle" does not include an unmarked public safety vehicle or a vehicle used by a public law enforcement officer or other person sworn to enforce the criminal and traffic laws of the State or a vehicle used by the Motor Carrier Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission.
- (ORC 4511.454 ; Ord. 22-244. Passed 8-2-22.)

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

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

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

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

(ORC 4511.44)

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

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

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

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

(ORC 4511.431)

331.24 RIGHT OF WAY OF FUNERAL PROCESSION.

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

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

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

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

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

(ORC 4511.451)

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

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

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

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

(ORC 4511.70(A),(B),(D))

331.26 DRIVING UPON STREET POSTED AS CLOSED FOR REPAIR.

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

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

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

(ORC 4511.71)

331.27 FOLLOWING AND PARKING NEAR EMERGENCY OR SAFETY VEHICLES.

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.72)

331.28 DRIVING OVER FIRE HOSE.

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.73)

331.29 DRIVING THROUGH SAFETY ZONE.

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.60)

331.30 ONE-WAY STREETS AND ROTARY TRAFFIC ISLANDS.

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

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

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

331.31 DRIVING UPON DIVIDED ROADWAYS.

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

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

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

331.32 ENTERING AND EXITING CONTROLLED-ACCESS HIGHWAY.

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

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

331.33 OBSTRUCTING INTERSECTION, CROSSWALK OR GRADE CROSSING.

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

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.712)

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

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

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

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

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

331.35 OCCUPYING 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); Ord. 22-244. Passed 8-2-22.)

(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, or a substantially equivalent municipal ordinance, and an automatically extended stop warning sign of a type approved by the Ohio Department of Education and Workforce, 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 loading or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the Ohio Administrative Code.

(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 Ohio Department of Education and Workforce, 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. 4511.77, 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.

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 roadway or location, unless otherwise directed by a uniformed law enforcement officer at the time.

(b) No person shall operate a vehicle across public or private property for the purpose of avoiding compliance with a traffic control device, unless otherwise directed by a uniformed law enforcement officer at the time.

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

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

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

(c) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.

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

(d) As used in this section:

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

(ORC 4511.714.)

331.45 RESTRICTIONS ON THE OPERATION OF SCHOOL BUSES.

(a) No person shall operate a vehicle used for pupil transportation within this Municipality in violation of the rules of the Ohio Department of Education and Workforce or the Ohio Department of Public Safety. No person, being the owner thereof, or having the supervisory responsibility therefor, shall permit the operation of a vehicle used for pupil transportation within this Municipality in violation of the rules of the Ohio Department of Education and Workforce or the Ohio Department of Public Safety.

(b) As used in this section, "vehicle used for pupil transportation" means any vehicle that is identified as such by the Ohio Department of Education and Workforce by rule and that is subject to O.A.C. Chapter 3301-83.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of this section or Ohio R.C. 4511.76, or Ohio R.C. 4511.63, 4511.761, 4511.762, 4511.764, 4511.77, or 4511.79 or a municipal ordinance that is substantially equivalent to any of those sections, whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 4511.76(C), (H), (I))

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, stunt driving and street takeovers prohibited.

333.08 Operation without reasonable control.

333.09 Operation in willful or wanton disregard of the safety of persons or property. (Repealed)

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

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 percent or more but less than two hundred four-thousandths of one percent 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 percent 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.
- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis.
- If the chemical test was obtained pursuant to subsection (e)(1)B. hereof, the person tested may have a physician, a registered nurse, or a qualified technician, chemist or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in division (A)(5) of Ohio R.C. 4511.191, the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in division (A)(5) of Ohio R.C. 4511.191, the form to be read to the person to be tested, as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.
- (4) A. As used in subsections (e)(4)B. and C. of this section, "national highway traffic safety administration" means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation

under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

- B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a), (b) or (d) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine, if a law enforcement officer has administered a field sobriety test to the operator or person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
1. The officer may testify concerning the results of the field sobriety test so administered.
 2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 3. If testimony is presented or evidence is introduced under subsection (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section. (ORC 4511.19; 4511.194)

(f) Forensic Laboratory Reports.

- (1) Subject to subsection (f)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)B., C., D., E., F., G., H., I., or J. or (b)(1), (2), (3) or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
- A. The signature, under oath, of any person who performed the analysis;
 - B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
 - C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;
 - D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.
- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (f)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
- (3) A report of the type described in subsection (f)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

(g) Immunity From Liability For Withdrawing Blood. Except as otherwise provided in this subsection, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this subsection also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this subsection is not available to a person who withdraws blood if the person engaged in willful or wanton misconduct.

As used in this subsection, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(h) General OVI Penalty.

- (1) Whoever violates any provision of subsections (a)(1)A. to I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under Ohio R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (h)(1)A. to E. of this section:
- A. Except as otherwise provided in subsections (h)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:
 1. If the sentence is being imposed for a violation of subsections (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of three consecutive days. As used in this subsection, three consecutive days means seventy-two consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.
- The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend,

for three consecutive days, a drivers' intervention program certified under Ohio R.C. 5119.38.

The court also may suspend the execution of any part of the three-day jail term under this subsection if it places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.1. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.1. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 5119.38. As used in this subsection, three consecutive days means seventy-two consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers' intervention program, or if the jail at which the offender is to serve the jail term imposed can provide a drivers' intervention program, the court shall sentence the offender to a mandatory jail term of at least six consecutive days.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.2. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.2. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

The court may require the offender, under a community control sanction imposed under Ohio R.C. 2929.25, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services, in addition to the required attendance at drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

3. In all cases, a fine of not less than three hundred seventy-five dollars (\$375.00) and not more than one thousand seventy-five dollars (\$1,075).
4. In all cases, a suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege for a definite period of one to three years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022.

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

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

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

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of twenty consecutive days. The court shall impose the twenty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

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

3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than five hundred twenty-five dollars (\$525.00) and not more than one thousand six hundred twenty-five dollars (\$1,625).

4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of one to seven years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for ninety days. (ORC 4511.193)
- C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:
1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than eight hundred fifty dollars (\$850.00) and not more than two thousand seven hundred fifty dollars (\$2,750).
 4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of two to twelve years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)
 6. In all cases, the court shall order the offender to participate with a community addiction services provider authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.
- D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in Ohio R.C. 2941.1413, is guilty of a felony to be prosecuted under appropriate state law.
- E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.
- (3) If an offender is sentenced to a jail term under subsection (h)(1)B.1. or 2. or (h)(1)C.1. or 2. of this section and if, within sixty days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.
- As an alternative to a mandatory jail term of ten consecutive days required by subsection (h)(1)B.1. of this section, the court, under this subsection, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.
- As an alternative to the mandatory jail term of twenty consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.
- As an alternative to a mandatory jail term of thirty consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.
- As an alternative to the mandatory jail term of sixty consecutive days required by subsection (h)(1)C.2. of this section, the court, under this

subsection, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.
- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.
- (7) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
 - A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
 - B. The test or tests were of the offender's whole blood, blood serum or plasma, or urine.
 - C. The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.
- (8) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.
- (i) Vehicle Operation After Underage Alcohol Consumption Penalty. Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:
 - (1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02.

The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under subsection (i)(1) of this section as required under that section.
 - (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.
 - (3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28, in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the violation of subsection (b) of this section. (ORC 4511.19)
- (j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4511.194)
- (k) Compliance With Ohio R.C. Chapter 5119 Standards.
 - (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.
 - (2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.
- (l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.
- (m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:

- (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
- (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

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

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

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

(q) Definitions. As used in this section:

- (1) "Equivalent offense" means any of the following:
 - A. A violation of division (A) of Ohio R.C. 4511.19;
 - B. A violation of a municipal OVI ordinance;
 - C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
 - D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
 - E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
 - F. A violation of division (A) of Ohio R.C. 1547.11;
 - G. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine;
 - H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) of Ohio R.C. 4511.19 or division (A) of Ohio R.C. 1547.11;
 - I. A violation of a former law of this State that was substantially equivalent to division (A) of Ohio R.C. 4511.19 or division (A) of Ohio R.C. 1547.11;
- (2) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:
 - A. Except as specifically authorized under this section, the term must be served in a jail.
 - B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to Ohio R.C. 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.
- (3) "Municipal OVI ordinance" and "municipal OVI offense" mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum, or plasma, breath or urine.
- (4) "Community residential sanction", "continuous alcohol monitoring", "jail", "mandatory prison term", "mandatory term of local incarceration", "sanction" and "prison term" have the same meanings as in Ohio R.C. 2929.01.
- (5) "Drug of abuse" has the same meaning as in Ohio R.C. 4506.01.
- (6) "Equivalent offense that is vehicle-related" means an equivalent offense that is any of the following:
 - A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;
 - B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19;
 - C. A violation of a former law of this state that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19. (ORC 4511.181) (Ord. 17-289. Passed 12-5-17.)

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)

(d) Whenever a person is found guilty under this section of operating a motor vehicle in violation of this section relating to reckless operation, the trial court of any court of record, in addition to or independent of all other penalties provided by law, may impose a class five suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. (ORC 4510.15)

333.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.

(a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead.

(b) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to Ohio R.C. 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

- (1) A. Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when twenty miles per hour school speed limit signs are erected; except, that on controlled-access

highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(4) hereof and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by

subsection (b)(7) hereof. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic control devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect. (ORC 4511.21)

B. As used in this section, "school" means all of the following:

1. Any school chartered under Ohio R.C. 3301.16;
2. Any nonchartered school that during the preceding year filed with the Ohio Department of Education and Workforce in compliance with O.A.C. § 3301-35-08, a copy of the school's report for the parents of the school's pupils certifying that the school meets state minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone;
3. Any special elementary school that in writing requests the County Engineer to create a school zone at the location of the school. Upon receipt of such written request, the County Engineer shall create a school zone at that location by erecting appropriate signs;
4. Any preschool education program operated by an educational service center that is located on a street or highway with a speed limit of forty-five miles per hour or more, when the educational service center in writing requests that the County Engineer create a school zone at the location of that program. Upon receipt of such a written request, the County Engineer shall create a school zone at that location by erecting the appropriate signs.

(Ord. 22-244. Passed 8-2-22.)

C. As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway. Upon request from the Municipality for streets and highways under its jurisdiction, the Ohio Director of Transportation may extend the traditional school zone boundaries. The distances in subsections (b)(1)C.1. to 3. hereof shall not exceed 300 feet per approach per direction and are bounded by whichever of the following distances or combinations thereof the Director approves as most appropriate:

1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of highway;

Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in subsections (b)(1)A. and C. hereof.

D. As used in this subsection, "crosswalk" has the meaning given that term in Section 301.09. The Director may, upon request by resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers necessary, designate a school zone on any portion of a State route lying within the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet on each approach direction of the State route;

- (2) Twenty-five miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys;
- (3) Thirty-five miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in subsections (b)(4) and (5) hereof;
- (4) Fifty miles per hour on controlled-access highways and expressways within the Municipality, except as provided in subsections (b)(8) to (b)(12) of this section;
- (5) Fifty miles per hour on State routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this section;
- (6) Fifteen miles per hour on all alleys within the Municipality;
- (7) Fifty-five miles per hour on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(10) and (12);
- (8) Sixty miles per hour on rural expressways with traffic control signals and on all portions of rural divided highways, except as provided in subsections (b)(9) and (10) of this section;
- (9) Sixty-five miles per hour on all rural expressways without traffic control signals;
- (10) Seventy miles per hour on all rural freeways;
- (11) Fifty-five miles per hour on all portions of freeways or expressways in congested areas as determined by the Director and that are located within a municipal corporation or within an interstate freeway outerbelt, except as provided in subsection (b)(12) of this section;
- (12) Sixty-five miles per hour on all portions of freeways or expressways without traffic control signals in urbanized areas.

(c) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsection (b)(1)A. to (b)(6) hereof, or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (d) hereof. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.

(d) No person shall operate a motor vehicle upon a street or highway as follows:

- (1) At a speed exceeding fifty-five miles per hour, except upon a highway, expressway or freeway as provided in subsection (b)(8), (9), (10) and (12) hereof;
- (2) At a speed exceeding sixty miles per hour upon a highway as provided in subsection (b)(8) hereof;
- (3) At a speed exceeding sixty-five miles per hour upon an expressway as provided in subsection (b)(9) hereof, or upon a freeway as provided in subsection (b)(12) of this section, except upon a freeway as provided in subsection (b)(10) hereof;
- (4) At a speed exceeding seventy miles per hour upon a freeway as provided in subsection (b)(10) hereof;
- (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2) or (L)(2).

(e) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (c) hereof also the speed which subsections (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.

(f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b)(1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d) hereof.

(g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.

(h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or

lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.

(i) As used in this section:

- (1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.
 - (2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
 - (3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
 - (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
 - (5) "Rural" means an area outside urbanized areas and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.
 - (6) "Urbanized area" has the same meaning as in 23 U.S.C. 101.
 - (7) "Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.
- (j) (1) A violation of any provision of this section is one of the following:
- A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;
 - B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
 - C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.
- (2) If the offender operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, faster than fifty miles an hour in other portions of a municipal corporation, or faster than thirty-five miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree. This subsection does not apply if penalties may be imposed under subsections (j)(1)B. or (j)(1)C. of this section.
- (3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.
- (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.21)

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

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

- (1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.
 - (2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.
- (b) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.
- (c) No person shall fail to drive a motor vehicle in compliance with subsection (a)(1) or (2) of this section when so required by subsection (a) of this section.
- (d) (1) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (2) Notwithstanding Section 303.99(b), upon a finding that a person operated a motor vehicle in violation of subsection (c) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.
- (3) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
- (e) The offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4511.213)

333.04 STOPPING VEHICLE; SLOW SPEED; POSTED MINIMUM SPEEDS.

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

(b) Whenever, in accordance with Ohio R.C. 4511.22(B), the minimum speed limit of a controlled-access highway, expressway or freeway has been declared and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. No person shall operate a motor vehicle below the speed limits posted upon such signs except when necessary for safe operation or in compliance with law.

(c) In a case involving a violation of this section, the trier of fact, in determining whether the vehicle was being operated at an unreasonably slow speed, shall consider the capabilities of the vehicle and its operator.

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

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

(ORC 4511.22)

333.05 SPEED LIMITATIONS OVER BRIDGES.

(a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed that can be maintained with safety to such bridge or structure, when such structure is posted with authorized signs stating such maximum speed. Such signs shall be erected and maintained at a distance of at least 100 feet before each end of such structure.

(b) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed and the existence of such signs shall constitute prima-facie evidence of the maximum speed which can be maintained with safety to such bridge or structure.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.23)

333.06 SPEED EXCEPTIONS FOR EMERGENCY OR SAFETY VEHICLES.

The prima-facie speed limitations set forth in Section 333.03 do not apply to emergency vehicles or public safety vehicles when they are responding to emergency calls and are equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and when the drivers thereof sound audible signals by bell, siren or exhaust whistle. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons using the street or highway. (ORC 4511.24)

333.07 STREET RACING, STUNT DRIVING AND STREET TAKEOVERS PROHIBITED.

(a) As used in this section:

- (1) **BURNOUT.** A maneuver performed while operating a vehicle whereby the vehicle is kept in a stationary position, but the wheels of the vehicle are spun, which may cause the tires of the vehicle to become heated and emit smoke from the friction.
- (2) **DOUGHNUT.** A maneuver performed while operating a vehicle whereby the front or rear of the vehicle is rotated around the opposite set of wheels in a continuous motion, which may cause a circular skid-mark pattern of rubber on the driving surface, or the tires of the vehicle to become heated and emit smoke from the friction, or both.
- (3) **DRIFTING.** A maneuver performed while operating a vehicle whereby the vehicle is driven in a manner that causes a controlled, sideways skid during a turn, with the front wheels pointing in a direction that is the opposite of the direction of the turn.
- (4) **STREET RACING.** The operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds. The operation of two or more vehicles side by side either at speeds in excess of prima-facie lawful speeds established by Ohio R.C. 4511.21(B)(1) (a) to (B)(9) or rapidly accelerating from a common starting point to a speed in excess of such prima-facie lawful speeds shall be prima-facie evidence of street racing.
- (5) **STREET TAKEOVER.** Blocking or impeding the regular flow of vehicle or pedestrian traffic on a public road, street, or highway or on private property that is open to the general public for the purpose of street racing or stunt driving.
- (6) **STUNT DRIVING.** Performing or engaging in burnouts, doughnuts, drifting, or wheelies, or allowing a passenger to ride either partially or fully outside of the vehicle while operating that vehicle.
- (7) **WHEELIE.** A maneuver performed while operating a vehicle whereby the front wheel or wheels of the vehicle are raised off of the ground or whereby two wheels that are on the same side of the vehicle are raised off of the ground.

(b) No person shall knowingly participate in street racing, stunt driving, or street takeover upon any public road, street, or highway, or on private property that is open to the general public.

(c) Whoever violates this section is guilty of street racing, stunt driving, or street takeover, a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for not less than thirty days or more than three years. No judge shall suspend the first thirty days of any suspension of an offender's license, permit, or privilege imposed under this division.

(d) Persons rendering assistance in any manner to street racing, stunt driving, or street takeover shall be equally charged as the participants.

(e) This section does not apply to the competitive operation of vehicles on public or private property when the political subdivision with jurisdiction of the location or owner of the property knowingly permits such operation thereon. (ORC 4511.251)

333.08 OPERATION WITHOUT REASONABLE CONTROL.

(a) No person shall operate a motor vehicle, agricultural tractor, or agricultural tractor that is towing, pulling, or otherwise drawing a unit of farm machinery on any street, highway, or property open to the public for vehicular traffic without being in reasonable control of the vehicle, agricultural tractor or unit of farm machinery.

(b) Whoever violates this section is guilty of operating a motor vehicle or agricultural tractor without being in control of it, a minor misdemeanor.
(ORC 4511.202)

333.09 OPERATION IN WILLFUL OR WANTON DISREGARD OF THE SAFETY OF PERSONS OR PROPERTY.

(REPEALED)

This section was repealed in its entirety by Ordinance 18-306, passed December 4, 2018.

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 with any part of the person's body;
 - (9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;
 - (10) A person operating a utility service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals;
 - (11) A person using an electronic wireless communications device in conjunction with a voice-operated or hands-free feature or function of the vehicle or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe, provided the person does not hold or support the device with any part of the person's body;
 - (12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:
 - A. Manually enter letters, numbers, or symbols into the device;
 - B. Hold or support the device with any part of the person's body;
 - (13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.
- (c) If a law enforcement officer issues an offender a ticket, citation or summons for a violation of subsection (a) of this section, the officer shall do both of the following:
- (1) Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;
 - (2) Ensure that such report indicates the offender's race.
- (d) Whoever violates subsection (a) of this section is guilty of operating a motor vehicle while using an electronic wireless communication device, an unclassified misdemeanor, and shall be punished as provided in subsections (d)(1) to (5) of this section.
- (1) The offender shall be fined, and is subject to a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, as follows:
 - 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) If the offender is in the category of offenders to whom subsection (d)(1)A of this section applies, 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. This subsection does not apply with respect to any offender in the category of offenders to whom subsection (d)(1)B., C., or D. of this section applies.
 - (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)

CHAPTER 335

Licensing; Accidents

- 335.01 Driver's license or commercial driver's license required.
- 335.02 Permitting operation without valid license; one license permitted.
- 335.03 Driving with temporary instruction permit; curfew.
- 335.031 Driving with probationary license; curfew.
- 335.032 Use of electronic wireless communication device prohibited while driving.
- 335.04 Certain acts prohibited.
- 335.05 Wrongful entrustment of a motor vehicle.
- 335.06 Display of license.
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- 335.073 Driving without complying with license reinstatement requirements.
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- 335.08 Operation or sale without certificate of title.
- 335.09 Display of license plates or validation stickers; registration.
 - 335.091 Operating without dealer or manufacturer license plates.
 - 335.10 Expired or unlawful license plates.
 - 335.11 Use of illegal license plates; transfer of registration.
 - 335.111 Registration within thirty days of residency.
 - 335.12 Stopping after accident upon streets; collision with unattended vehicle.
 - 335.13 Stopping after accident upon property other than street.
 - 335.14 Vehicle accident resulting in damage to realty.

CROSS REFERENCES

See sectional histories for similar State law
Deposit of driver's license as bond - see Ohio R.C. 2937.221
Motor vehicle licensing law - see Ohio R.C. Ch. 4503
Driver's license law - see Ohio R.C. Ch. 4507
Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. Ch. 4510
State point system suspension - see Ohio R.C. 4510.03.6
State accident reports - see Ohio R.C. 4509.01(J), 4509.06, 4509.74, 5502.11
Motorized bicycle operator's license - see Ohio R.C. 4511.521
Glass removal from street after accident - see TRAF. 311.01

335.01 DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE REQUIRED.

- (a) (1) No person, except those expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motor vehicle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid driver's license issued under Ohio R.C. Chapter 4507 or a commercial driver's license issued under Ohio R.C. Chapter 4506.
 - (2) No person, except a person expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motorcycle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid license as a motorcycle operator that was issued upon application by the Registrar of Motor Vehicles under Ohio R.C. Chapter 4507. The license shall be in the form of an endorsement, as determined by the Registrar, upon a driver's or commercial driver's license, if the person has a valid license to operate a motor vehicle or commercial motor vehicle, or in the form of a restricted license as provided in Ohio R.C. 4507.14, if the person does not have a valid license to operate a motor vehicle or commercial motor vehicle.
- (b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a)(1) or (2) of this section may be admitted into evidence as prima-facie evidence that the person did not have either a valid driver's or commercial driver's license at the time of the alleged violation of subsection (a)(1) of this section or a valid license as a motorcycle operator either in the form of an endorsement upon a driver's or commercial driver's license or a restricted license at the time of the alleged violation of subsection (a)(2) of this section. The person charged with a violation of subsection (a)(1) or (2) of this section may offer evidence to rebut this prima-facie evidence.
- (c) Whoever violates this section is guilty of operating a motor vehicle or motorcycle without a valid license and shall be punished as follows:
- (1) If the trier of fact finds that the offender never has held a valid driver's or commercial driver's license issued by this state or any other jurisdiction, or, in a case involving the operation of a motorcycle by the offender, if the offender has never held a valid license as a motorcycle operator, either in the form of an endorsement upon a driver's or commercial driver's license or in the form of a restricted license, except as otherwise provided in this subsection, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours.
- The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If the offender previously has been convicted of or pleaded guilty to any violation of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the

offense is a misdemeanor of the first degree.

- (2) If the offender's driver's or commercial driver's license or permit or, in a case involving the operation of a motorcycle by the offender, the offender's driver's or commercial driver's license bearing the motorcycle endorsement or the offender's restricted license was expired at the time of the offense, except as otherwise provided in this subsection, the offense is a minor misdemeanor. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

(d) The court shall not impose a license suspension for a first violation of this section or if more than three years have passed since the offender's last violation of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance.

(e) If the offender is sentenced under subsection (c)(2) hereof, if within three years of the offense the offender previously was convicted of or pleaded guilty to one or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, and if the offender's license was expired for more than six months at the time of the offense, the court may impose a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.
(ORC 4510.12)

335.02 PERMITTING OPERATION WITHOUT VALID LICENSE; ONE LICENSE PERMITTED.

(a) No person shall permit the operation of a motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking knowing the operator does not have a valid driver's license issued to the operator by the Registrar of Motor Vehicles or a Deputy Registrar under Ohio R.C. Chapter 4507 or a valid commercial driver's license issued under Ohio R.C. Chapter 4506.

(b) (1) No person shall receive a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, temporary instruction permit, or identification card unless and until the person surrenders to the Registrar or a deputy registrar all valid licenses, temporary instruction permits, and identification cards issued to the person by another jurisdiction recognized by this state.

(2) The Registrar shall report the cancellation of a license, temporary instruction permit, or identification card to the issuing authority, together with information that the license, temporary instruction permit, or identification card is now issued in this state. The Registrar or a deputy registrar shall destroy any such license, temporary instruction permit, or identification card that is not returned to the issuing authority.

(3) No person shall possess more than one valid license, temporary instruction permit, or identification card at any time.

(ORC 4507.02(A); Ord. 22-244, Passed 8-2-22.)

(c) (1) Except as otherwise provided in this subsection, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000) and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.02 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

(2) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree.

(ORC 4507.02; 4507.99)

335.021 OHIO DRIVER'S LICENSE REQUIRED FOR IN STATE RESIDENTS.

(a) Any person who becomes a resident of this State, within thirty days of becoming a resident, shall surrender any driver's license, temporary instruction permit, or identification card issued by another state to the Registrar of Motor Vehicles or a Deputy Registrar. If such a person intends to operate a motor vehicle upon the public roads or highways, the person shall apply for a temporary instruction permit or driver's license in this State. If the person fails to apply for a driver's license or temporary instruction permit within thirty days of becoming a resident, the person shall not operate any motor vehicle in this municipality under a license or permit issued by another state. (Ord. 22-244, Passed 8-2-22.)

(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 4507.213)

335.03 DRIVING WITH TEMPORARY INSTRUCTION PERMIT; CURFEW.

(a) No holder of a temporary instruction permit issued under Ohio R.C. 4507.05(A) shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in violation of the following conditions:

(1) If the permit is issued to a person who is at least fifteen years six months of age, but less than sixteen years of age:

A. The permit and identification card are in the holder's immediate possession;

B. The holder is accompanied by an eligible adult who actually occupies the seat beside the permit holder and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Ohio R.C. 4511.19(A);

C. The total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(2) If the permit is issued to a person who is at least sixteen years of age:

A. The permit and identification card are in the holder's immediate possession;

B. The holder is accompanied by a licensed operator who is at least twenty-one years of age and is actually occupying a seat beside the driver and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Ohio R.C. 4511.19(A);

C. The total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(b) Except as provided in subsection (b) hereof, no holder of a temporary instruction permit that is issued under Ohio R.C. 4507.05(A) and that is issued on or after July 1, 1998, and who has not attained the age of eighteen years, shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m.

The holder of a permit issued under Ohio R.C. 4507.05(A) on or after July 1, 1998, who has not attained the age of eighteen years, may operate a

motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m. if, at the time of such operation, the holder is accompanied by the holder's parent, guardian, or custodian, and the parent, guardian or custodian holds a current valid driver's or commercial driver's license issued by this State and is actually occupying a seat beside the permit holder, and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Section 333.01(a).

(c) As used in this section:

(1) "Eligible adult" means any of the following:

A. An instructor of a driver education course approved by the Department of Education or a driver training course approved by the Department of Public Safety;

B. Any of the following persons who holds a current valid driver's or commercial driver's license issued by this State:

1. A parent, guardian or custodian of the permit holder;

2. A person twenty-one years of age or older who acts in loco parentis of the permit holder.

(2) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.

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

(ORC 4507.05)

335.031 DRIVING WITH PROBATIONARY LICENSE; CURFEW.

(a) (1) A. No holder of a probationary driver's license who has held the license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m. unless the holder is accompanied by the holder's parent or guardian.

B. No holder of a probationary driver's license who has held the license for twelve months or longer shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of one a.m. and five a.m. unless the holder is accompanied by the holder's parent or guardian.

(2) A. Subject to subsection (c)(1) of this section, subsection (a)(1)A. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:

1. Traveling to or from work between the hours of midnight and six a.m. provided that the holder has in the holder's immediate possession written documentation from the holder's employer.

2. Traveling to or from an official function sponsored by the school the holder attends between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;

3. Traveling to or from an official religious event between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.

B. Subsection (a)(1)B. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:

1. Traveling to or from work between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from the holder's employer.

2. Traveling to or from an official function sponsored by the school the holder attends between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;

3. Traveling to or from an official religious event between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.

(3) An employer, school official or official affiliated with a religious event is not liable in damages in a civil action for any injury, death or loss to person or property that allegedly arises from, or is related to, the fact that the employer, school official, or official affiliated with a religious event provided the holder of a probationary driver's license with the written documentation described in subsection (a)(2) of this section.

The Registrar of Motor Vehicles shall make available at no cost a form to serve as the written documentation described in subsection (a)(2) of this section, and employers, school officials, officials affiliated with religious events, and holders of probationary driver's licenses may utilize that form or may choose to utilize any other written documentation to meet the requirements of that subsection.

(4) No holder of a probationary driver's license who has held the license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking with more than one person who is not a family member occupying the vehicle unless the probationary license holder is accompanied by the probationary license holder's parent, guardian or custodian.

(b) It is an affirmative defense to a violation of subsection (a)(1)A. or B. of this section if, at the time of the violation, an emergency existed that required the holder of the probationary driver's license to operate a motor vehicle in violation of subsection (a)(1)A. or B. of this section; or the holder was an emancipated minor.

(c) (1) If a person is issued a probationary driver's license prior to attaining the age of seventeen years and the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed a moving violation during the six-month period commencing on the date on which the person is issued the probationary driver's license, the court with jurisdiction over the violation may order that the holder must be accompanied by the holder's parent or guardian whenever the holder is operating a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking for a period not to exceed six months or the date the holder attains the age of seventeen years, whichever occurs first.

(2) Any person who is subject to the operating restrictions established under subsection (c)(1) of this section as a result of a first moving violation may petition the court for driving privileges without being accompanied by the holder's parent or guardian during the period of time determined by the court under that subsection. In granting the driving privileges, the court shall specify the purposes of the privileges and shall issue the person appropriate forms setting forth the privileges granted. If a person is convicted of, pleads guilty to, or is adjudicated in juvenile court of having committed a second or subsequent moving violation, the court with jurisdiction over the violation may terminate any driving privileges previously granted under this division.

(3) No person shall violate any operating restriction imposed under subsection (c)(1) or (2) of this section.

(d) No holder of a probationary license shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking unless the total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(e) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether each occupant of the motor vehicle is wearing all of the available elements of a properly adjusted occupant restraining device as required by subsection (d) hereof, or for the sole purpose of issuing a ticket, citation, or summons if the requirement in that subsection has been or is being violated, or for causing the arrest of or commencing a prosecution of a person for a violation of that requirement.

(f) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (a)(1)A. or B. hereof has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for such a violation or for causing the arrest of or commencing a prosecution of a person for such violation.

(g) As used in this section:

(1) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.

(2) "Family member" of a probationary license holder includes any of the following:

A. A spouse;

B. A child or stepchild;

C. A parent, stepparent, grandparent, or parent-in-law;

- D. An aunt or uncle;
 - E. A sibling, whether or the whole or half blood or by adoption, a brother-in-law or a sister-in-law;
 - F. A son or daughter of the probationary license holder's stepparent if the stepparent has not adopted the probationary license holder;
 - G. An eligible adult, as defined in Ohio R.C. 4507.05.
 - (3) "Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles, streetcars, or trackless trolleys on the highways or streets. "Moving violation" does not include a violation of Ohio R.C. 4513.263 or a substantially equivalent municipal ordinance, or a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, vehicle size or load limitations, vehicle fitness requirements, or vehicle registration.
 - (h) Whoever violates this section is guilty of a minor misdemeanor.
- (ORC 4507.071)

335.032 USE OF ELECTRONIC WIRELESS COMMUNICATION DEVICE PROHIBITED WHILE DRIVING.

- (a) No holder of a temporary instruction permit who has not attained the age of eighteen years and no holder of a probationary driver's license shall drive a motor vehicle on any street, highway, or property used by the public for purposes of vehicular traffic or parking while using in any manner an electronic wireless communications device.
 - (b) Subsection (a) of this section does not apply to either of the following:
 - (1) A person using an electronic wireless communications device for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
 - (2) A person using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel;
 - (3) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving.
 - (c) (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) of this section shall be fined one hundred fifty dollars (\$150.00). In addition, the court shall impose a class seven suspension of the offender's driver's license or permit for a definite period of sixty days.
 - (2) If the person previously has been adjudicated a delinquent child or a juvenile traffic offender for a violation of this section, whoever violates this section shall be fined three hundred dollars (\$300.00). In addition, the court shall impose a class seven suspension of the person's driver's license or permit for a definite period of one year.
 - (d) The filing of a sworn complaint against a person for a violation of Ohio R.C. 4511.205 does not preclude the filing of a sworn complaint for a violation of a substantially equivalent municipal ordinance for the same conduct. However, if a person is adjudicated a delinquent child or a juvenile traffic offender for a violation of Ohio R.C. 4511.205 and is also adjudicated a delinquent child or a juvenile traffic offender for a violation of a substantially equivalent municipal ordinance for the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.
 - (e) As used in this section, "electronic wireless communications device" includes any of the following:
 - (1) A wireless telephone;
 - (2) A personal digital assistant;
 - (3) A computer, including a laptop computer and a computer tablet;
 - (4) A text-messaging device;
 - (5) Any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word.
- (ORC 4511.205)

335.04 CERTAIN ACTS PROHIBITED.

- (a) No person shall do any of the following:
 - (1) Display, or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, suspended or altered;
 - (2) Lend to a person not entitled thereto, or knowingly permit a person not entitled thereto to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;
 - (3) Display or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit not issued to the person so displaying the same;
 - (4) Fail to surrender to the Registrar of Motor Vehicles, upon the Registrar's demand, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit that has been suspended or canceled;
 - (5) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit, or any renewal, reprint, or duplicate thereof, knowingly conceal a material fact, or present any physician's statement required under Ohio R.C. 4507.08 or 4507.081 when knowing the same to be false or fictitious.
 - (b) Whoever violates this section is guilty of a misdemeanor of the first degree.
- (ORC 4507.30; Ord. 22-244. Passed 8-2-22.)

335.05 WRONGFUL ENTRUSTMENT OF A MOTOR VEHICLE.

- (a) No person shall permit a motor vehicle owned by the person or under the person's control to be driven by another if any of the following apply:
 - (1) The offender knows or has reasonable cause to believe that the other person does not have a valid driver's or commercial driver's license or permit or valid nonresident driving privileges.
 - (2) The offender knows or has reasonable cause to believe that the other person's driver's or commercial driver's license or permit or nonresident operating privileges have been suspended or canceled under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or this Traffic Code.
 - (3) The offender knows or has reasonable cause to believe that the other person's act of driving the motor vehicle would violate any prohibition contained in Ohio R.C. Chapter 4509.
 - (4) The offender knows or has reasonable cause to believe that the other person's act of driving would violate Ohio R.C. 4511.19 or any substantially equivalent municipal ordinance.
 - (5) The offender knows or has reasonable cause to believe that the vehicle is the subject of an immobilization waiver order issued under Ohio R.C. 4503.235 and the other person is prohibited from operating the vehicle under that order.
- (b) Without limiting or precluding the consideration of any other evidence in determining whether a violation of subsection (a)(1), (2), (3), (4) or (5) of this section has occurred, it shall be prima-facie evidence that the offender knows or has reasonable cause to believe that the operator of the motor vehicle owned by the offender or under the offender's control is in a category described in subsection (a)(1), (2), (3), (4) or (5) of this section if any of the following applies:
 - (1) Regarding an operator allegedly in the category described in subsection (a)(1), (3) or (5) of this section, the offender and the operator of the motor vehicle reside in the same household and are related by consanguinity or affinity.
 - (2) Regarding an operator allegedly in the category described in subsection (a)(2) of this section, the offender and the operator of the motor vehicle reside in the same household, and the offender knows or has reasonable cause to believe that the operator has been charged with or convicted of any violation of law or ordinance, or has committed any other act or omission, that would or could result in the suspension or cancellation of the operator's license, permit or privilege.
 - (3) Regarding an operator allegedly in the category described in subsection (a)(4) of this section, the offender and the operator of the motor vehicle occupied the motor vehicle together at the time of the offense.
- (c) Whoever violates this section is guilty of wrongful entrustment of a motor vehicle and shall be punished as provided in subsections (c) to (h) of this section.
 - (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a)(1), (2) or (3) of this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio

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

- (2) A. If, within three years of a violation of subsection (a)(1), (2) or (3) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of division (A)(1), (2) or (3) of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
- B. Whoever violates subsection (a)(4) or (5) of this section is guilty of a misdemeanor of the first degree.
- (3) For any violation of this section, in addition to the penalties imposed under Section 303.99, the court may impose a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02, and, if the vehicle involved in the offense is registered in the name of the offender, the court may order one of the following:
- A. Except as otherwise provided in subsection (c)(3)B. or C. of this section, the court may order, for thirty days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under Ohio R.C. 4503.233.
- B. If the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the court may order, for sixty days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under Ohio R.C. 4503.233.
- C. If the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the court may order the criminal forfeiture to the state of the vehicle involved in the offense. If issued, the order shall be issued and enforced under Ohio R.C. 4503.234.
- If title to a motor vehicle that is subject to an order for criminal forfeiture under this subsection is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national automobile dealer's association. The proceeds from any fine imposed under this subsection shall be distributed in accordance with division (C)(2) of Ohio R.C. 4503.234.
- (d) If a court orders the immobilization of a vehicle under subsection (c) of this section, the court shall not release the vehicle from the immobilization before the termination of the period of immobilization ordered unless the court is presented with current proof of financial responsibility with respect to that vehicle.
- (e) If a court orders the criminal forfeiture of a vehicle under subsection (c) of this section, upon receipt of the order from the court, neither the Registrar of Motor Vehicles nor any deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the order. The period of denial shall be five years after the date the order is issued, unless, during that five-year period, the court with jurisdiction of the offense that resulted in the order terminates the forfeiture and notifies the Registrar of the termination. If the court terminates the forfeiture and notifies the Registrar, the Registrar shall take all necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer the registration of the vehicle.
- (f) This section does not apply to motor vehicle rental dealers or motor vehicle leasing dealers, as defined in Ohio R.C. 4549.65.
- (g) Evidence of a conviction of, plea of guilty to, or adjudication as a delinquent child for a violation of this section or a substantially similar municipal ordinance shall not be admissible as evidence in any civil action that involves the offender or delinquent child who is the subject of the conviction, plea, or adjudication and that arises from the wrongful entrustment of a motor vehicle.
- (h) For purposes of this section, a vehicle is owned by a person if, at the time of a violation of this section, the vehicle is registered in the person's name.
- (ORC 4511.203)

335.06 DISPLAY OF LICENSE.

- (a) The operator of a motor vehicle shall display the operator's driver's license, or furnish satisfactory proof that the operator has a driver's license, upon demand of any peace officer or of any person damaged or injured in any collision in which the licensee may be involved. When a demand is properly made and the operator has the operator's driver's license on or about the operator's person, the operator shall not refuse to display the license. A person's failure to furnish satisfactory evidence that the person is licensed under Ohio R.C. Chapter 4507 when the person does not have the person's license on or about the person's person shall be prima-facie evidence of the person's not having obtained a driver's license.
- (b) (1) Except as provided in subsection (b)(2) hereof, whoever violates this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.35 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree. (ORC 4507.35)

335.07 DRIVING UNDER SUSPENSION OR LICENSE RESTRICTION.

- (a) Except as provided under subsection (b) hereof and Sections 335.072 and 335.074, no person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under any provision of the Ohio Revised Code, other than Ohio R.C. Chapter 4509, or under any applicable law in any other jurisdiction in which the person's license or permit was issued shall operate any motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this Municipality during the period of suspension unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges.
- (b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality in violation of any restriction of the person's driver's or commercial driver's license or permit imposed under division (D) of Ohio R.C. 4506.10 or under Ohio R.C. 4507.14.
- (c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under suspension at the time of the alleged violation of subsection (a) of this section or the person operated a motor vehicle in violation of a restriction at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsection (a) or (b) of this section may offer evidence to rebut this prima-facie evidence.
- (d) (1) Whoever violates subsection (a) or (b) hereof, is guilty of a misdemeanor of the first degree. The court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.
- (2) A. Except as provided in subsection (d)(2)B. or C. of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or Ohio R.C. 4510.16, or a substantially equivalent municipal ordinance, the court, in addition to or independent of any other sentence that it imposes upon the offender, may order the immobilization of the vehicle involved in the offense for thirty days and the impoundment of that vehicle's license plates for thirty days in accordance with Ohio R.C. 4503.233.

- B. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two violations of Ohio R.C. 4510.11 or any combination of two violations of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the immobilization of the vehicle involved in the offense for sixty days and the impoundment of that vehicle's license plates for sixty days in accordance with Ohio R.C. 4503.233.
- C. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 4510.11, or any combination of three or more violations of Ohio R.C. 4501.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the criminal forfeiture of the vehicle involved in the offense to the State.

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

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

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

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

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

335.071 DRIVING UNDER OVI SUSPENSION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that

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

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

- 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.

(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 issued under Ohio R.C. 4503.19 and 4503.191, except that a commercial tractor shall display the license plate and validation sticker 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 license placard or windshield sticker has been issued for the use of a motor vehicle under Ohio R.C. 4503.182, and no operator of that motor vehicle, shall fail to display the temporary license placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, or fail to display the windshield sticker in plain view on the rear window of the motor vehicle. No temporary license placard or windshield sticker shall be covered by any material that obstructs its visibility.

(ORC 4503.21(A))

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

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

(ORC 4503.21(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)

Safety and Equipment

- 337.01 Driving unsafe vehicles.
- 337.02 Lighted lights; measurement of distances and heights.
- 337.03 Headlights on motor vehicles and motorcycles.
- 337.04 Tail light; illumination of rear license plate.
- 337.05 Rear red reflectors.
- 337.06 Safety lighting on commercial vehicles.
- 337.07 Obscured lights on vehicles in combination.
- 337.08 Red light or red flag on extended loads.
- 337.09 Lights on parked or stopped vehicles.
- 337.10 Lights , emblems, and reflectors on slow-moving vehicles, farm machinery, agricultural tractors, and animal-drawn vehicles.
- 337.11 Spotlight and auxiliary lights.
- 337.12 Cowl, fender and back-up lights.
- 337.13 Display of lighted lights.
- 337.14 Use of headlight beams.
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- 337.16 Number of lights; limitations on flashing, oscillating or rotating lights.
- 337.17 Focus and aim of headlights.
- 337.18 Motor vehicle and motorcycle brakes.
- 337.19 Horn, siren and theft alarm signal.
- 337.20 Muffler; muffler cutout; excessive smoke, gas or noise.
- 337.21 Rear-view mirror; clear view to front, both sides and rear.
- 337.22 Windshield and windshield wiper; sign or poster thereon.
- 337.23 Limited load extension on left side of passenger vehicle.
- 337.24 Motor vehicle stop lights.
- 337.25 Air cleaner required.
- 337.26 Child restraint system usage.
- 337.27 Drivers and passengers required to wear seat belts.
- 337.28 Use of sunscreening, nontransparent and reflectorized materials.
- 337.29 Bumper heights.
- 337.30 Directional signals required.
- 337.31 Lights and sign on transportation for preschool children.

CROSS REFERENCES

See sectional histories for similar State law
Warning devices for commercial vehicles disabled upon freeways - see Ohio R.C. 4513.28
Slow moving vehicle emblem - see OAC Ch. 4501.13
Motorized bicycle lights and equipment - see Ohio R.C. 4511.521
Vehicle lighting - see OAC 4501-15
Use of stop and turn signals - see TRAF. 331.14
Wheel protectors for commercial vehicles - see TRAF. 339.05
Vehicles transporting explosives - see TRAF. 339.06
Towing requirements - see TRAF. 339.07
Use of studded tires and chains - see TRAF. 339.11
Bicycle equipment - see TRAF. 373.05 et seq.

337.01 DRIVING UNSAFE VEHICLES.

(a) No person shall drive or move, or cause or knowingly permit to be driven or moved, on any street any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property.

(b) Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

(c) The provisions of this chapter with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or agricultural tractors except as made applicable to such articles of machinery. (ORC 4513.02)

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

337.02 LIGHTED LIGHTS; MEASUREMENT OF DISTANCES AND HEIGHTS.

(a) Every vehicle, other than a motorized bicycle, operated upon a street or highway shall display lighted lights and illuminating devices as required by this chapter during all of the following times:

(1) The time from sunset to sunrise;

(2) At any other time when, due to insufficient natural light or unfavorable atmospheric conditions, persons, vehicles, and substantial objects on the street or highway are not discernible at a distance of one thousand feet ahead;

(3) At any time when the windshield wipers of the vehicle are in use because of precipitation on the windshield.

Every motorized bicycle shall display at such times lighted lights meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521. No motor vehicle, during any time specified in this section, shall be operated upon a street or highway using only parking lights as illumination.

(b) Whenever in this chapter a requirement is declared as to the distance from which certain lights and devices shall render objects visible, or within which such lights or devices shall be visible, such distance shall be measured upon a straight level unlighted street under normal atmospheric conditions unless a different condition is expressly stated.

(c) Whenever in this chapter a requirement is declared as to the mounted height of lights or devices, it shall mean from the center of such light or device to the level ground upon which the vehicle stands.

(d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause the operator of a vehicle being operated upon a street or highway to stop the vehicle solely because the officer observes that a violation of subsection (a)(3) of this section has been or is being

committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that subsection, or causing the arrest of or commencing a prosecution of a person for a violation of that subsection.

(e) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.03)

337.03 HEADLIGHTS ON MOTOR VEHICLES AND MOTORCYCLES.

(a) Every motor vehicle, other than a motorcycle, shall be equipped with at least two headlights with at least one near each side of the front of the motor vehicle.

(b) Every motorcycle shall be equipped with at least one and not more than two headlights.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.04)

337.04 TAIL LIGHT; ILLUMINATION OF REAR LICENSE PLATE.

(a) Every motor vehicle, trailer, semitrailer, pole trailer or vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least one tail light mounted on the rear which, when lighted, shall emit a red light visible from a distance of 500 feet to the rear, provided that in the case of a train of vehicles only the tail light on the rear-most vehicle need be visible from the distance specified.

(b) Either a tail light or a separate light shall be so constructed and placed as to illuminate with a white light the rear registration plate, when such registration plate is required, and render it legible from a distance of fifty feet to the rear. Any tail light, together with any separate light for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlights or auxiliary driving lights are lighted, except where separate lighting systems are provided for trailers for the purpose of illuminating such registration plate.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.05)

337.05 REAR RED REFLECTORS.

(a) Every new motor vehicle sold after September 6, 1941, and operated on a street, other than vehicles of the type mentioned in Section 337.06 or a commercial tractor to which a trailer or semitrailer is attached, shall carry at the rear, either as a part of the tail lights or separately, two red reflectors of such size and characteristics and so maintained as to be visible at night from all distances within 300 feet to fifty feet from such vehicle.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.06)

337.06 SAFETY LIGHTING ON COMMERCIAL VEHICLES.

(a) Buses, trucks, commercial tractors, trailers, semitrailers and pole trailers, when operated upon any street, shall be equipped with clearance lights, marker lights, reflectors and stop lights as required by State regulations. Such equipment shall be lighted at all times mentioned in Section 337.02 except that clearance lights and side marker lights need not be lighted on a vehicle operated where there is sufficient light to reveal any person or substantial object on the street at a distance of 500 feet.

Such equipment shall be in addition to all other lights specifically required by Section 337.02 to Section 337.15, inclusive. Vehicles operated under the jurisdiction of the Ohio Public Utilities Commission are not subject to this section.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.07)

337.07 OBSCURED LIGHTS ON VEHICLES IN COMBINATION.

(a) Whenever motor and other vehicles are operated in combination during the time that lights are required, any light, except tail lights, which by reason of its location on a vehicle of the combination would be obscured by another vehicle of the combination need not be lighted, but this section does not affect the requirement that lighted clearance lights be displayed on the front of the foremost vehicle required to have clearance lights or that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

(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.
(ORC 4513.08)

337.08 RED LIGHT OR RED FLAG ON EXTENDED LOADS.

(a) Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in Section 337.02, a red light or lantern plainly visible from a distance of at least 500 feet to the side and rear. The red light or lantern required by this section is in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than sixteen inches square.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.09)

337.09 LIGHTS ON PARKED OR STOPPED VEHICLES.

(a) Except in case of an emergency, whenever a vehicle is parked or stopped upon a roadway open to traffic or shoulder adjacent thereto, whether attended or unattended during the times mentioned in Section 337.02, such vehicle shall be equipped with one or more lights which shall exhibit a white or amber light on the roadway side visible from a distance of 500 feet to the front of such vehicle, and a red light visible from a distance of 500 feet to the rear. No lights need be displayed upon any such vehicle when it is stopped or parked where there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon such street. Any lighted headlights upon a parked vehicle shall be depressed or dimmed.

(ORC 4513.10)

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

337.10 LIGHTS, EMBLEMS AND REFLECTORS ON SLOW-MOVING VEHICLES, FARM MACHINERY, AGRICULTURAL TRACTORS, AND ANIMAL-DRAWN VEHICLES.

(a) Definitions. As used in this section:

(1) **BOAT TRAILER.** Means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(2) **SLOW-MOVING VEHICLE and SMV.** Mean a boat trailer, unit of farm machinery, road construction machinery, or other machinery designed by the manufacturer to operate at a speed of twenty-five miles per hour or less. The term does not include a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle. (ORC 4513.11)

(b) Generally.

(1) At the times specified in Ohio R.C. 4513.03, no person shall operate either of the following vehicles unless it is equipped with and displays the lamps described in subsection (b)(2) of this section.

A. A vehicle not specifically required to be equipped with lamps or other lighting devices by Ohio R.C. 4513.03 to 4513.10;

B. A vehicle referred to in Ohio R.C. 4513.02(G).

(2) Vehicles described in subsection (b)(1) of this section shall be equipped with both of the following:

A. At least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle;

B. Two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlamps.

(3) A. At the times specified in Ohio R.C. 4513.03, no person shall operate a multi-wheel agricultural tractor model year 2001 or earlier on a street or highway unless it is equipped with and displays reflectors and illuminated amber lamps so that the extreme left and right projections of the tractor are indicated by all of the following:

1. Flashing lamps displaying amber light, visible to the front and the rear. The lamps need not flash simultaneously and need not flash in conjunction with any directional signals of the tractor;
 2. Amber reflectors, all visible to the front;
 3. Red reflectors, all visible to the rear.
- B. Rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4513.111 governing the lamps and reflectors described in subsection (b)(3)A. of this section and their placement correlate with and, as far as possible, conform with paragraphs 4.1.4.1, 4.1.7.1 and 4.1.7.2 respectively of the American Society of Agricultural Engineers Standard ANSI/ASAE S279.10 OCT98, Lighting and Marking of Agricultural Equipment on Highways.
- (4) At the times specified in Ohio R.C. 4513.03, no person shall operate a unit of farm machinery model year 2002 or later on a street or highway unless it is equipped with and displays markings and illuminated lamps that meet or exceed the lighting, illumination and marking standards and specifications that are applicable to that type of farm machinery for the unit's model year specified in the American Society of Agricultural Engineers Standard ANSI/ASAE S279.10 OCT 98, lighting and marking of agricultural equipment on highways.
 - (5) Any unit of farm machinery designed by its manufacturer to operate at a speed of twenty-five miles per hour or greater or any SMV may be equipped with and display a red flashing light that is visible from a distance of not less than 1,000 feet to the rear at all times specified in Ohio R.C. 4513.03. When a double-faced light is used, it shall display amber light to the front and red light to the rear.
 - (6) Lights and reflectors required under subsections (b)(3) and (b)(4) of this section and authorized under subsection (b)(5) of this section are in addition to other lights required or permitted by this subsection (b) or Ohio R.C. 4513.17.
 - (7) The Ohio Director of Public Safety shall adopt rules in accordance with Ohio R.C. Chapter 119 Code that establish standards and specifications for lamps and reflectors required or authorized by this section. Lamps and reflectors required or authorized by this section shall meet those standards and specifications.
 - (8) This subsection (b) does not apply to a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle.
 - (9) Whoever violates this subsection (b) is guilty of a minor misdemeanor.
(ORC 4513.111)
- (c) Slow-Moving Vehicles.
- (1) Except as otherwise provided in this section, no person shall operate an SMV on a street or highway as follows:
 - A. At a speed exceeding twenty-five miles per hour;
 - B. Without displaying the triangular SMV emblem mounted in accordance with subsection (c)(2) of this section.
 - (2) The SMV emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. In accordance with Ohio R.C. Chapter 119, the Ohio Director of Public Safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for the SMV emblem correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.
 - (3) A person may operate an SMV on a street or highway without displaying the triangular SMV emblem when any of the following apply:
 - A. The SMV is being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used;
 - B. The SMV is operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, a city engineer, or the county engineer of the several counties, when such construction area is marked in accordance with requirements of the Ohio Director of Transportation and the Manual of Uniform Traffic Control Devices, as set forth in Ohio R.C. 4511.09.
 - (4) No person shall display an SMV emblem on any of the following:
 - A. Any vehicle not required to use the SMV emblem by this subsection (c) or Ohio R.C. 4513.113 or 4513.114;
 - B. An SMV being transported upon any other vehicle;
 - C. Any stationary object on the highway.
 - (5) No person shall sell, lease, rent or operate an SMV, except a unit designed to be completely mounted on a primary power unit that is manufactured or assembled on or after April 1, 1966, unless it is equipped with an SMV emblem mounting device.
 - (6) Whoever violates subsection (c) is guilty of a minor misdemeanor.
(ORC 4513.112)
- (d) Farm Machinery and Agricultural Tractors.
- (1) No person shall sell, lease, rent or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the unit displays both of the following:
 - A. The SMV emblem mounted in accordance with Ohio R.C. 4513.112(B);
 - B. A speed identification symbol that does both of the following:
 1. Meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, Agricultural Equipment: Speed Identification Symbol (SIS);
 2. Indicates the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate;
 - (2) No person operating a tractor on a street or highway that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour and that is towing, pulling or otherwise drawing a unit of farm machinery while operating at a speed greater than twenty-five miles per hour shall fail to display both of the following on the unit of farm machinery:
 - A. The SMV emblem;
 - B. The speed identification symbol that matches the speed identification symbol required to be displayed on the agricultural tractor;
 - (3) No person shall operate an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the person possesses documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate;
 - (4) Whoever violates this subsection (d) is guilty of a minor misdemeanor.
(ORC 4513.113)
- (e) Animal-Drawn Vehicles.
- (1) Except as otherwise provided in subsection (e)(4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at the times specified in Ohio R.C. 4513.03, both of the following:
 - A. At least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the animal-drawn vehicle;
 - B. Two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the animal-drawn vehicle, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to one hundred feet to the rear when illuminated by the lawful lower beams of headlamps.
 - (2) Except as otherwise provided in subsection (e)(4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at all times, all of the following:
 - A. One yellow flashing lamp displaying yellow light that is visible from a distance of not less than 1,000 feet and that is mounted in either of the following positions:
 1. On the top most portion of the rear of the animal-drawn vehicle;
 2. On the top of the animal-drawn vehicle;
 - B. At least one of the following:
 1. An SMV emblem mounted in accordance with Ohio R.C. 4513.112(B);
 2. Micro-prism reflective tape that is visible from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps;
 3. Both an SMV emblem and micro-prism reflective tape, as specified in this division.
 - C. Lamps and micro-prism reflective tape required by this section shall meet standards and specifications adopted by the Ohio Director of Public Safety under Ohio R.C. 4513.114.
 - (3) The Ohio Director of Public Safety, in accordance with Ohio R.C. Chapter 119, shall adopt rules establishing standards and specifications for the position and mounting of the lamps and micro-prism reflective tape required by Ohio R.C. 4513.114. The rules permit

the micro-prism reflective tape to be red, amber, white, or silver in color.

- (4) A. Subsections (c)(1) and (c)(2) of this section do not apply to the operator of animal-drawn agricultural equipment who is not transporting any livestock or a person other than the operator.
- B. No operator described in subsection (c)(4)A. of this section shall operate animal-drawn agricultural equipment unless it is equipped with and displays, at all times, the SMV emblem mounted in accordance with Ohio R.C. 4513.112(B).
- C. As used in subsection (c)(4) of this section, "animal-drawn agricultural equipment" means equipment drawn by the muscular power of an animal that is used solely for agricultural purposes. "Animal-drawn agricultural equipment" includes any of the following:

- 1. A plow;
- 2. A manure spreader;
- 3. A thresher.

- (5) Whoever violates this subsection (e) is guilty of a minor misdemeanor.

(ORC 4513.114)

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

(ORC 4513.115)

337.11 SPOTLIGHT AND AUXILIARY LIGHTS.

(a) Any motor vehicle may be equipped with not more than one spotlight and every lighted spotlight shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle, nor more than 100 feet ahead of the vehicle.

(b) Any motor vehicle may be equipped with not more than three State approved auxiliary driving lights mounted on the front of the vehicle, which when used shall conform to State regulations.

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

(ORC 4513.12)

337.12 COWL, FENDER AND BACK-UP LIGHTS.

(a) Any motor vehicle may be equipped with side cowl or fender lights or lights on each side thereof which shall emit a white or amber light without glare.

(b) Any motor vehicle may be equipped with back-up lights, either separately or in combination with another light. No back-up lights shall be continuously lighted when the motor vehicle is in forward motion.

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

(ORC 4513.13)

337.13 DISPLAY OF LIGHTED LIGHTS.

(a) At all times mentioned in Section 337.02 at least two State approved lighted lights shall be displayed conforming to State regulations, one near each side of the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

(ORC 4513.14)

(b) However, on a motorcycle, there shall be displayed at least one and not more than two lighted lights as required herein.

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

(ORC 4513.14)

337.14 USE OF HEADLIGHT BEAMS.

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 337.02, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons, vehicles and substantial objects at a safe distance in advance of the vehicle, except that upon approaching an oncoming vehicle, the lights or beams shall be so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

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

(ORC 4513.15)

337.15 LIGHTS OF LESS INTENSITY ON SLOW-MOVING VEHICLES.

(a) Any motor vehicle may be operated under the conditions specified in Section 337.02 when it is equipped with two lighted lights upon the front thereof capable of revealing persons and substantial objects seventy-five feet ahead in lieu of lights required in Section 337.13, provided that such vehicle shall not be operated at a speed in excess of twenty miles per hour.

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

(ORC 4513.16)

337.16 NUMBER OF LIGHTS; LIMITATIONS ON FLASHING, OSCILLATING OR ROTATING LIGHTS.

(a) Whenever a motor vehicle equipped with headlights also is equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candle power, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.

(b) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights or auxiliary driving lights, that projects a beam of light of an intensity greater than 300 candle power, shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing.

(2) The prohibition in subsection (c)(1) of this section does not apply to any of the following:

A. Emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash or recyclable materials on the roadside, rural mail delivery vehicles, vehicles as provided in Ohio R.C. 4513.182, highway maintenance vehicles, and similar equipment operated by state or local authorities, provided such vehicles are equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light;

B. Vehicles or machinery permitted by Ohio R.C. 4513.111 to have a flashing red light;

C. Farm machinery and vehicles escorting farm machinery, provided such machinery and vehicles are equipped with and display, when used on a street or highway, a flashing, oscillating or rotating amber light. Farm machinery also may display the lights described in Ohio R.C. 4513.111.

D. A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating purple or amber light;

E. A vehicle being used for emergency preparedness, response, and recovery activities, as those terms are defined in Ohio R.C. 5502.21, that is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating, or rotating amber or red and white light, provided that the vehicle is being operated by a person from one of the following and the vehicle is clearly marked with the applicable agency's or authority's insignia:

- 1. The Ohio Emergency Management Agency;
- 2. A countywide emergency management agency established under Ohio R.C. 5502.26;
- 3. A regional authority for emergency management established under Ohio R.C. 5502.27;
- 4. A program for emergency management established under Ohio R.C. 5502.271.

(3) Subsection (c)(1) of this section does not apply to animal-drawn vehicles subject to Ohio R.C. 4513.114.

(d) (1) Except a person operating a public safety vehicle, as defined in Ohio R.C. 4511.01(E), an emergency management agency vehicle, as

described in subsection (c)(2)E. of this section, or a school bus, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light.

- (2) Except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, operating a public safety vehicle when on duty, no person shall operate, move, or park upon, or permit to stand within the right-of-way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

(e) This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.

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

(ORC 4513.17)

(Ord. 14-288. Passed 11-12-14.)

337.17 FOCUS AND AIM OF HEADLIGHTS.

(a) No person shall use any lights mentioned in Section 337.02 to 337.16, inclusive, upon any motor vehicle, trailer or semitrailer unless the lights are equipped, mounted and adjusted as to focus and aim in accordance with State regulations.

(b) The headlights on any motor vehicle shall comply with the headlamp color requirements contained in federal motor vehicle safety standard number 108, 49 C.F.R. 571.108. No person shall operate a motor vehicle in violation of this subsection.

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

(ORC 4513.19)

(Ord. 14-288. Passed 11-12-14.)

337.18 MOTOR VEHICLE AND MOTORCYCLE BRAKES.

(a) The following requirements govern as to brake equipment on vehicles:

- (1) Every motor vehicle, other than a motorcycle, when operated upon a street or highway, shall be equipped with brakes adequate to control the movement of and to stop and hold such motor vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, then on such motor vehicles manufactured or assembled after January 1, 1942, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.

(2) Every motorcycle, when operated upon a street or highway, shall be equipped with at least one adequate brake, which may be operated by hand or by foot.

(3) Every motorized bicycle shall be equipped with brakes meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521.

(4) When operated upon the streets or highways of this Municipality, the following vehicles shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle designed to be applied by the driver of the towing motor vehicle from its cab, and also designed and connected so that, in case of a breakaway of the towed vehicle, the brakes shall be automatically applied:

A. Except as otherwise provided in this section, every trailer or semitrailer, except a pole trailer, with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 1942;

B. Every manufactured home or travel trailer with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 2001.

(5) Every watercraft trailer with a gross weight or manufacturer's gross vehicle weight rating of three thousand pounds or more that is manufactured or assembled on or after January 1, 2008, shall have separate brakes equipped with hydraulic surge or electrically operated brakes on two wheels.

(6) In any combination of motor-drawn trailers or semitrailers equipped with brakes, means shall be provided for applying the rearmost brakes in approximate synchronism with the brakes on the towing vehicle, and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost brakes; or both of the above means, capable of being used alternatively, may be employed.

(7) Every vehicle and combination of vehicles, except motorcycles and motorized bicycles, and except trailers and semitrailers of a gross weight of less than 2,000 pounds, and pole trailers, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other sources of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.

(8) The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.

(9) Every motor vehicle or combination of motor-drawn vehicles shall be capable at all times and under all conditions of loading of being stopped on a dry, smooth, level road free from loose material, upon application of the service or foot brake, within the following specified distances, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

	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 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. (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)

337.23 LIMITED LOAD EXTENSION ON LEFT SIDE OF PASSENGER VEHICLE.

(a) No passenger-type vehicle shall be operated on a street with any load carried on such vehicle which extends more than six inches beyond the line of the fenders on the vehicle's left side. (ORC 4513.30)

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

337.24 MOTOR VEHICLE STOP LIGHTS.

(a) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a street or highway shall be equipped with two or more stop lights, except that passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles shall be equipped with at least one stop light. Stop lights shall be mounted on the rear of the vehicle, actuated upon application of the service brake, and may be incorporated with other rear lights. Such stop lights when actuated shall emit a red light visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the stop lights on the rear-most vehicle need be visible from the distance specified.

Such stop lights when actuated shall give a steady warning light to the rear of a vehicle or train of vehicles to indicate the intention of the operator to diminish the speed of or stop a vehicle or train of vehicles.

When stop lights are used as required by this section, they shall be constructed or installed so as to provide adequate and reliable illumination and shall conform to the appropriate rules and regulations established under Ohio R.C. 4513.19.

Historical motor vehicles as defined in Ohio R.C. 4503.181, not originally manufactured with stop lights, are not subject to this section.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.071)

337.25 AIR CLEANER REQUIRED.

(a) No person shall operate a motor vehicle with an internal combustion engine unless the carburetion system of the vehicle is protected with an air filter, a flame arresting device, or any other accepted method of protection that is adequate for this purpose. If the original device or system is replaced, it shall be replaced with one that is equal to or better than the original equipment.

(b) This section does not apply to a person doing automotive repair work on a motor vehicle that necessitates this device being removed while the work is performed.

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

337.26 CHILD RESTRAINT SYSTEM USAGE.

(a) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor safety standards:

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.
- (b) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased or otherwise under the control of a nursery school, or child care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:
 - (1) A child who is less than four years of age;
 - (2) A child who weighs less than forty pounds.
- (c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsection (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01 or a vehicle that is regulated under Ohio R.C. 5104.011, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.
- (d) When any child who is at least eight years of age but not older than fifteen years of age and who is not otherwise required by subsection (a), (b) or (c) hereof to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in Ohio R.C. 4513.263.
- (e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of subsection (c) or (d) of this section or causing the arrest of or commencing a prosecution of a person for a violation of subsection (c) or (d) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed.
- (f) The Ohio Director of Public Safety shall adopt such rules as are necessary to carry out this section.
- (g) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat or an occupant restraining device as required by this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.
- (h) This section does not apply when an emergency exists that threatens the life of any person operating or occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician or chiropractor as noted on the affidavit.
- (i) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation or summons issued for violating this section.
- (j) Whoever violates subsection (a), (b), (c) or (d) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:
 - (1) Except as otherwise provided in subsection (j)(2) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) nor more than seventy-five dollars (\$75.00).
 - (2) If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a), (b), (c) or (d) of this section or of a state law or municipal ordinance that is substantially similar to any of those subsections, the offender is guilty of a misdemeanor of the fourth degree. (ORC 4511.81)

337.27 DRIVERS AND PASSENGERS REQUIRED TO WEAR SEAT BELTS.

- (a) As used in this section:
 - (1) "Automobile" means any commercial tractor, passenger car, commercial car or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States Secretary of Transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.
 - (2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum Federal vehicle safety standards established by the United States Department of Transportation.
 - (3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.
 - (4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as provided in Ohio R.C. 4501.01.
 - (5) "Vehicle" and "motor vehicle", as used in the definitions of the terms set forth in subsection (a)(4) hereof, have the same meanings as provided in Chapter 301.
 - (6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in Ohio R.C. 2307.71 and an asbestos claim, as defined in Ohio R.C. 2307.91, but does not include a civil action for damages for breach of contract or another agreement between persons.
- (b) No person shall do either of the following:
 - (1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;
 - (2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in subsection (b)(3) hereof is wearing all of the available elements of a properly adjusted occupant restraining device;
 - (3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;
 - (4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.
- (c)
 - (1) Subsection (b)(3) hereof does not apply to a person who is required by Section 337.26 to be secured in a child restraint device or booster seat.
 - (2) Subsection (b)(1) hereof does not apply to a person who is an employee of the United States Postal Service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees.
 - (3) Subsections (b)(1) and (3) hereof do not apply to a person who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states the following:
 - A. That the person has a physical impairment that makes use of an occupant restraining device impossible or impractical;
 - B. Whether the physical impairment is temporary, permanent or reasonably expected to be permanent;
 - C. If the physical impairment is temporary, how long the physical impairment is expected to make the use of an occupant restraining device impossible or impractical.
 - (4) Subsections (b)(1) and (3) of this section do not apply to a person who has registered with the Registrar of Motor Vehicles in accordance

with subsection (c)(5) of this section.

- (5) A person who has received an affidavit under subsection (c)(3) of this section stating that the person has a permanent or reasonably expected to be permanent physical impairment that makes use of an occupant restraining device impossible or impracticable may register with the Registrar attesting to that fact. Upon such registration, the Registrar shall make that information available in the law enforcement automated data system. A person included in the database under subsection (c)(5) of this section is not required to have the affidavit obtained in accordance with subsection (c)(3) of this section in their possession while operating or occupying an automobile.
- (6) A physician or chiropractor who issues an affidavit for the purposes of subsection (c)(3) or (4) of this section is immune from civil liability arising from any injury or death sustained by the person who was issued the affidavit due to the failure of the person to wear an occupant restraining device unless the physician or chiropractor, in issuing the affidavit, acted in a manner that constituted willful, wanton or reckless misconduct.
- (7) The Registrar shall adopt rules in accordance with Ohio R.C. Chapter 119, establishing a process for a person to be included in the database under subsection (c)(5) of this section. The information provided and included in the database under subsection (c)(5) of this section is not a public record subject to inspection or copying under Ohio R.C. 149.43.
- (d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (b) hereof has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.
- (e) All fines collected for violations of subsection (b) hereof shall be forwarded to the Treasurer of State for deposit as provided in Ohio R.C. 4513.263.
- (f) (1) Subject to subsection (f)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of subsection (b)(1) or (3) or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device, in violation of subsection (b)(2) of this section, shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But the trier of fact may determine based on evidence admitted consistent with the Ohio rules of evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in Ohio R.C. 2307.011 in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.
- (2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:
 - A. It seeks to recover damages for injury or death to the occupant.
 - B. The defendant in question is the manufacturer, designer, distributor or seller of the passenger car.
 - C. The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.
- (g) (1) Whoever violates subsection (b)(1) of this section shall be fined thirty dollars (\$30.00).
- (2) Whoever violates subsection (b)(3) of this section shall be fined twenty dollars (\$20.00).
- (3) Except as otherwise provided in this subsection, whoever violates subsection (b)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(4) of this section, whoever violates subsection (b)(4) of this section is guilty of a misdemeanor of the third degree.

(ORC 4513.263)

337.28 USE OF SUNSCREENING, NONTRANSPARENT AND REFLECTORIZED MATERIALS.

(a) Requirements.

- (1) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State with any suncreening material, or other product or material which has the effect of making the windshield or windows nontransparent or would alter the windows' color, increase its reflectivity, or reduce its light transmittance, unless the product or material satisfies one of the following exceptions:
 - A. Any manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle until such standard is subsequently repealed or reduced. In "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) "manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>.
 - B. Any sunscreening material or other product or material applied to the windshield when used in conjunction with the safety glazing materials of such window, has a light transmittance of not less than seventy per cent plus or minus three per cent and is not red or yellow in color.
 - C. Any sunscreening material or other product or material applied to the side windows to the immediate right or left the driver, so long as such material, when used in conjunction with the safety glazing materials of such windows, has a light transmittance of not less than fifty per cent plus or minus three per cent and is not red or yellow in color.
 - D. Any sunscreening material or other product or material applied to a window not otherwise listed in subsections (a)(1)A. to C. or E. of this section, except that outside left and right rear view mirrors are required if the sunscreening material is applied to the rear window and the sunscreening material, when used in conjunction with the safety glazing material of such window, has a light transmittance of less than fifty per cent plus or minus three per cent.
 - E. Any sunscreening material or other product or material applied along the top of the windshield and that does not extend downward beyond the AS-1 line or five inches from the top of the windshield, whichever is closer to the top, is not regulated by this section.
 - (2) No person shall install in any motor vehicle any glass or other material that fails to conform to the specifications of this section.
 - (3) No used motor vehicle dealer or new motor vehicle dealer, as defined in Ohio R.C. 4517.01, shall sell any motor vehicle that fails to conform to the specifications of this section.
 - (4) No reflectORIZED materials shall be permitted upon or in any front windshield, side windows, sidewings or rear window.
 - (5) No person shall operate on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State that is equipped with privacy drapes, louvers, curtains or blinds unless the drapes, louvers, curtains or blinds are open and secure during vehicle operation.
 - (6) All motor vehicles, beginning with the 1990 model year, must be equipped with labels identifying sunscreening material. All sunscreening material must indicate the manufacturer's name and the percentage level of light transmission of the material permanently installed between the material and the surface to which the material is applied or affixed. Such label must be legible and must be placed in the lower left-hand corner of the vehicle window when viewed from the outside. (OAC 4501-41-03)
- #### **(b) Exemptions.** The provisions of this section do not apply to:
- (1) A motor vehicle registered in this State in the name of a person, or the person's parent, legal guardian or spouse who has an affidavit signed

by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or an affidavit signed by an optometrist licensed to practice in this State under Ohio R.C. Chapter 4725 that states that the person has a physical condition that makes it necessary to equip such motor vehicle with sunscreening material which would be of a light transmittance and/or luminous reflectance in violation of this section. Such affidavit shall be in the possession of the person so afflicted or the driver at all times while in the motor vehicle;

- (2) The windows to the rear of the driver in chauffeured limousines as defined herein;
- (3) The windows to the rear of the driver in those vehicles designed and used to transport corpses which include hearses and other vehicles adapted for such use; and
- (4) The manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle as provided in subsection (a) hereof. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>. (OAC 4501-41-05)

(c) Definitions. As used in this section, certain terms are defined as follows:

- (1) "Motor vehicle" has the same meaning as specified in Section 301.20.
- (2) "Sunscreening material" means products or materials, including film, glazing and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduce the effects of the sun with respect to light reflectance or transmittance.
- (3) "Transmittance" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.
- (4) "Windshield" means the front exterior viewing device of a motor vehicle.
- (5) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield or any roof-mounted viewing device.
- (6) "Manufacturer" unless otherwise specified in this section, means any person who engages in the manufacturing or assembling of sunscreening products or materials or any person who fabricates, laminates or tempers a safety glazing material, incorporating, during the manufacturing process, the capacity to reflect or reduce the transmission of light.
- (7) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an arrangement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.

(OAC 4501-41-02)

- (d) Penalty. Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.241)

337.29 BUMPER HEIGHTS.

(a) Definitions.

- (1) "Passenger car" means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.
- (2) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.
- (3) "Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.
- (4) "Manufacturer" has the same meaning as in Ohio R.C. 4501.01.
- (5) "Gross vehicle weight rating" means the manufacturer's gross vehicle weight rating established for the vehicle.
- (6) "Body floor height" means the vertical distance between top of the frame rail and the bottom of the passenger compartment (cab) floor. In the event that the vehicle is a truck body, floor height will be measured by the vertical distance between the passenger compartment (cab) floor and the floor of the truck bed.
- (7) "Bumper height" means the vertical distance between the ground and the highest point of the bottom of the bumper, measured when the vehicle is laden on a level surface with the vehicle tires inflated to the manufacturer's recommended pressure.
- (8) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.
- (9) "Wheel track distance" means the distance on the ground between the center of the tire tread on one side of the vehicle, and the center of the tire tread on the opposite side. (OAC 4501-43-02)

(b) Prohibitions; Application.

- (1) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle, or truck registered in this State that does not conform to the requirements of this section.
- (2) No person shall modify any motor vehicle registered in this State in such a manner as to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation, and no person shall disconnect any part of the original suspension system of the vehicle to defeat the safe operation of that system including the installation of inverted, altered or modified suspension system component parts which results in elevation of the height of the vehicle bumper or frame unit which is not in compliance with this section.
- (3) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State without a bumper on the front and rear of the vehicle if such vehicle was equipped with bumpers as standard equipment by the manufacturer.
- (4) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State if the difference in height between the body floor and the top of the frame exceeds four inches.
- (5) Nothing contained in this section shall be construed to prohibit either of the following:
 - A. The installation upon a passenger car, multipurpose passenger vehicle or truck registered in this State of heavy duty equipment, including shock absorbers and overload springs as long as such equipment does not cause the vehicle to be in violation of this section;
 - B. The operation on a street or highway of a passenger car, multipurpose passenger vehicle or truck registered in this State with normal wear to the suspension system if the normal wear does not adversely affect the control of the vehicle.
- (6) This section does not apply to any specially designed or modified passenger car, multipurpose passenger vehicle or truck when operated off a street or highway in races and similar events.
- (7) A specially designed or modified passenger car, multipurpose passenger vehicle or truck which does not conform to this section shall not be operated on a street or highway.

(OAC 4501-43-03)

(c) Specifications.

- (1) The horizontal bumper shall be at least 4.5 inches in vertical height, centered on the vehicle's centerline, and extend no less than the width of the respective wheel track distances. Bumpers shall be horizontal load bearing bumpers and attached to the vehicle frame to effectively transfer impact when engaged.
- (2) Maximum bumper heights shall be determined by the type of vehicle at time of manufacture. If other than a passenger vehicle, the maximum bumper height shall be determined by the gross vehicle weight rating (GVWR) at the time of manufacture. The height shall be measured in terms of the vertical distance between the ground and the bottom of the bumper. Maximum bumper heights are as follows:

	Front (inches)	Rear (inches)

Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

(3) If the body and/or truck bed height is altered the difference in height between the body floor and/or the truck bed floor to the top of the frame rail shall not exceed four inches.

(4) For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer's design in order to conform with the maximum bumper requirements of this section, the bumper height shall be measured from a level surface to the bottom of the vehicle frame rail at the most forward and rearward points of the frame rail. Frame rail height if bumper modified or altered:

	Front (inches)	Rear (inches)
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

(5) The height restriction in this subsection (c) applies to the distance from the ground to the bottom of the frame rail under any one or more of the following conditions:

- A. A motor vehicle is not equipped with a front and rear bumper.
- B. The bumper height relative to the frame rails has been altered.
- C. A supplemental bumper has been installed or an addition to the original or replacement has been made.
(OAC 4501-43-04)

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

337.30 DIRECTIONAL SIGNALS REQUIRED.

- (a) (1) No person shall operate any motor vehicle manufactured or assembled on or after January 1, 1954, unless the vehicle is equipped with electrical or mechanical directional signals.
- (2) No person shall operate any motorcycle or motor-driven cycle manufactured or assembled on or after January 1, 1968, unless the vehicle is equipped with electrical or mechanical directional signals.
- (b) "Directional signals" means an electrical or mechanical signal device capable of clearly indicating an intention to turn either to the right or to the left and which shall be visible from both the front and rear.
- (c) All mechanical signal devices shall be self-illuminating devices when in use at the times mentioned in Section 337.02.
- (d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.261)

337.31 LIGHTS AND SIGN ON TRANSPORTATION FOR PRESCHOOL CHILDREN.

(a) No person shall operate any motor vehicle owned, leased, or hired by a nursery school, kindergarten, or child care center, while transporting preschool children to or from such an institution unless the motor vehicle is equipped with and displaying two amber flashing lights mounted on a bar attached to the top of the vehicle, and a sign bearing the designation "caution – children", which shall be attached to the bar carrying the amber flashing lights in such a manner as to be legible to persons both in front of and behind the vehicle. The lights and sign shall meet standards and specifications adopted by the Ohio Director of Public Safety.

(b) No person shall operate a motor vehicle displaying the lights and sign required by this section for any purpose other than the transportation of preschool children as provided in this section. (ORC 4513.182)

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

CHAPTER 339

Commercial and Heavy Vehicles

- 339.01 Oversize or overweight vehicle operation on State routes; State permit.**
- 339.02 Use of local streets; local permit and conditions.**
- 339.03 Maximum width, height and length.**
- 339.04 Route and load information.**
- 339.05 Wheel protectors.**
- 339.06 Vehicles transporting explosives.**
- 339.07 Towing requirements.**
- 339.08 Loads dropping or leaking; removal required; tracking mud.**
- 339.09 Shifting load; loose loads.**
- 339.10 Vehicles with spikes, lugs and chains.**
- 339.11 Use of studded tires and chains.**
- 339.12 Park traffic restricted.**

CROSS REFERENCES

See sectional histories for similar State law

Weighing vehicle; removal of excess load - see Ohio R.C. 4513.33

Arrest notice of driver - see Ohio R.C. 5577.14

Slower moving vehicles to be driven in right-hand lane - see TRAF. 331.01(b)

339.01 OVERSIZE OR OVERWEIGHT VEHICLE OPERATION ON STATE ROUTES; STATE PERMIT.

(a) No person shall operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in Ohio R.C. 5577.01 to 5577.09, inclusive, or otherwise not in conformity with Ohio R.C. 4513.01 to 4513.37, inclusive, upon any State route within the Municipality, except pursuant to special written permit issued by the Ohio Director of Transportation, or upon any local truck route. Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer.

No holder of a permit issued by the Ohio Director of Transportation shall be required to obtain any local permit or license or pay any local fee or

charge for movement on any State route within the Municipality; however, it shall be unlawful to operate any such vehicle or combination of vehicles upon any roadway within the Municipality which is not a State route, except as provided in Section 339.02. (ORC 4513.34)

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

339.02 USE OF LOCAL STREETS; LOCAL PERMIT AND CONDITIONS.

(a) Use of Local Streets. No person shall operate a vehicle exceeding a size as specified in Section 339.03 or exceeding a gross weight of five tons, upon any street in the Municipality other than a State route, except those local streets designated as a truck route and marked as such by appropriate traffic signs, and except when such operation is necessary to load or unload property, to go to or from the usual place of storage of such vehicle or to perform any other legitimate business or act other than passage through the Municipality. Operators of vehicles so deviating from either a State route or a designated truck route within the Municipality shall confine such deviation to that required in order to accomplish the purpose of the departure.

(b) Local Permit and Conditions. Upon application and for good cause, the City Manager may issue a local permit authorizing an applicant to move an oversize or overweight vehicle or combination of vehicles upon local streets.

No permittee shall be required to obtain a special permit from the Ohio Director of Transportation for the movement of the vehicle or combination of vehicles on streets or highways under local jurisdiction; however, the approval of the Ohio Director of Transportation shall be required for movement upon State routes as provided in Section 339.01.

The City Manager may grant a permit for a single or round trip, or for such period of time, not to exceed one year, as the City Manager in his discretion deems advisable, or for the duration of any construction project. The City Manager may limit or prescribe terms or conditions of operation for such vehicle or combination of vehicles by designating the route, hours, speed or such other restrictions as may be necessary for the preservation of the public peace, property, health and safety. The City Manager may require the posting of bond or other security necessary to compensate for any damage to a roadway or road structure.

For each such permit, the City Manager shall charge five dollars (\$5.00), and for each hour of time or any part thereof spent by each police officer in supervising the movement of such vehicle, the applicant shall pay the sum of ten dollars (\$10.00).

Streets or highways under local jurisdiction shall be posted with appropriate signs to apprise drivers of the limitations imposed by this section. No driver shall disobey the instructions indicated on any such sign.

Violation of any of the limitations, terms or conditions of the permit granted by the City Manager shall be cause for immediate revocation or suspension of such permit, and denial of request for any future permit. Such violation shall also subject the violator to the penalty prescribed by subsection (c) hereof.

(c) Whoever violates any provision of 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.

339.03 MAXIMUM WIDTH, HEIGHT AND LENGTH.

(a) No vehicle shall be operated upon the public highways, streets, bridges and culverts within the Municipality, whose dimensions exceed those specified in this section.

(b) No such vehicle shall have a width in excess of:

- (1) 104 inches for passenger bus type vehicles operated exclusively within municipal corporations;
- (2) 102 inches, excluding such safety devices as are required by law, for passenger bus type vehicles operated over freeways, and such other State roads with minimum pavement widths of twenty-two feet, except those roads or portions of roads over which operation of 102-inch buses is prohibited by order of the Ohio Director of Transportation;
- (3) 132 inches for traction engines;
- (4) 102 inches for recreational vehicles, excluding safety devices and retracted awnings and other appurtenances of six inches or less in width and except that the Director may prohibit the operation of 102-inch recreational vehicles on designated State highways or portions of highways;
- (5) 102 inches, including load, for all other vehicles, except that the Director may prohibit the operation of 102-inch vehicles on such State highways or portions of State highways as the Director designates.

(c) No such vehicle shall have a length in excess of:

- (1) 66 feet for passenger bus type vehicles and articulated passenger bus type vehicles operated by a regional transit authority pursuant to Ohio R.C. 306.30 to 306.54;
- (2) 45 feet for all other passenger bus type vehicles;
- (3) 53 feet for any semitrailer when operated in a commercial tractor-semitrailer combination, with or without load, except that the Director may, by journal entry, prohibit the operation of any such commercial tractor-semitrailer combination on such State highways or portions of State highways as the Director designates;
- (4) 28.5 feet for any semitrailer or trailer when operated in a commercial tractor-semitrailer-trailer or commercial tractor-semitrailer-semitrailer combination, except that the Director may prohibit the operation of any such commercial tractor-semitrailer-trailer or commercial tractor-semitrailer-semitrailer combination on such State highways or portions of State highways as the Director designates;
- (5) A. 97 feet for drive-away saddle-mount vehicle transporter combinations and drive-away saddle-mount with full-mount vehicle transporter combinations when operated on any interstate, United States route, or State route, including reasonable access travel on all other roadways for a distance not to exceed one road mile from any interstate, United States route, or State route, not to exceed three saddle-mounted vehicles, but which may include one full-mount;
- B. 75 feet for drive-away saddle-mount vehicle transporter combinations and drive-away saddle-mount with full-mount vehicle transporter combinations, when operated on any roadway not designated as an interstate, United States route, or State route, not to exceed three saddle-mounted vehicles, but which may include one full-mount;
- (6) 65 feet for any other combination of vehicles coupled together, with or without load, except as provided in subsections (c)(3) and (4) and in subsection (e) hereof;
- (7) 45 feet for recreational vehicles.
- (8) 40 feet for all other vehicles except trailers and semitrailers, with or without load.

(d) No such vehicle shall have a height in excess of thirteen feet six inches, with or without load.

(e) An automobile transporter or boat transporter shall be allowed a length of sixty-five feet and a stinger-steered automobile transporter or stinger-steered boat transporter shall be allowed a length of seventy-five feet, except that the load thereon may extend no more than four feet beyond the rear of such vehicles and may extend no more than three feet beyond the front of such vehicles, and except further that the Director may prohibit the operation of any stinger-steered automobile transporter or stinger-steered boat transporter or a B-train assembly on any State highway or portion of any State highway that the Director designates.

(f) The widths prescribed in subsection (b) shall not include side mirrors, turn signal lamps, marker lamps, handholds for cab entry and egress, flexible fender extensions, mud flaps, splash and spray suppressant devices, and load-induced tire bulge.

The width prescribed in subsection (b)(5) shall not include automatic covering devices, tarp and tarp hardware, and tiedown assemblies, provided these safety devices do not extend more than three inches from each side of the vehicle.

The lengths prescribed in subsections (c)(2) to (8) hereof shall not include safety devices, bumpers attached to the front or rear of such bus or combination, nonproperty carrying devices or components that do not extend more than twenty-four inches beyond the rear of the vehicle and are needed for loading or unloading, B-train assembly used between the first and second semitrailer of a commercial tractor-semitrailer-semitrailer combination, energy conservation devices as provided in any regulations adopted by the Secretary of the United States Department of Transportation, or any noncargo-carrying refrigeration equipment attached to the front of trailers and semitrailers. In special cases, vehicles whose dimensions exceed those prescribed by this section may operate in accordance with rules adopted by the Ohio Director of Transportation.

(g) This section does not apply to fire engines, fire trucks or other vehicles or apparatus belonging to any municipal corporation or to the volunteer fire department of any municipal corporation or used by such department in the discharge of its functions. This section does not apply to vehicles and pole trailers used in the transportation of wooden and metal poles, nor to the transportation of pipes or well-drilling equipment, nor to farm machinery and equipment. The owner or operator of any vehicle, machinery or equipment not specifically enumerated in this section but the

dimensions of which exceed the dimensions provided by this section, when operating the same on the highways and streets of this State shall comply with the rules of the Director governing such movement, that the Director may adopt. Ohio R.C. 119.01 to 119.13 apply to any rules the Director adopts under this section, or the amendment or rescission of the rules, and any person adversely affected shall have the same right of appeal as provided in those sections.

This section does not require the State, the Municipality, County, township or any railroad or other private corporation to provide sufficient vertical clearance to permit the operation of such vehicle, or to make any changes in or about existing structures now crossing streets, roads and other public thoroughfares in the Municipality.

(h) As used in this section, "recreational vehicle" has the same meaning as in Ohio R.C. 4501.01.
(ORC 5577.05)

(i) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense or subsequent offense, the person is guilty of a misdemeanor of the fourth degree. (ORC 5577.99)

339.04 ROUTE AND LOAD INFORMATION.

Drivers of vehicles described in this chapter shall be required, upon request by a police officer, to give full and true information as to the route they are following and the name of the consignor and consignee and place of delivery or removal and the location of any consignment being hauled or goods being removed, and upon a designation by such police officer of a route to be followed, shall immediately adopt and pursue such route.

339.05 WHEEL PROTECTORS.

(a) No person shall drive or operate, or cause to be driven or operated, any commercial car, trailer or semitrailer, used for the transportation of goods or property, the gross weight of which, with load, exceeds three tons, upon the streets, bridges and culverts within this Municipality unless such vehicle is equipped with suitable metal protectors or substantial flexible flaps on the rearmost wheels of such vehicle or combination of vehicles to prevent, as far as practicable, the wheels from throwing dirt, water or other materials on the windshields of following vehicles. Such protectors or flaps shall have a ground clearance of not more than one-third of the distance from the center of the rearmost axle to the center of the flaps under any conditions of loading of the vehicle, and they shall be at least as wide as the tires they are protecting. If the vehicle is so designed and constructed that such requirements are accomplished by means of fenders, body construction or other means of enclosure, then no such protectors or flaps are required. Rear wheels not covered at the top by fenders, bodies or other parts of the vehicle shall be covered at the top by protective means extending at least to the center line of the rearmost axle. (ORC 5577.11)

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

339.06 VEHICLES TRANSPORTING EXPLOSIVES.

(a) Any person operating any vehicle transporting explosives upon a street or highway shall at all times comply with the following requirements:

(1) Such vehicle shall be marked or placarded on each side and on the rear with the word "EXPLOSIVES" in letters not less than eight inches high, or there shall be displayed on the rear of such vehicle a red flag not less than twenty-four inches square marked with the word "DANGER" in white letters six inches high, or shall be marked or placarded in accordance with Section 177.823 of the United States Department of Transportation Regulations.

(2) Such vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at convenient points on such vehicle. (ORC 4513.29)

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

339.07 TOWING REQUIREMENTS.

(a) When one vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby, and such drawbar or other connection shall not exceed fifteen feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered.

(b) When one vehicle is towing another and the connection consists only of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve inches square.

(c) In addition to such drawbar or other connection, each trailer and each semitrailer which is not connected to a commercial tractor by means of a fifth wheel shall be coupled with stay chains or cables to the vehicle by which it is being drawn. The chains or cables shall be of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle in case the drawbar or other connection should break or become disengaged. In case of a loaded pole trailer, the connecting pole to the drawing vehicle shall be coupled to the drawing vehicle with stay chains or cables of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle.

(d) Every trailer or semitrailer, except pole and cable trailers and pole and cable dollies operated by a public utility, as defined in Ohio R.C. 5727.01, shall be equipped with a coupling device which shall be so designed and constructed that the trailer will follow substantially in the path of the vehicle drawing it, without whipping or swerving from side to side. Vehicles used to transport agricultural produce or agricultural production materials between a local place of storage and supply and the farm, when drawn or towed on a street or highway at a speed of twenty-five miles per hour or less, and vehicles designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less shall have a drawbar or other connection, including the hitch mounted on the towing vehicle, which shall be of sufficient strength to pull all the weight towed thereby. Only one such vehicle used to transport agricultural produce or agricultural production materials as provided in this section may be towed or drawn at one time, except as follows:

(1) An agricultural tractor may tow or draw more than one such vehicle;

(2) A pickup truck or straight truck designed by the manufacturer to carry a load of not less than one-half ton and not more than two tons may tow or draw not more than two such vehicles that are being used to transport agricultural produce from the farm to a local place of storage. No vehicle being so towed by such a pickup truck or straight truck shall be considered to be a motor vehicle.
(ORC 4513.32)

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

339.08 LOADS DROPPING OR LEAKING; REMOVAL REQUIRED; TRACKING MUD.

(a) No vehicle shall be driven or moved on any street, highway or other public place unless such vehicle is so constructed, loaded or covered as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand or other substances may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway.

(b) Except for a farm vehicle used to transport agricultural produce or agricultural production materials or a rubbish vehicle in the process of acquiring its load, no vehicle loaded with garbage, swill, cans, bottles, waste paper, ashes, refuse, trash, rubbish, waste, wire, paper, cartons, boxes, glass, solid waste or any other material of an unsanitary nature that is susceptible to blowing or bouncing from a moving vehicle shall be driven or moved on any street, highway or other public place unless the load is covered with a sufficient cover to prevent the load or any part of the load from spilling onto the street, highway or other public place.
(ORC 4513.31)

(c) No person shall operate any vehicle so as to track or drop mud, stones, gravel or other similar material on any street, highway or other public place.

(d) It shall be the duty of the driver of a vehicle who unlawfully drops or deposits mud, stones, gravel or other similar material or permits the load or any portion thereof to be dropped or deposited upon any street, highway or other public place to immediately remove the same or cause it to be removed. (ORC 4513.31)

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

339.09 SHIFTING LOAD; LOOSE LOADS.

(a) In addition to any other lawful requirements of load distribution, no person shall operate any vehicle upon a street or highway unless such vehicle is so laden as to prevent its contents from shifting or otherwise unbalancing the vehicle to such an extent as to interfere with the safe operation of the same.

(b) No motor vehicle or trailer shall be driven unless the tailboard or tailgate, tarpaulins, chains (except ground or contact chains), ropes, stakes, poles, and the like, or any part of the load, are securely fastened to prevent dangling, flapping, swinging or falling from the side, end or top of the load or body. All projecting cargo shall be properly guarded by a red flag or cloth or a red light or lantern as required by Section 337.08.

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

339.10 VEHICLES WITH SPIKES, LUGS AND CHAINS.

(a) No person shall drive over the improved streets of this Municipality a traction engine or tractor with tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind extending beyond the cleats, or no person shall tow or in any way pull another vehicle over the improved streets of this Municipality, which towed or pulled vehicle has tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind. "Traction engine" or "tractor," as used in this section, applies to all self-propelling engines equipped with metal-tired wheels operated or propelled by any form of engine, motor or mechanical power. (ORC 5589.08)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 5589.99)

339.11 USE OF STUDDED TIRES AND CHAINS.

(a) For purposes of this section, "studded tire" means any tire designed for use on a vehicle, and equipped with metal studs or studs of wear-resisting material that project beyond the tread of the traction surface of the tire. "Motor vehicle," "street or highway," "public safety vehicle" and "school bus" have the same meanings as given those terms in Chapter 301.

(b) (1) Except as provided in subsection (b)(2) hereof, no person shall operate any motor vehicle, other than a public safety vehicle or bus, that is equipped with studded tires on any street or highway, except during the period extending from November 1 of each year through April 15 of the succeeding year.

(2) A person may operate a motor vehicle that is equipped with retractable studded tires with the studs retracted at any time of the year, but shall operate the motor vehicle with the studs extended only as provided in subsection (b)(1) hereof.

(c) This section does not apply to the use of tire chains when there is snow or ice on the streets or highways where such chains are being used, or the immediate vicinity thereof. (ORC 5589.081)

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 5589.99)

339.12 PARK TRAFFIC RESTRICTED.

(a) No vehicle designed and used for the transportation of any goods or property shall be permitted or allowed to enter any of the public parks of the City, unless the driver or owner of such vehicle shall first have procured a written permit therefor, from the City Manager.
(Ord. 5215. Passed 9-4-51.)

(b) Whoever violates any provision of 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.

CHAPTER 341

Commercial Drivers

341.01 Definitions.

341.02 Exemptions.

341.03 Prerequisites to operation of a commercial motor vehicle.

341.04 Prohibitions.

341.05 Criminal offenses.

341.06 Employment of drivers of commercial vehicles.

CROSS REFERENCES

See sectional histories for similar State law

Disqualification - see Ohio R.C. 4506.16

Suspension or revocation of license - see Ohio R.C. 4507.16

Warning devices when disabled on freeways - see Ohio R.C. 4513.28

Arrest notice of driver - see Ohio R.C. 5577.14

Load limits - see TRAF. Ch. 339

341.01 DEFINITIONS.

As used in this chapter:

(a) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:

- (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
- (2) Two hundred ten liters of breath;
- (3) One hundred milliliters of urine.

(b) "Commercial driver's license".

(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.
- (m) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of a death.
- (n) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this State, regardless of the penalty that may be imposed.
- (o) "Foreign jurisdiction" means any jurisdiction other than a state.
- (p) "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.
- (q) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as amended.
- (r) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer or semitrailer operated exclusively on a rail.
- (s) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, local, Canadian or Mexican jurisdiction declaring that a driver, commercial motor vehicle or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.
- (t) "Public safety vehicle" has the same meaning as in divisions (E)(1) and (3) of Ohio R.C. 4511.01.
- (u) "Recreational vehicle" includes every vehicle that is defined as a recreational vehicle in Ohio R.C. 4501.01 and is used exclusively for purposes other than engaging in business for profit.
- (v) "School bus" has the same meaning as in Ohio R.C. 4511.01.
- (w) "State" means a state of the United States and includes the District of Columbia.
- (x) "Tester" means a person or entity acting pursuant to a valid agreement entered into pursuant to Ohio R.C. 4506.09.
- (y) "United States" means the fifty states and the District of Columbia.
- (z) "Vehicle" has the same meaning as in Ohio R.C. 4511.01.

341.02 EXEMPTIONS.

Section 341.02 has been deleted from the Codified Ordinances. Former Ohio R.C. 4506.02 from which Section 341.02 was derived was repealed by Am. Sub. H.B. No. 68, effective June 29, 2005. The exemptions are now contained in Section 341.03.

341.03 PREREQUISITES TO OPERATION OF A COMMERCIAL MOTOR VEHICLE.

- (a) Except as provided in subsections (b) and (c) of this section, the following shall apply:
 - (1) No person shall drive a commercial motor vehicle on a highway in this Municipality unless the person holds, and has in the person's possession, any of the following:
 - A. A valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the Registrar of Motor Vehicles, or by another jurisdiction recognized by this State;
 - B. A valid examiner's commercial driving permit issued under Ohio R.C. 4506.13;
 - C. A valid restricted commercial driver's license and waiver for farm-related service industries issued under Ohio R.C. 4506.24;
 - D. A valid commercial driver's license temporary instruction permit issued by the Registrar, provided that the person is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license and who meets the requirements of Ohio R.C. 4506.06(B).
 - (2) No person who has been a resident of this State for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.
- (b) Nothing in subsection (a) of this section applies to any qualified person when engaged in the operation of any of the following:
 - (1) A farm truck;
 - (2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, joint fire district or the Ohio Fire Marshal;
 - (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;
 - (4) A recreational vehicle;
 - (5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under Ohio R.C. Chapter 4506 and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;
 - (6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserved technicians.
 - (7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the Public Utilities Commission pursuant to Ohio R.C. Chapter 4905, 4921, or 4923.
 - (8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise.
 - (9) A police SWAT team vehicle.
 - (10) A police vehicle used to transport prisoners.
- (c) Nothing contained in subsection (b)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this State

concerning the safe operation of commercial motor vehicles.

(d) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 4506.03)

341.04 PROHIBITIONS.

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

- (1) Drive a commercial motor vehicle while having in the person's possession or otherwise under the person's control more than one valid driver's license issued by this State, any other state or by a foreign jurisdiction;
- (2) Drive a commercial motor vehicle on a highway in this Municipality in violation of an out-of-service order, while the person's driving privilege is suspended, revoked or canceled, or while the person is subject to disqualification;
- (3) Drive a motor vehicle on a highway in this Municipality under authority of a commercial driver's license issued by another state or a foreign jurisdiction, after having been a resident of this State for thirty days or longer.
- (4) Knowingly give false information in any application or certification required by Ohio R.C. 4506.07;
- (5) Knowingly provide false statements or engage in any fraudulent act related to testing for a commercial driver's license as required in Ohio R.C. 4506.09.

(b) The Municipality shall give every conviction occurring out of this state and notice of which was received by the state Department of Public Safety after December 31, 1989, full faith and credit and treat it for sanctioning purposes under this chapter as though the conviction had occurred in this state. (ORC 4506.04(A), (B))

(c) No person shall drive any commercial motor vehicle for which an endorsement is required under Ohio R.C. 4506.12 unless the proper endorsement appears on the person's commercial driver's license or commercial driver's license temporary instruction permit. No person shall drive a commercial motor vehicle in violation of a restriction established under Ohio R.C. 4506.12 that appears on the person's commercial driver's license or commercial driver's license temporary instruction permit.
(ORC 4506.12(I))

(d) (1) Whoever violates subsection (a)(1), (a)(2) or (a)(3) of this section is guilty of a misdemeanor of the first degree.

(2) Whoever violates subsection (a)(4) of this section is guilty of falsification, a misdemeanor of the first degree. In addition, the provisions of Ohio R.C. 4507.19 apply.

(3) Whoever violates subsection (a)(5) of this section is guilty of falsification, a misdemeanor of the third degree. In addition, the provisions of Ohio R.C. 4507.19 apply. (ORC 4506.04(C))

(4) A. Whoever violates subsection (c) of this section is guilty of a misdemeanor of the first degree.

B. The offenses established under subsection (c) 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, whether in this section or another section of this code or the Ohio Revised Code, is not a strict liability offense. (ORC 4506.12(J))

341.05 CRIMINAL OFFENSES.

(a) No person who holds a commercial driver's license, or commercial driver's license temporary instruction permit or who operates a motor vehicle for which a commercial driver's license or permit is required shall do any of the following:

(1) Drive a commercial motor vehicle while having a measureable or detectable amount of alcohol or of a controlled substance in the person's blood, breath or urine;

(2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one per cent or more by whole blood or breath;

(3) Drive a commercial motor vehicle while having an alcohol concentration of forty-eight-thousandths of one per cent or more by blood serum or blood plasma;

(4) Drive a commercial motor vehicle while having an alcohol concentration of fifty-six-thousandths of one per cent or more by urine;

(5) Drive a motor vehicle while under the influence of a controlled substance;

(6) Drive a motor vehicle in violation of Ohio R.C. 4511.19 or a municipal OVI ordinance as defined in Ohio R.C. 4511.181;

(7) Use a motor vehicle in the commission of a felony;

(8) Refuse to submit to a test under Ohio R.C. 4506.17 or 4511.191;

(9) Operate a commercial motor vehicle while the person's commercial driver's license or permit or other commercial driving privileges are revoked, suspended, canceled, or disqualified;

(10) Cause a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter;

(11) Fail to stop after an accident in violation of Sections 335.12 to 335.14 or Sections 4549.02 to 4549.03 of the Ohio Revised Code;

(12) Drive a commercial motor vehicle in violation of any provision of Ohio R.C. 4511.61 to 4511.63 or any federal or local law or ordinance pertaining to railroad-highway grade crossings;

(13) Use a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in Ohio R.C. 3719.01 or the possession with intent to manufacture, distribute, or dispose a controlled substance.

(14) Use a commercial motor vehicle in the commission of a violation of Ohio R.C. 2905.32 or any other substantially equivalent offense established under federal law or the laws of another state.

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

(c) The offense 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 4506.15)

341.06 EMPLOYMENT OF DRIVERS OF COMMERCIAL VEHICLES.

(a) Each employer shall require every applicant for employment as a driver of a commercial motor vehicle to provide the applicant's employment history for the ten years preceding the date the employment application is submitted to the prospective employer. The following information shall be submitted:

(1) A list of the names and addresses of the applicant's previous employers for which the applicant was the operator of a commercial motor vehicle;

(2) The dates the applicant was employed by these employers;

(3) The reason for leaving each of these employers.

(b) No employer shall knowingly permit or authorize any driver employed by the employer to drive a commercial motor vehicle during any period in which any of the following apply:

(1) The driver's commercial driver's license is suspended, revoked or canceled by any state or a foreign jurisdiction;

(2) The driver has lost the privilege to drive, or currently is disqualified from driving, a commercial motor vehicle in any state or foreign jurisdiction;

(3) The driver, the commercial motor vehicle the driver is driving, or the motor carrier operation is subject to an out-of-service order in any state or foreign jurisdiction;

(4) The driver has more than one driver's license.

(c) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of Section 341.05 or Section 4506 of the Ohio Revised Code.

(d) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle if the driver does not hold a valid, current commercial driver's license or commercial driver's license temporary instruction permit bearing the proper class or endorsements for the vehicle. No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of the restrictions on the driver's commercial driver's license or commercial driver's license temporary instruction permit.

(e) (1) Whoever violates subsection (a), (b) or (d) of this section is guilty of a misdemeanor of the first degree.

(2) Whoever violates subsection (c) of this section may be assessed a fine not to exceed ten thousand dollars.

TITLE SEVEN - Parking

Chap. 351. Parking Generally.
Chap. 353. Parking Meters.
Chap. 355. Taxicab Stands.
Chap. 357. Junk Vehicles.

CHAPTER 351

Parking Generally

- 351.01 Police may remove unattended vehicle which obstructs traffic.**
- 351.02 Registered owner prima-facie liable for unlawful parking.**
- 351.03 Prohibited standing or parking places.**
- 351.04 Parking on posted private property.**
- 351.05 Angle parking prohibited.**
- 351.06 Selling, washing or repairing vehicle upon roadway.**
- 351.07 Unattended vehicle: duty to stop engine, remove key, set brake and turn wheels.**
- 351.08 Opening vehicle door on traffic side.**
- 351.09 Maximum forty-eight hour parking.**
- 351.10 Parking in narrow streets and alleys.**
- 351.11 Parking for loading only.**
- 351.12 Double parking for loading.**
- 351.13 Parking in bus stops prohibited.**
- 351.14 Parking commercial vehicles in residential districts.**
- 351.15 Parking for advertising prohibited.**
- 351.16 Parking inoperable motor vehicles on private property.**
- 351.17 Fire lanes on private property devoted to public use.**
- 351.18 Parking near curb; handicapped locations on public and private lots and garages.**

CROSS REFERENCES

See sectional histories for similar State law
Owner nonliability, lease defense - see Ohio R.C. 4511.071
Police may remove ignition key from unattended vehicle - see TRAF. 303.03
Parking near stopped fire apparatus - see TRAF. 331.27
Lights on parked or stopped vehicles - see TRAF. 337.09

351.01 POLICE MAY REMOVE UNATTENDED VEHICLE WHICH OBSTRUCTS TRAFFIC.

Whenever any police officer finds a vehicle unattended upon any street, bridge or causeway, or in any tunnel, where such vehicle constitutes an obstruction to traffic, such officer may provide for the removal of such vehicle to the nearest garage or other place of safety.
(ORC 4511.67)

351.02 REGISTERED OWNER PRIMA-FACIE LIABLE FOR UNLAWFUL PARKING.

In any hearing on a charge of illegally parking a motor vehicle, testimony that a vehicle bearing a certain license plate was found unlawfully parked as prohibited by the provisions of this Traffic Code, and further testimony that the record of the Ohio Registrar of Motor Vehicles shows that the license plate was issued to the defendant, shall be prima-facie evidence that the vehicle which was unlawfully parked, was so parked by the defendant. A certified registration copy, showing such fact, from the Registrar shall be proof of such ownership.

351.03 PROHIBITED STANDING OR PARKING PLACES.

(a) No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this Traffic Code, or while obeying the directions of a police officer or a traffic control device, in any of the following places:

- (1) On a sidewalk, curb or street lawn area, except a bicycle and as provided in subsection (b) hereof;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within ten feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within twenty feet of a crosswalk at an intersection;
- (7) Within thirty feet of, and upon the approach to, any flashing beacon, stop sign or traffic control device;
- (8) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the end of a safety zone, unless a different length is indicated by a traffic control device;
- (9) Within fifty feet of the nearest rail of a railroad crossing;
- (10) Within twenty feet of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within seventy-five feet of the entrance when it is properly posted with signs;
- (11) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
- (12) Alongside any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or other elevated structure upon a street, or within a street tunnel;
- (14) At any place where signs prohibit stopping, standing or parking, or where the curbing or street is painted yellow, or at any place in excess of the maximum time limited by signs;
- (15) Within one foot of another parked vehicle;
- (16) On the roadway portion of a freeway, expressway or thruway.
- (17) On the grass in any public park.

(Ord. 67-14. Passed 1-9-67.)

(b) A person is permitted, without charge or restriction, to stand or park on a sidewalk a motor-driven cycle or motor scooter that has an engine not larger than 150 cubic centimeters, a low-speed micromobility device, or a bicycle or electric bicycle, provided that the motor-driven cycle, motor scooter, low-speed micromobility device, bicycle, or electric bicycle does not impede the normal flow of pedestrian traffic. This subsection does not authorize any person to operate a vehicle in violation of Section 331.37, or any substantially equivalent municipal ordinance.
(ORC 4511.68; Ord. 22-244. Passed 8-2-22.)

(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 4511.68)

(Ord. 14-288, Passed 11-12-14.)

351.04 PARKING ON POSTED PRIVATE PROPERTY.

(a) If an owner of private property posts on the property in a conspicuous manner, prohibition against parking on the property or conditions and regulations under which parking is permitted, no person shall do either of the following:

- (1) Park a vehicle on the property without the owner's consent;
- (2) Park a vehicle on the property in violation of any condition or regulation posted by the owner.

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

(ORC 4511.681)

351.05 ANGLE PARKING PROHIBITED.

(a) "Angle parking" means any parking other than parallel to the adjacent curb or edge of the roadway. No person shall stop, stand or park a vehicle at an angle to the curb or edge of any roadway in the City.

(Ord. 67-14, Passed 1-9-67.)

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

351.06 SELLING, WASHING OR REPAIRING VEHICLE UPON ROADWAY.

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

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

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

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

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

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

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

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

(ORC 4511.661)

(Ord. 17-289, Passed 12-5-17.)

351.08 OPENING VEHICLE DOOR ON TRAFFIC SIDE.

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

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

(ORC 4511.70(C), (D))

351.09 MAXIMUM FORTY- EIGHT HOUR PARKING.

(a) The operator of a vehicle shall not park such vehicle on any of the public streets or alleys in the City for a longer period than forty-eight hours.

(Ord. 76-21, Passed 1-27-76.)

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

351.10 PARKING IN NARROW STREETS AND ALLEYS.

(a) No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals of a police officer.

(b) No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic.

(c) No vehicle shall be parked or allowed to stand in any alley in a business district as defined in Section 301.06, except while the person in charge of the vehicle is actually engaged in loading or unloading.

(Ord. 67-14, Passed 1-9-67.)

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

351.11 PARKING FOR LOADING ONLY.

(a) No person shall stop, stand or park any passenger vehicle for any length of time in any place marked as a loading zone during such times as shall be designated by the City Manager.

(b) No person shall stop, stand or park a truck or commercial vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a loading zone during such times as shall be designated by the City Manager. In no case shall the stop for loading or unloading of materials exceed twenty minutes.

(Ord. 69-155, Passed 9-2-69.)

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

351.12 DOUBLE PARKING FOR LOADING.

(a) Notwithstanding other provisions of this Traffic Code and subject to the following additional condition, trucks, trailers and semitrailers may double park for the purpose of loading or unloading, but only when a loading zone within the same block or an open space at the curb within forty-

five feet in either direction from the point of delivery is not available for parking such vehicle. The truck, trailer or semitrailer shall not be double parked opposite any other vehicle lawfully double parked or in such manner that the movement of traffic upon the street is unreasonably impeded or during such times as shall be designated by the City Manager.
(Ord. 69-155. Passed 9-2-69.)

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

351.13 PARKING IN BUS STOPS PROHIBITED.

(a) No person shall park a vehicle in appropriate bus loading and unloading zones of such kind and character and at such places as may be deemed necessary for the protection of pedestrians. Such zones shall be established by the City Manager and shall be adequately marked and designated.
(Ord. 67-14. Passed 1-9-67.)

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

351.14 PARKING COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS.

(a) No person shall park a school bus or house vehicle of more than one ton capacity, commercial tractor, agricultural tractor, truck of more than one ton capacity; bus, trailer, semitrailer, pole trailer, boat or boat trailer, or moving van on any street within the residential zoning districts of the City, except in an emergency necessitating repairs or when necessary to load or unload any materials or merchandise. However, for the loading or unloading of materials or merchandise, parking shall be authorized for not to exceed one hour.
(Ord. 68-52. Passed 4-1-68.)

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

351.15 PARKING FOR ADVERTISING PROHIBITED.

(a) No person shall operate or park any vehicle on any street for the primary purpose of advertising.
(Ord. 67-14. Passed 1-9-67.)

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

351.16 PARKING INOPERABLE MOTOR VEHICLES ON PRIVATE PROPERTY.

(a) For the purpose of this section, "inoperable motor vehicle" shall be defined as a motor vehicle which cannot legally be operated upon the public streets for one or more of the following reasons:

- (1) Lacking major components;
- (2) Lacking required safety equipment;
- (3) Unlicensed, or having a licensed expired for more than 30 days;
- (4) Apparently unsafe or hazardous to those inside or outside of the vehicle;
- (5) Damaged beyond economic repair.

(b) No person having the right to the possession of any property shall permit an inoperable motor vehicle to remain parked in the open on such property for more than seventy-two hours.

(c) This section shall not apply to any person lawfully operating a junk yard, salvage yard or scrap metal processing facility. Likewise, it shall not apply to any lawful motor vehicle repair facility which is located in an appropriate zone, and which stores inoperable vehicles either 100 feet or more from residential areas and public streets or, in the alternative, screens such inoperable vehicles completely from public view.

(d) Nothing herein provided shall prohibit the open storage or keeping of an historic motor vehicle or a collector's vehicle as defined in Ohio R.C. 4501.01, except that an unlicensed collector's vehicle shall be concealed from off-premises viewing by means of a building, fencing, vegetation, terrain or other suitable obstruction.

(e) Any motor vehicle found in violation of this section may be impounded by order of the Chief of Police; provided that prior thereto notice is sent to the person having the right to possession of the property on which the motor vehicle is found and requiring that the motor vehicle either be repaired, placed within a structure, or removed from the property within ten days, and noting that failure to do shall result in the motor vehicle being impounded. Such notice shall be either personally served or sent by certified mail, return receipt requested. The ten-day period shall be calculated from the date of personal service or the date of mailing of the certified mail.

(f) Any unclaimed motor vehicle impounded pursuant to this section shall be disposed of in accordance with law.

(g) Whoever continues to violate this section after having been issued a warning pursuant hereto shall be guilty of a minor misdemeanor.
(Ord. 97-315. Passed 9-9-97.)

351.17 FIRE LANES ON PRIVATE PROPERTY DEVOTED TO PUBLIC USE.

(a) The Chief of the Fire Division may designate fire lanes on private property devoted to public use.

(b) Any fire lane established in accordance with subsection (a) above, shall be identified by the placement of appropriate signs and other markings.

(c) No person shall park a motor vehicle or place any other obstruction within the fire lane.

(d) For the purpose of this section only, "park" means to stop except.

- (1) To avoid conflict with pedestrian or vehicular traffic;
- (2) In compliance with an order of a peace officer;
- (3) In compliance with a traffic control device; or

(4) For the purpose of loading or unloading passengers or property into or out of a motor vehicle while actively engaged in such activity, while the driver remains in the immediate vicinity of the motor vehicle.

(e) Whoever violates any provision of 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.

(Ord. 08-96. Passed 4-8-08.)

351.18 PARKING NEAR CURB; HANDICAPPED LOCATIONS ON PUBLIC AND PRIVATE LOTS AND GARAGES.

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

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

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

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

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

B. The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is

facing in a direction other than the direction of travel on the side of the road or highway.

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

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

(e) Accessible parking locations and privileges for persons with disabilities that limit or impair the ability to walk shall be provided and designated by all political subdivisions and by the state and all agencies and instrumentalities thereof at all offices and facilities where parking is provided, whether owned, rented, or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators, and ramps. All elevated signs posted in accordance with this division and Ohio R.C. 3781.111(C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating an accessible parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the designated accessible parking location if the motor vehicle is not legally entitled to be parked in that location.

(f) (1) A. No person shall stop, stand or park any motor vehicle at accessible parking locations provided under subsection (e) of this section, or at accessible clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with that division, unless one of the following applies:

1. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or accessible license plates; or
2. The motor vehicle is being operated by or for the transport of a person with a disability and is displaying a parking card or accessible license plates.

B. Any motor vehicle that is parked in an accessible marked parking location in violation of subsections (f)(1)A.1. or (f)(1)A.2. of this section may be towed or otherwise removed from the parking location by the law enforcement agency of the municipality. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that the person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the municipality for towing and storing motor vehicles.

C. If a person is charged with a violation of subsections (f)(1)A.1. or (f)(1)A.2. of this section, it is an affirmative defense to the charge that the person suffered an injury not more than seventy-two hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in Ohio R.C. 4503.44(A) (1).

- (2) No person shall stop, stand, or park any motor vehicle in an area that is commonly known as an access aisle, which area is marked by diagonal strips and is located immediately adjacent to an accessible parking location provided under subsection (e) of this section or at an accessible clearly marked parking location provided in or on a privately owned parking lot, parking garage, or other parking area and designated in accordance with that division.

(g) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or accessible license plates, or when a motor vehicle is being operated by or for the transport of a person with a disability, and is displaying a parking card or accessible license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

(h) No owner of an office, facility, or parking garage where accessible parking locations are required to be designated in accordance with subsection (e) of this section shall fail to properly mark the accessible parking locations in accordance with that division or fail to maintain the markings of the accessible locations, including the erection and maintenance of the fixed or movable signs.

(i) Nothing in this section shall be construed to require a person or organization to apply for a removable windshield placard or accessible license plates if the parking card or accessible license plates, issued to the person or organization under prior law have not expired or been surrendered or revoked.

(j) As used in this section:

- (1) "Accessible license plates" and "removable windshield placard" mean any license plates, standard removable windshield placard, permanent removable windshield placard or temporary removable windshield placard issued under Ohio R.C. 4503.41 or 4503.44, and also mean any substantially equivalent license plates or removable windshield placard issued by a state, district, country, or sovereignty.
- (2) "Person with a disability" means any person who has lost the use of one or both legs or one or both arms, who is blind, deaf, or unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary or other disabling condition.
- (3) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in Ohio R.C. 4503.44.

(k) Penalty.

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

(2) A. Whoever violates subsection (f)(1)A.1. or 2. of this section is guilty of a misdemeanor and shall be punished as provided in subsection (k)(2)A. and B. of this section. Except as otherwise provided in subsection (k)(2)A. of this section, an offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00). An offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not more than one hundred dollars (\$100.00) if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:

1. At the time of the violation of subsection (f)(1)A.1. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or accessible license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in subsection (f)(1)A.1. of this section.
2. At the time of the violation of subsection (f)(1)A.2. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or accessible license plates that then were valid but the offender or the person neglected to display the card or license plates as described in subsection (f)(1)A.2. of this section.

B. In no case shall an offender who violates subsection (f)(1)A.1. or 2. of this section be sentenced to any term of imprisonment.

An arrest or conviction for a violation of subsection (f)(1)A.1. or 2. of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(3) Whoever violates subsection (f)(2) of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00).

In no case shall an offender who violates subsection (f)(2) of this section be sentenced to any term of imprisonment. An arrest or conviction for a violation of subsection (f)(2) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(ORC 4511.69)

CHAPTER 353

Parking Meters

- 353.01 Definitions.**
- 353.02 Designation of parking spaces.**
- 353.03 Installation of meters.**
- 353.04 Parking rates; time limit.**
- 353.05 Meters on High and Main Streets; rates.**
- 353.06 Violations.**
- 353.07 Prima-facie evidence of violations.**
- 353.08 Tickets; proper summons and service.**
- 353.09 Ticketing by police.**
- 353.10 Failure to answer charges a misdemeanor.**
- 353.11 City Manager to make rules.**
- 353.99 Penalty.**

CROSS REFERENCES

Off-street parking facilities - see Ohio R.C. 717.05 et seq.
Registered owner prima-facie liable for unlawful parking - see TRAF. 351.02
Tampering with meters - see GEN. OFF. 545.05

353.01 DEFINITIONS.

The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them:

- (a) "Parking meter" means a mechanical device installed for the regulation of parking by lawful authority. Each parking meter shall contain a slot for the deposit of lawful coin of the United States and a receptacle for receiving and storing such coin. Each parking meter shall display brief directions as to its operation and the value of lawful coin required to be deposited. Each parking meter shall contain a timing mechanism which shall indicate either a balance of legal parking time or overtime parking by an appropriate signal at the expiration of such lawful time.
- (b) "Parking meter space" means a space within a parking meter area, which is designated for the parking of a single vehicle by marked lines on the curb or paved surface area adjacent to a parking meter. Posted notice on the meter or on signs shall indicate the maximum consecutive parking time limit during which a vehicle may be legally parked in a particular parking meter space and the days and hours when the requirement to deposit lawful coin shall apply.
- (c) "Holiday" or "holidays" mean the following days:
 - The first day of January, known as New Year's Day;
 - The third Monday in February, known as President's Day;
 - The last Monday in May, known as Memorial Day;
 - The fourth day of July, known as Independence Day;
 - The first Monday in September, known as Labor Day;
 - The second Monday in October, known as Columbus Day;
 - The eleventh day of November, known as Veteran's Day;
 - The day appointed or designated by the Governor of Ohio, or the President of the United States as a day of fast or Thanksgiving, known as Thanksgiving Day;
 - The twenty-fifth day in December, known as Christmas Day.

Provided, however, that if any such holiday as stated above shall be the first day of the week, known as Sunday, the next succeeding secular or business day shall constitute the holiday.

(Ord. 81-479. Passed 11-10-81.)

353.02 DESIGNATION OF PARKING SPACES.

- (a) The City Manager, is hereby authorized to mark off not to exceed 1,000 individual parking spaces in the streets and avenues within the territory bounded on the north by Buck Creek, on the east by Water Street, on the west by Yellow Springs Street and on the south by Pleasant Street.
- (b) The City Manager is further authorized to mark off not to exceed 500 individual parking spaces within the following described territories:
 - (1) The land contained within the boundaries established by Fountain Avenue on the west, Union Street on the south, Limestone Street on the east and the New York Central Railroad tracks on the north.
 - (2) The land contained within the triangular shaped area at the south line of Washington Street between Spring Street and Limestone Street.
 - (3) Beginning at a point in the south line of Washington Street at the intersection of the east line of Center Street; thence south along Center Street to the first alley south of Washington Street; thence east along such alley 159 feet; thence north parallel to Center Street to the south line of Washington Street; thence west along the south line of Washington Street to the place of beginning.
- (c) Only vehicles as defined in Section 301.51 shall be parked or stored in an individual parking space established pursuant hereto, and no vehicle or other object attempting to use such space shall be parked, stored or placed outside of the boundaries of such individual parking space adjacent to a parking meter.
- (d) Upon the installation of such meters and the marking of such individual parking spaces, and any parking restrictions or regulations to the contrary notwithstanding, no person shall park or leave standing a motor vehicle in such individual parking space for a period of time longer than specified in Section 353.04. A violation of the provisions of this chapter shall be deemed a misdemeanor punishable as set forth in Section 303.99.

(Ord. 67-14. Passed 1-9-67.)

353.03 INSTALLATION OF METERS.

The City Manager, is hereby authorized and directed to place and install or cause to be placed and installed parking meters upon the curb side or in the immediate vicinity of individual parking spaces so designated and marked as provided for in this chapter.
(Ord. 67-14. Passed 1-9-67.)

353.04 PARKING RATES; TIME LIMIT.

Whenever a vehicle shall be parked or stopped in an individual parking space where a parking meter is installed pursuant to the provisions of Section 353.02 and 353.03, the person parking or stopping such vehicle shall immediately deposit one or more coins in such meter according to the following provisions:

- (a) Within the territory described in Section 353.02(a), a five cent (5¢) coin, which deposit shall entitle such vehicle lawfully to occupy such space for not to exceed one-half hour for each five cent (5¢) coin so deposited, or a ten cent (10¢) coin, which deposit shall entitle such vehicle lawfully to occupy such space for not to exceed one hour for each ten cent (10¢) coin so deposited. Provided, however, that within so much of the territory described in Section 353.02(a) above as is on Wittenberg Avenue between Main Street and Washington Street, on Washington Street between Wittenberg Avenue and Center Street, on Center Street between Washington Street and Jefferson Street, on Jefferson Street between Center Street and Fountain Avenue and on Spring Street between Columbia Street and North Street a five cent (5¢) coin, which deposit shall entitle such vehicle lawfully to occupy such space for not to exceed two hours for each five cent (5¢) coin so deposited, or a ten cent (10¢) coin, which deposit shall entitle such vehicle lawfully to occupy such space for not to exceed four hours for each ten cent (10¢) coin so deposited, or a twenty-five cent (25¢) coin, which deposit shall entitle such vehicle lawfully to occupy such space for not to exceed ten hours for each twenty-five cent (25¢) coin so deposited; provided further, however, that within the territory described in Section 353.02(a) that portion which is on Fountain Avenue between North Street and Buck Creek, a five cent (5¢) coin, which deposit shall entitle such vehicle lawfully to occupy such space for not to exceed one hour for each five cent (5¢) coin so deposited, or a ten cent (10¢) coin, which deposit shall entitle such vehicle lawfully to occupy such space for not to exceed two hours for each ten cent (10¢) coin so deposited; provided further, however, that the City Manager may, by entry in the City Manager's Journal, designate not to exceed thirty-five parking meters within the territory described in Section 353.02(a) as short term meters taking pennies so that a one cent (1¢) coin shall entitle such vehicle lawfully to occupy such space for not to exceed twelve minutes for each one cent (1¢) coin so deposited.

(Ord. 67-14. Passed 1-9-67.)

- (b) Within the territory described in Section 353.02(b)(2), a five cent (5¢) coin, which deposit shall entitle such vehicle to lawfully occupy such space for not to exceed one-half hour for each such coin so deposited; a ten cent (10¢) coin, which deposit shall entitle such vehicle to lawfully occupy such space for not to exceed one hour for each such coin so deposited; or a twenty-five cent (25¢) coin, which deposit shall entitle such vehicle to occupy such space for not to exceed two and one-half hours for each such coin so deposited.
- (c) Within the territory described in Section 353.02(b)(1), a five cent (5¢) coin, which deposit shall entitle such vehicle to lawfully occupy such space for not to exceed one-half hour; a ten cent (10¢) coin, which deposit shall entitle such vehicle to lawfully occupy such space for not to exceed one hour for each such coin so deposited; or a twenty-five cent (25¢) coin, which deposit shall entitle such vehicle to occupy such space for not to exceed two and one-half hours for each such coin so deposited. However, at any space provided with a meter, the supporting post of which is painted red, the deposit of a twenty-five cent (25¢) coin shall entitle such vehicle to lawfully occupy such space for not to exceed ten hours. (Ord. 74-117. Passed 5-21-74.)
- (d) Within the territory described in Section 353.02(b)(3), a twenty-five cent (25¢) coin, ten cent (10¢) coins, five cent (5¢) coins or pennies, which deposit shall entitle such vehicle lawfully to occupy such space for not to exceed ten hours for each twenty-five cent (25¢) coin, two hours for each ten cent (10¢) coin, one hour for each five cent (5¢) coin or twelve minutes for each penny so deposited.

In that part of the metered territory provided for in Section 353.02(a), which is bounded on the north by Main Street, on the east by Limestone Street, on the south by High Street and on the west by Fountain Avenue, and that portion of Fountain Avenue which is between North Street and Buck Creek, no vehicle shall be stopped or parked in a metered space for a period longer than sixty consecutive minutes. In that part of the metered territory provided for in Section 353.02(a) which is on Wittenberg Avenue between Main Street and Washington Street, on Washington Street between Wittenberg Avenue and Center Street, on Center Street between Washington Street and Jefferson Street, on Jefferson Street between Center Street and Fountain Avenue, and on Spring Street between Columbia Street and North Street, no vehicle shall be stopped or parked in a metered space for a period longer than ten consecutive hours. At those meters in that part of the metered territory provided for in Section 353.02(a) which are designated by the City Manager as short term meters, no vehicle shall be stopped or parked in a metered space for a period longer than twenty-four consecutive minutes. In the remaining metered territory provided for in Section 353.02(a), no vehicle shall be stopped or parked in a metered space for a period longer than 120 consecutive minutes.

Coins deposited in parking meters as herein required shall consist only of United States money.
(Ord. 67-14. Passed 1-9-67.)

353.05 METERS ON HIGH AND MAIN STREETS; RATES.

- (a) The City Manager, is authorized to install and maintain parking meters in accordance with the following schedule:
 - (1) Two-hour parking meters on High Street from Spring Street to Linden Avenue;
 - (2) Two-hour parking meters on East Main Street from Spring Street to North Foster Street;
 - (3) Two-hour parking meters on West Main Street from Wittenberg Avenue to Yellow Springs Street;
 - (4) Two-hour parking meters on West High Street from Wittenberg Avenue to Lowry Avenue.

(b) Upon the installation of such meters, no person shall park or let stand any vehicle within any area described in subsection (a) hereof, without first depositing a five cent (5¢) coin for one hour, or a ten cent (10¢) coin for two hours in the appropriate meter, and no person shall park or let stand any vehicle in any one space within such area for a period of time longer than two consecutive hours.
(Ord. 75-82. Passed 3-18-75.)

353.06 VIOLATIONS.

Any vehicle which is parked or stopped in an individual parking space without a deposit of the coin or coins hereinbefore specified, or which remains parked or stopped in any individual parking space after the time following the above required deposit of the appropriate coin or coins, during which the same may lawfully occupy such space as hereinbefore set forth, shall be held to be illegally parked, and the person so parking or stopping the same is hereby determined to have violated this chapter.

Provided, however, that this section shall not apply to any vehicle occupying such an individual parking space between the hours of 10:00 p.m. and 9:00 a.m. following, or on Sundays or holidays in that part of the metered territory described in Section 353.02(b)(1) and (b)(3); and between the hours of 6:00 p.m. and 9:00 a.m. following, or on Sundays or holidays in that part of the metered territory described in Section 353.02(b)(2); and between the hours of 6:00 p.m. and 9:00 a.m. following, or Sundays or holidays in the remaining portion of the metered territory provided for in Section 353.02, unless a different provision of the Traffic Code or a rule, regulation or direction promulgated in accordance with such code provides otherwise.

(Ord. 67-14. Passed 1-9-67.)

353.07 PRIMA-FACIE EVIDENCE OF VIOLATIONS.

All parking is prohibited in any individual parking space where a parking meter is installed unless a deposit is made as herein provided. Any vehicle parked in contravention of this provision shall be deemed to be unlawfully parked under the provisions of this chapter. The fact that a vehicle is in an individual parking space when the time signal on the parking meter for the same shows no parking permitted unless a deposit as aforesaid is immediately made, as herein provided, shall be deemed prima-facie evidence of the unlawful parking of such vehicle by its owner.

(Ord. 67-14. Passed 1-9-67.)

353.08 TICKETS; PROPER SUMMONS AND SERVICE.

The City Manager is hereby authorized and directed to provide police officers with tickets which shall be used for the purpose of giving due notice to owners, chauffeurs and drivers of vehicles in violation of this chapter. Any owner, chauffeur, or driver when a ticket as herein provided is attached to the vehicle which he has left parked in the streets of the City contrary to the provisions of this chapter, shall appear at the place designated upon such ticket, and according to the directions thereon, shall comply with the instructions and directions appearing upon such ticket, pursuant to such violation. It shall be unlawful to fail or refuse to do so. Such ticket citation as herein provided, when attached to a vehicle in a conspicuous place, shall be a legal and sufficient summons, and legal and sufficient service thereof upon the owner, for the purposes specified thereon, provided, however, that this section shall not abridge the power of the police officers to arrest for crimes and misdemeanors.

(Ord. 67-14. Passed 1-9-67.)

353.09 TICKETING BY POLICE.

Whenever any vehicle is found parked in violation of any of the parking restrictions of this chapter, the police officer finding it shall take its registration number and any other information displayed on the vehicle which may identify its owner, and affix conspicuously to such vehicle a notice in writing, on a form provided for such use, or hand the same to the operator of such vehicle, for the owner or operator to answer the charge

against him within two days during hours and at a place specified in the notice. The Police Officer shall send one copy of such notice to the Chief of Police.
(Ord. 67-14. Passed 1-9-67.)

353.10 FAILURE TO ANSWER CHARGES A MISDEMEANOR.

Any owner or operator of a vehicle who willfully neglects to answer to the charges set forth on a notice fixed by the police officer to such vehicle in accordance with this chapter shall be guilty of a misdemeanor regardless of the disposition of the charge for which the notice was originally issued.
(Ord. 67-14. Passed 1-9-67.)

353.11 CITY MANAGER TO MAKE RULES.

The City Manager, is hereby authorized and directed to make, modify, change from time to time and promulgate such administrative rules as in his discretion shall be deemed to effectuate the provisions of this chapter. The powers conveyed by this section shall be in addition to any and all other powers which are now, or may hereafter be conferred upon the City Manager, and the powers hereby conferred shall be deemed in no sense a limitation or a restriction of any powers of the City Manager.
(Ord. 67-14. Passed 1-9-67.)

353.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for misdemeanor classifications and penalties.)

CHAPTER 355

Taxicab Stands

355.01 City Manager to establish taxicab stands.

355.02 Taxicabs in stands.

355.03 Entering line in stand.

355.04 Monopoly by one cab owner prohibited.

355.05 Authority of City Manager.

355.99 Penalty.

CROSS REFERENCES

Power to establish stands - see Ohio R.C. 715.25(A)

Taxicabs - see BUS. REG. Ch. 765

355.01 CITY MANAGER TO ESTABLISH TAXICAB STANDS.

The City Manager is hereby authorized and directed to establish upon such streets as in his opinion will serve the best interest of the public, taxicab stands, where it shall be lawful to permit taxicabs to park for a period not exceeding one hour while awaiting passengers for hire; provided, however, not more than two taxicabs shall park on each side of any street in any square outside of the taxi stands.
(Ord. 67-14. Passed 1-9-67.)

355.02 TAXICABS IN STANDS.

Any taxicab stand so established shall be subject to the regulation that only taxicabs in such numbers as set forth on the approved police sign shall remain at any taxicab stand while awaiting for passengers, and only in single file, headed in accordance with the traffic regulations. No taxicab standing at the head of any such line shall refuse to carry any orderly person applying for a taxicab who agrees to pay the proper rate of fare, but this regulation shall not prevent any person from selecting any taxicab he may desire on such stand, whether it be at the head of the line or not.
(Ord. 67-14. Passed 1-9-67.)

355.03 ENTERING LINE IN STAND.

As taxicabs leave the line with passengers, those behind shall move up, and any taxicab seeking a place on the stand shall approach it only from the rear, and shall stop as near as possible to the last taxicab already within the stand.
(Ord. 67-14. Passed 1-9-67.)

355.04 MONOPOLY BY ONE CAB OWNER PROHIBITED.

Except as otherwise directed by the City Manager, not more than one cab of one owner shall at one time occupy any stand having a capacity of three vehicles or less; not more than two cabs of one owner shall at one time occupy any stand of greater capacity than three vehicles. Should more than the legal number of taxicabs belonging to one owner occupy a given stand at one time, the last cab or cabs belonging to the owner in the line shall be deemed the violator or violators.

(Ord 67-14. Passed 1-9-67.)

355.05 AUTHORITY OF CITY MANAGER.

The authority herein conferred upon the City Manager to establish taxicab stands shall be a continuing one, and he may establish or abolish such stands, or change the number of vehicles which shall be permitted within such stands as in his opinion will best serve the interest of the public.

(Ord. 67-14. Passed 1-9-67.)

355.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for misdemeanor classifications and penalties.)

CHAPTER 357

Junk Vehicles

357.01 Definition; notice to cover.

357.02 Towing of junk vehicles from private property.

357.03 Towing of junk vehicles from public roadways.

357.04 Abandoned junk motor vehicles.

357.05 Disposal of unclaimed vehicles.

357.06 Willfully abandoned junk vehicles prohibited.

357.07 Abandoned, wrecked, non-operating or discarded vehicles.

357.99 Penalty.

CROSS REFERENCES

Junk vehicles - see Ohio R.C. 4513.60 et seq.

357.01 DEFINITION; NOTICE TO COVER.

(a) For purposes of this section, "junk motor vehicle" means any motor vehicle meeting the requirements of Section 357.04(b) to (e), that is left uncovered in the open on private property for more than seventy-two hours with the permission of the person having the right to the possession of the property, except if the person is operating a junkyard or scrap metal processing facility licensed under authority of Chapter 739 of the Codified Ordinances; or if the property on which the motor vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation; or if the motor vehicle is a collector's vehicle.

(b) The Chief of Police, or the Director of Development or their authorized representatives may send notice, by certified mail with return receipt requested, to the person having the right to the possession of the property on which a junk motor vehicle is left, that within ten days of receipt of the notice, the junk motor vehicle either shall be covered by being housed in a garage or other suitable structure, or shall be removed from the property.

(c) No person shall willfully leave a junk motor vehicle uncovered in the open for more than ten days after receipt of a notice as provided in this section. The fact that a junk motor vehicle is so left is prima facie evidence of willful failure to comply with the notice, and each subsequent period of thirty days that a junk motor vehicle continues to be so left constitutes a separate offense.

(Ord. 98-1974. Passed 12-9-74.)

357.02 TOWING OF JUNK VEHICLES FROM PRIVATE PROPERTY.

(a) The Chief of Police, within his territorial jurisdiction, upon complaint of any person adversely affected, may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Section 357.04, which has been left on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property. The Chief, upon complaint of the owner of a repair garage or place of storage, may order into storage any motor vehicle other than an abandoned junk motor vehicle which has been left at the garage or place of storage for a longer period than that agreed upon. The place of storage shall be designated by the Chief.

(b) The owner of the motor vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidence by a certificate of title to the motor vehicle. If the motor vehicle remains unclaimed by the owner for thirty days, the procedures established by Sections 357.03 and 357.05 shall apply.

(Ord. 98-1974. Passed 12-9-74.)

357.03 TOWING OF JUNK VEHICLES FROM PUBLIC ROADWAYS.

(a) The Chief of Police, within his territorial jurisdiction, may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Section 357.04, which has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the Chief of the reasons for leaving the motor vehicle in such place. The Chief shall designate the place of storage of any motor vehicle ordered removed by him.

(b) The Chief shall immediately cause a search to be made of the records of the Bureau of Motor Vehicles to ascertain the owner and any lienholder of a motor vehicle ordered into storage by the Chief, and, if known, shall send notice to the owner or lienholder at his last known address by certified mail with return receipt requested, that the motor vehicle shall be declared a nuisance and disposed of if not claimed within ten days of the date of mailing of the notice. The owner or lienholder of the motor vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage and presentation of proof of ownership which may be evidence by a certificate of title to the motor vehicle.

(c) If the owner or lienholder makes no claim to the motor vehicle within ten days of the date of mailing of the notice, and if the vehicle is to be disposed of at public auction as provided in Section 357.05, the Chief shall file with the Clerk of Courts of the County in which the place of storage is located an affidavit showing compliance with the requirements of this section. If the vehicle is to be disposed of to a junkyard or other facility as provided in Section 357.05, the Chief shall execute in triplicate an affidavit, as prescribed by the Registrar of Motor Vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with. The Chief shall retain the original of the affidavit for his records, and shall furnish two copies to the owner of the junkyard or other facility.

(d) As provided in Ohio R.C. 4513.62, upon presentation of a copy of the affidavit by the owner of the junkyard or other facility, the Clerk of Courts shall issue to such owner a certificate of title, free and clear of all liens and encumbrances.

(e) Also under Ohio R.C. 4513.62, whenever the owner of a junkyard or other facility receives an affidavit for the disposal of a motor vehicle as provided in this section, such owner shall not be required to obtain an Ohio certificate of title to the motor vehicle in his own name if, within ten days of the receipt of the affidavit, the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the Clerk of Courts.
(Ord. 98-1974. Passed 12-9-74.)

357.04 ABANDONED JUNK MOTOR VEHICLES.

"Abandoned junk motor vehicle" means any motor vehicle meeting all of the following requirements:

- (a) Left on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer;
- (b) Three years old, or older;
- (c) Extensively damaged, such damage including but not limited to any of the following: a broken window or windshield, missing wheels, tires, motor or transmission;
- (d) Apparently inoperable;
- (e) Having a fair market value of fifteen hundred dollars (\$1500.00) or less.

The Chief of Police, within his territorial jurisdiction, shall order any abandoned junk motor vehicle to be photographed by a law enforcement officer. The officer shall record the make of motor vehicle, the serial number when available, and shall also detail the damage or missing equipment to substantiate the value provided in (e) hereof. The Chief shall thereupon immediately dispose of the abandoned junk motor vehicle to a junkyard or scrap metal processing facility as defined in Chapter 739 of the Codified Ordinances, or to any other facility owned by or under contract with the City for disposal of such motor vehicles. The records and photograph relating to the abandoned junk motor vehicle shall be retained by the law enforcement agency ordering the disposition of such vehicle for a period of at least two years. The law enforcement agency shall execute in quadruplicate an affidavit, as prescribed by the registrar of motor vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with, and shall sign and file the same with the Clerk of Courts of the County in which the motor vehicle was abandoned. The Clerk of Courts shall retain the original of the affidavit for his files, shall furnish one copy thereof the registrar, one copy to the junkyard or other facility handling the disposal of the vehicle, and one copy to the law enforcement agency ordering the disposal, who shall file such copy with the records and photograph relating to the disposal. Any moneys arising from the disposal of an abandoned junk motor vehicle shall be deposited in the General Fund.

(Ord. 95-31. Passed 1-31-95.)

Notwithstanding Section 357.03, any motor vehicle meeting the requirements of subsections (c), (d) and (e) hereof which has remained unclaimed by the owner or lienholder for a period of ten days or longer following notification as provided in Section 357.03 may be disposed of as provided in this section.

(Ord. 98-1974. Passed 12-9-74.)

357.05 DISPOSAL OF UNCLAIMED VEHICLES.

Unclaimed motor vehicles ordered into storage pursuant to Sections 357.02 and 357.03 shall be disposed of at the order of the Chief of Police to a junkyard or scrap metal processing facility or to any other facility owned or under contract with the City for the disposal of such motor vehicles, or shall be sold by the Chief, or licensed auctioneer at public auction, after giving notice thereof by advertisement, published once a week for two successive weeks in a newspaper of general circulation in the County. Any moneys accruing from the disposition of an unclaimed motor vehicle that are in excess of the expenses resulting from the removal and storage of the vehicle shall be credited to the General Fund.

(Ord. 98-1974. Passed 12-9-74.)

357.06 WILLFULLY ABANDONED JUNK MOTOR VEHICLES PROHIBITED.

No person shall willfully leave an abandoned junk motor vehicle as defined in Section 357.04 on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right of way of any road or highway, for forty-eight hours or longer without notification to the Sheriff of the County or the Chief of Police of the reasons for leaving the motor vehicle in such place.

For purposes of this section, the fact that a motor vehicle has been so left without permission or notification is prima facie evidence of abandonment.

(Ord. 98-1974. Passed 12-9-74.)

357.07 ABANDONED, WRECKED, NONOPERATING OR DISCARDED VEHICLES.

(a) Definitions. The following definitions shall apply in the interpretation and enforcement of this section:

- (1) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (2) "Vehicle" means any contrivance propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and to transport persons or property or pull machinery, and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, buggies and wagons.
- (3) "Street" or "highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of travel.

(b) Abandonment of Vehicles. No person shall abandon any vehicle within the City and no person shall leave any vehicle any place within the City for a period exceeding forty-eight hours.

(c) Storage Prohibited; Exceptions. No person in charge or control of any property within the City, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, nonoperating, wrecked or junked vehicle with a fair market value exceeding the value provided in Section 357.04 to remain on such property longer than forty-eight hours, and no person shall leave any such vehicle on any property within the City for a longer time than forty-eight hours. However, this section shall not apply with regard to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City.
(Ord. 95-31. Passed 1-31-95.)

(d) Impounding. The City Manager or his authorized designee is hereby authorized to remove or cause to be removed any vehicle at or upon any place or property within the City which appears to be in violation of this section, or is lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with City ordinances.

357.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree, and shall also be assessed any costs incurred by the County or City in disposing of an abandoned junk motor vehicle, less any money accruing to the County or to the City from such disposal.

TITLE NINE - Pedestrians, Bicycles and Motorcycles

Chap. 371. Pedestrians.

Chap. 373. Bicycles, Motorcycles and Skateboards.

Chap. 375. Snowmobiles, Off-Highway Motorcycles, and All Purpose Vehicles.

Chap. 377. Electric Scooters (E-Scooters).

CHAPTER 371

Pedestrians

371.01 Right of way in crosswalk.

371.02 Right of way of blind person.

371.03 Crossing roadway outside crosswalk; diagonal crossings at intersections.

371.04 Moving upon right half of crosswalk.

371.05 Walking along highways.

371.06 Use of highway for soliciting; riding on outside of vehicles.

371.07 Right of way on sidewalk.

371.08 Yielding to public safety vehicle.

371.09 Walking on highway while under the influence.

371.10 On bridges or railroad crossings.

371.11 Throwing articles prohibited.

371.12 Persons operating motorized wheelchairs.

371.13 Electric personal assistive mobility devices.

371.14 Operation of personal delivery device on sidewalks and crosswalks.

371.15 Low-speed micromobility devices.

CROSS REFERENCES

See sectional histories for similar State law

Pedestrian defined - see TRAF. 301.22

Pedestrian prohibited on freeways - see TRAF. 303.06

Obedience to traffic control devices - see TRAF. 313.01, 313.03

Pedestrian control signals - see TRAF. 313.05

371.01 RIGHT OF WAY IN CROSSWALK.

(a) When traffic control signals are not in place, not in operation or are not clearly assigning the right of way, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield or if required by Section 313.09, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(c) Subsection (a) hereof does not apply under the conditions stated in Section 371.03(b).

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.46)

371.02 RIGHT OF WAY OF BLIND PERSON.

(a) As used in this section "blind person" or "blind pedestrian" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

The driver of every vehicle shall yield the right of way to every blind pedestrian guided by a guide dog, or carrying a cane which is predominately white or metallic in color, with or without a red tip.

(b) No person, other than a blind person, while on any public highway, street, alley or other public thoroughfare shall carry a white metallic cane, with or without a red tip.

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

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.47)

371.03 CROSSING ROADWAY OUTSIDE CROSSWALK; DIAGONAL CROSSINGS AT INTERSECTIONS.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all traffic upon the roadway.

(c) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

(e) This section does not relieve the operator of a vehicle from exercising due care to avoid colliding with any pedestrian upon any roadway.

(f) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.48)

371.04 MOVING UPON RIGHT HALF OF CROSSWALK.

(a) Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.49)

371.05 WALKING ALONG HIGHWAYS.

(a) Where a sidewalk is provided and its use is practicable, no pedestrian shall walk along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.

(d) Except as otherwise provided in Section 313.03 and 371.01, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.

(e) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.50)

371.06 USE OF HIGHWAY FOR SOLICITING; RIDING ON OUTSIDE OF VEHICLES.

(a) No person while on a roadway outside a safety zone shall solicit a ride from the driver of any vehicle.

(b) (1) Except as provided in subsection (b)(2) hereof, no person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.

(2) Council, by ordinance, may authorize the issuance of a permit to a charitable organization to allow a person acting on behalf of the organization to solicit charitable contributions from the occupant of a vehicle by standing on a highway, other than a freeway, as provided in Ohio R.C. 4511.051(A), that is under the jurisdiction of the Municipality. The permit shall be valid for only one period or time, which shall be specified in the permit, in any calendar year. Council also may specify the locations where contributions may be solicited and may impose any other restrictions on or requirements regarding the manner in which the solicitations are to be conducted that Council considers advisable.

(3) As used herein, "charitable organization" means an organization that has received from the Internal Revenue Service a currently valid ruling or determination letter recognizing the tax-exempt status of the organization pursuant to Section 501(c)(3) of the "Internal Revenue Code."

(c) No person shall hang onto, or ride on the outside of any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.

(d) No operator shall knowingly permit any person to hang onto, or ride on the outside of, any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.

(e) No driver of a truck, trailer or semitrailer shall knowingly permit any person who has not attained the age of sixteen years to ride in the unenclosed or unroofed cargo storage area of the driver's vehicle if the vehicle is traveling faster than twenty-five miles per hour, unless either of the following applies:

(1) The cargo storage area of the vehicle is equipped with a properly secured seat to which is attached a seat safety belt that is in compliance with federal standards for an occupant restraining device as defined in Ohio R.C. 4513.263(A)(2), the seat and seat safety belt were installed at the time the vehicle was originally assembled and the person riding in the cargo storage area is in the seat and is wearing the seat safety belt;

(2) An emergency exists that threatens the life of the driver or the person being transported in the cargo storage area of the truck, trailer or semitrailer.

(f) No driver of a truck, trailer or semitrailer shall permit any person, except for those workers performing specialized highway or street maintenance or construction under authority of a public agency to ride in the cargo storage area or on a tailgate of the driver's vehicle while the tailgate is unlatched.

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

(2) Whoever violates subsection (e) or (f) of this section is guilty of a minor misdemeanor.

(ORC 4511.51)

371.07 RIGHT OF WAY ON SIDEWALK.

(a) The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk.

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

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

(ORC 4511.441)

371.08 YIELDING TO PUBLIC SAFETY VEHICLE.

(a) Upon the immediate approach of a public safety vehicle as stated in Section 331.21, every pedestrian shall yield the right of way to the public safety vehicle.

(b) This section shall not relieve the driver of a public safety vehicle from the duty to exercise due care to avoid colliding with any pedestrian.

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

(ORC 4511.452)

371.09 WALKING ON HIGHWAY WHILE UNDER THE INFLUENCE.

(a) A pedestrian who is under the influence of alcohol, any drug of abuse, or any combination of them, to a degree that renders the pedestrian a hazard shall not walk or be upon a highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.481)

371.10 ON BRIDGES OR RAILROAD CROSSINGS.

(a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

(b) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed.

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

(ORC 4511.511)

371.11 THROWING ARTICLES PROHIBITED.

(a) No person shall throw or threaten to throw any article into or against any vehicle or passenger or driver thereof.

(Ord. 67-14. Passed 1-9-67.)

(b) Whoever violates any provision of 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.

371.12 PERSONS OPERATING MOTORIZED WHEELCHAIRS.

(a) Every person operating a motorized wheelchair shall have all of the rights and duties applicable to a pedestrian that are contained in this Traffic Code, except those provisions which by their nature can have no application.

(ORC 4511.491)

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

(ORC 4511.99)

371.13 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES.

(a) (1) Electric personal assistive mobility devices may be operated on the public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles in accordance with this section.

(2) Except as otherwise provided in this section, those sections of this Traffic Code that by their nature are applicable to an electric personal assistive mobility device apply to the device and the person operating it whenever it is operated upon any public street, highway, sidewalk, or path or upon any portion of a roadway set aside for the exclusive use of bicycles.

- (b) No operator of an electric personal assistive mobility device shall do any of the following:
 - (1) Fail to yield the right-of-way to all pedestrians and human-powered vehicles at all times;
 - (2) Fail to give an audible signal before overtaking and passing a pedestrian;
 - (3) Operate the device at night unless the device or its operator is equipped with or wearing both of the following:
 - A. A lamp pointing to the front that emits a white light visible from a distance of not less than five hundred feet;
 - B. A red reflector facing the rear that is visible from all distances from one hundred feet to six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle.
 - (4) Operate the device on any portion of a street or highway that has an established speed limit of fifty-five miles per hour or more;
 - (5) Operate the device upon any path set aside for the exclusive use of pedestrians or other specialized use when an appropriate sign giving notice of the specialized use is posted on the path;
 - (6) If under eighteen years of age, operate the device unless wearing a protective helmet on the person's head with the chin strap properly fastened;
 - (7) If under sixteen years of age, operate the device unless, during the operation, the person is under the direct visual and audible supervision of another person who is eighteen years of age or older and is responsible for the immediate care of the person under sixteen years of age.
- (c) No person who is under fourteen years of age shall operate an electric personal assistive mobility device.
- (d) No person shall distribute or sell an electric personal assistive mobility device unless the device is accompanied by a written statement that is substantially equivalent to the following: "WARNING: TO REDUCE THE RISK OF SERIOUS INJURY, USE ONLY WHILE WEARING FULL PROTECTIVE EQUIPMENT - HELMET, WRIST GUARDS, ELBOW PADS, AND KNEE PADS". (ORC 4511.512)
- (e) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour. (ORC 4501.01)
- (f) Whoever violates subsection (b) or (c) hereof is guilty of a minor misdemeanor and shall be punished as follows:
 - (1) The offender shall be fined ten dollars (\$10.00).
 - (2) If the offender previously has been convicted of or pleaded guilty to a violation of division (B) or (C) of Ohio R.C. 4511.512 or a substantially similar municipal ordinance, the court, in addition to imposing the fine required under subsection (f)(1) hereof, shall do one of the following:

- A. Order the impoundment for not less than one day but not more than thirty days of the electric personal assistive mobility device that was involved in the current violation of that section. The court shall order the device to be impounded at a safe indoor location designated by the court and may assess storage fees of not more than five dollars (\$5.00) per day, provided the total storage, processing, and release fees assessed against the offender or the device in connection with the device's impoundment or subsequent release shall not exceed fifty dollars (\$50.00).
- B. If the court does not issue an impoundment order pursuant to subsection (f)(2)A. hereof, issue an order prohibiting the offender from operating any electric personal assistive mobility device on the public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles for not less than one day but not more than thirty days.
- (g) Whoever violates subsection (d) hereof is guilty of a minor misdemeanor.
- (ORC 4511.512)

371.14 OPERATION OF PERSONAL DELIVERY DEVICE ON SIDEWALKS AND CROSSWALKS.

- (a) As used in this section:
- (1) "Eligible entity" means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in business.
- (2) "Personal delivery device" means an electrically powered device to which all of the following apply:
- A. The device is intended primarily to transport property and cargo on sidewalks and crosswalks.
- B. The device weighs less than 250 pounds excluding any property or cargo being carried in the device.
- C. The device has a maximum speed of ten miles per hour.
- D. The device is equipped with technology that enables the operation of the device with active control or monitoring by a person, without active control or monitoring by a person, or both with or without active control or monitoring by a person.
- (3) "Personal delivery device operator" means an agent of an eligible entity who exercises direct physical control over, or monitoring of, the navigation and operation of a personal delivery device. The phrase does not include, with respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service. The phrase also does not include a person who only arranges for and dispatches a personal delivery device for a delivery or other service.
- (b) An eligible entity may operate a personal delivery device on sidewalks and crosswalks so long as all of the following requirements are met:
- (1) The personal delivery device is operated in accordance with all regulations, if any, established by each local authority within which the personal delivery device is operated.
- (2) A personal delivery device operator is actively controlling or monitoring the navigation and operation of the personal delivery device.
- (3) The eligible entity maintains an insurance policy that includes general liability coverage of not less than one hundred thousand dollars (\$100,000) for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity.
- (4) The device is equipped with all of the following:
- A. A marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device and a unique identification number;
- B. A braking system that enables the personal delivery device to come to a controlled stop;
- C. If the personal delivery device is being operated between sunset and sunrise, a light on both the front and rear of the personal delivery device that is visible in clear weather from a distance of at least 500 feet to the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle.
- (c) No personal delivery device operator shall allow a personal delivery device to do any of the following:
- (1) Fail to comply with traffic or pedestrian control devices and signals;
- (2) Unreasonably interfere with pedestrians or traffic;
- (3) Transport any hazardous material that would require a permit issued by the Public Utilities Commission;
- (4) Operate on a street or highway, except when crossing the street or highway within a crosswalk.
- (d) A personal delivery device has all of the rights and obligations applicable to a pedestrian under the same circumstances, except that a personal delivery device shall yield the right-of-way to human pedestrians on sidewalks and crosswalks.
- (e) (1) No person shall operate a personal delivery device unless the person is authorized to do so under this section and complies with the requirements of this section.
- (2) An eligible entity is responsible for both of the following:
- A. Any violation of this section that is committed by a personal delivery device operator; and
- B. Any other circumstance, including a technological malfunction, in which a personal delivery device operates in a manner prohibited by divisions (c)(1) to (c)(4) of this section.
- (ORC 4511.513; Ord. 22-244. Passed 8-2-22.)

371.15 LOW-SPEED MICROMOBILITY DEVICES.

- (a) (1) A low-speed micromobility device may be operated on the public streets, highways, sidewalks, and shared-use paths, and may be operated on any portions of roadways set aside for the exclusive use of bicycles in accordance with this section.
- (2) Except as otherwise provided in this section, those sections of this title that by their nature could apply to a low-speed micromobility device do apply to the device and the person operating it whenever it is operated upon any public street, highway, sidewalk, or shared-use path, or upon any portion of a roadway set aside for the exclusive use of bicycles.
- (b) No operator of a low-speed micromobility device shall do any of the following:
- (1) Fail to yield the right-of-way to all pedestrians at all times;
- (2) Fail to give an audible signal before overtaking and passing a pedestrian;
- (3) Operate the device at night unless the device or its operator is equipped with or wearing both of the following:
- A. A lamp pointing to the front that emits a white light visible from a distance of not less than 500 feet;
- B. A red reflector facing the rear that is visible from all distances from 100 feet to 600 feet when directly in front of lawful lower beams of head lamps on a motor vehicle.
- (c) (1) No person who is under sixteen years of age shall rent a low-speed micromobility device.
- (2) No person shall knowingly rent a low-speed micromobility device to a person who is under sixteen years of age.
- (3) No person shall knowingly rent a low-speed micromobility device on behalf of a person who is under sixteen years of age.
- (d) No person shall operate a low-speed micromobility device at a speed greater than twenty miles per hour.
- (e) (1) Whoever violates this section is guilty of a minor misdemeanor.
- (2) Unless a mens rea is otherwise specified in this section, an offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of that offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
- (f) Notwithstanding subsection (a)(1) of this section, the municipality, may do any of the following:
- (1) Regulate or prohibit the operation of low-speed micromobility devices on public streets, highways, sidewalks, and shared-use paths, and portions of roadways set aside for the exclusive use of bicycles, under its jurisdiction;
- (2) Include low-speed micromobility devices that are adapted to expand access for people with various physical limitations into a shared bicycle, shared electric bicycle, or similar vehicle sharing program, under its jurisdiction;
- (3) Require the owner or operator of a low-speed micromobility device rental service or low-speed micromobility device sharing program to maintain commercial general liability insurance related to the operation of the devices, with limits of up to one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) per aggregate.
- (ORC 4511.514; Ord. 22-244. Passed 8-2-22.)

CHAPTER 373

Bicycles, Motorcycles and Skateboards

373.01 Code application to bicycles.

- 373.02 Riding upon seats; handle bars; helmets and glasses.**
- 373.03 Attaching bicycle or sled to vehicle.**
- 373.04 Riding bicycles and motorcycles abreast.**
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- 373.07 Riding bicycle on right side of roadway; obedience to traffic rules; passing.**
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- 373.09 Emerging from alley or driveway.**
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- 373.11 Bicycle dealers**
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- 373.13 Motorized bicycle operation, equipment and license.**
- 373.14 Skateboards.**
- 373.15 Paths exclusively for bicycles.**
- 373.16 Electric bicycles.**
- 373.99 Penalty.**

CROSS REFERENCES

See sectional histories for similar State law
 Motorcycle protective equipment - see OAC Ch. 4501-17
 Motorized bicycle equipment - see OAC Ch. 4501-23
 Bicycle defined - see TRAF. 301.04
 Motorcycle defined - see TRAF. 301.19
 Bicycles prohibited on freeways - see TRAF. 303.06
 Motorcycle operator's license required - see TRAF. 335.01(a)
 Motorcycle headlight - see TRAF. 337.03
 Motorcycle brakes - see TRAF. 337.18(b)

373.01 CODE APPLICATION TO BICYCLES.

- (a) The provisions of this Traffic Code that are applicable to bicycles and electric bicycles apply whenever a bicycle or electric bicycle is operated upon any street or upon any path set aside for the exclusive use of bicycles.
- (b) Except as provided in subsection (d) of this section, a bicycle operator or electric bicycle operator who violates any section of this Traffic Code described in subsection (a) of this section that is applicable to bicycles or electric bicycles may be issued a ticket, citation or summons by a law enforcement officer for the violation in the same manner as the operator of a motor vehicle would be cited for the same violation. A person who commits any such violation while operating a bicycle or electric bicycle shall not have any points assessed against the person's driver's license, commercial driver's license, temporary instruction permit, or probationary license under Ohio R.C. 4510.036.
- (c) Except as provided in subsection (d) of this section, in the case of a violation of any section of this Traffic Code described in subsection (a) of this section by a bicycle operator, electric bicycle operator, or motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator endangered the lives of bicycle riders or electric bicycle riders at the time of the violation, the court, notwithstanding any provision of this Traffic Code to the contrary, may require the bicycle operator, electric bicycle operator or motor vehicle operator to take and successfully complete a bicycling skills course approved by the court in addition to or in lieu of any penalty otherwise prescribed by the Traffic Code for that violation.
- (d) Subsections (b) and (c) of this section do not apply to violations of Section 333.01 of this Traffic Code. (ORC 4511.52)
- (e) The provisions of this Traffic Code shall apply to bicycles and electric bicycles except those which by their nature are not applicable.

373.02 RIDING UPON SEATS; HANDLE BARS; HELMETS AND GLASSES.

- (a) For purposes of this section "snowmobile" has the same meaning as given that term in Ohio R.C. 4519.01.
- (b) No person operating a bicycle or electric bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, or carry any other person upon such bicycle or electric bicycle other than upon a firmly attached and regular seat thereon, and no person shall ride upon a bicycle or electric bicycle other than upon such a firmly attached and regular seat.
- (c) No person operating a motorcycle shall ride other than upon or astride the permanent and regular seat or saddle attached thereto, or carry any other person upon such motorcycle other than upon a firmly attached and regular seat or saddle thereon, and no person shall ride upon a motorcycle other than upon such a firmly attached and regular seat or saddle.
- (d) No person shall ride upon a motorcycle that is equipped with a saddle other than while sitting astride the saddle, facing forward, with one leg on each side of the motorcycle.
- (e) No person shall ride upon a motorcycle that is equipped with a seat other than while sitting upon the seat.
- (f) No person operating a bicycle or electric bicycle shall carry any package, bundle or article that prevents the driver from keeping at least one hand upon the handlebars.
- (g) No bicycle, electric bicycle, or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped. No motorcycle shall be operated on a highway when the handlebars rise higher than the shoulders of the operator when the operator is seated in the operator's seat or saddle.
- (h) (1) Except as provided in subsection (h)(2) of this section, no person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. Except as provided in subsection (i)(3) of this section, no person who is under the age of eighteen years, or who holds a motorcycle operator's endorsement or license bearing "novice" designation that is currently in effect as provided in Ohio R.C. 4507.13, shall operate a motorcycle on a highway, or be a passenger on a motorcycle, unless wearing a United States Department of Transportation-approved protective helmet on the person's head, and no other person shall be a passenger on a motorcycle operated by such a person unless similarly wearing a protective helmet. The helmet, safety glasses or other protective eye device shall conform with rules adopted by the Ohio Director of Public Safety. The provisions of this subsection or a violation thereof shall not be used in the trial of any civil action.
- (2) Subsection (h)(1) of this section does not apply to a person operating an autocycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.
- (i) (1) No person shall operate a motorcycle with a valid temporary permit and temporary instruction permit identification card issued by the Ohio Registrar of Motor Vehicles pursuant to Ohio R.C. 4507.05 unless the person, at the time of such operation, is wearing on the person's head a protective helmet that has been approved by the United States Department of Transportation that conforms with rules adopted by the Director.
- (2) No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar pursuant to Ohio R.C. 4507.05 in any of the following circumstances:
 - A. At any time when lighted lights are required by Section 337.02(a)(1);
 - B. While carrying a passenger;
 - C. On any limited access highway or heavily congested roadway.
- (3) Subsections (i)(1) and (i)(2)A. of this section do not apply to a person who operates or is a passenger in an autocycle or cab-enclosed

motorcycle when the occupant compartment top is in place enclosing the occupants.

(j) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle or electric bicycle. (ORC 4511.53)

(k) 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.

373.03 ATTACHING BICYCLE OR SLED TO VEHICLE.

(a) No person riding upon any motorcycle, bicycle, electric bicycle, coaster, roller skates, sled, skateboard or toy vehicle shall attach the same or self to any vehicle upon a roadway.

No operator shall knowingly permit any person riding upon any motorcycle, bicycle, electric bicycle, coaster, roller skates, sled, skateboard or toy vehicle to attach the same or self to any vehicle while it is moving upon a roadway. This section does not apply to the towing of a disabled vehicle.

(b) 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.

373.04 RIDING BICYCLES AND MOTORCYCLES ABREAST.

(a) Persons riding bicycles, electric bicycles, or motorcycles upon a roadway shall ride not more than two abreast in a single lane, except on paths or parts of roadways set aside for the exclusive use of bicycles, electric bicycles, or motorcycles.

(ORC 4511.55)

(b) 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.

373.05 RIDING BICYCLES ON SIDEWALKS; SIGNALING OVERTAKEN PEDESTRIANS.

(a) No person shall ride a bicycle upon a sidewalk within a business district.

(b) No person twelve years of age or older shall ride a bicycle upon any sidewalk in any district of the City.

(c) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right of way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian. (Ord. 67-14. Passed 1-9-67.)

373.06 LIGHTS AND REFLECTOR ON BICYCLE; BRAKES.

(a) Every bicycle or electric bicycle when in use at the times specified in Section 337.02, shall be equipped with the following:

(1) A lamp mounted on the front of either the bicycle or electric bicycle or the operator that shall emit a white light visible from a distance of at least five hundred feet to the front; and three hundred feet to the sides. A generator-powered lamp that emits light only when the bicycle or electric bicycle is moving may be used to meet this requirement.

(2) A red reflector on the rear that shall be visible from all distances from one hundred feet to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.

(3) A lamp emitting either flashing or steady red light visible from a distance of five hundred feet to the rear shall be used in addition to the red reflector;

If the red lamp performs as a reflector in that it is visible as specified in subsection (a)(2) of this section, the red lamp may serve as the reflector and a separate reflector is not required.

(b) Additional lamps and reflectors may be used in addition to those required under subsection (a) of this section, except that red lamps and red reflectors shall not be used on the front of the bicycle or electric bicycle and white lamps and white reflectors shall not be used on the rear of the bicycle or electric bicycle.

(c) Every bicycle or electric bicycle shall be equipped with an adequate brake when used on a street or highway.
(ORC 4511.56)

373.07 RIDING BICYCLE ON RIGHT SIDE OF ROADWAY; OBEDIENCE TO TRAFFIC RULES; PASSING.

(a) Every person operating a bicycle or electric bicycle upon a roadway shall ride as near to the right side of the roadway as practicable obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) This section does not require a person operating a bicycle or electric bicycle to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it otherwise is unsafe or impracticable to do so, including if the lane is too narrow for the bicycle or electric bicycle and an overtaking vehicle to travel safely side by side within the lane. (ORC 4511.55(A))

(c) 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.

373.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

No person shall operate a bicycle or electric bicycle:

(a) Without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, and so as to endanger the life, limb or property of any person while in the lawful use of the streets or sidewalks or any other public or private property;

(b) Without exercising reasonable and ordinary control over such bicycle;

(c) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law;

(d) Without both hands upon the handle grips except when necessary to give the required hand and arm signals, or as provided in Section 373.02(d);

(e) At a speed greater than is reasonable and prudent under the conditions then existing.

373.09 EMERGING FROM ALLEY OR DRIVEWAY.

The operator of a bicycle emerging from an alley, driveway or building upon approaching a sidewalk or the sidewalk area extending across any alleyway, shall yield the right of way to all pedestrians approaching on the sidewalk or sidewalk area and upon entering the roadway, shall yield the right of way to all vehicles approaching on the roadway.

(Ord. 67-14. Passed 1-9-67.)

373.10 PARKING BICYCLES.

No person shall park a bicycle upon a street other than upon the roadway against the curb, or upon the sidewalk other than in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

(Ord. 67-14. Passed 1-9-67.)

373.11 BICYCLE DEALERS.

Every person engaged in the business of buying or selling new or secondhand bicycles shall make a report once each week to the Chief of Police of every bicycle purchased or sold by such dealer, giving the name and address of the person from whom purchased or to whom sold, a description of such bicycle by name or make, the frame number thereof, and the number of license plate, if any is attached thereto. Each bicycle purchased shall be

retained by the purchaser for at least seven days before disposing of the same.
(Ord. 67-14. Passed 1-9-67.)

373.12 RENTAL AGENCIES.

A rental agency shall not rent or offer any bicycle for rent unless such bicycle is equipped with the lamps and other equipment required by this Chapter.
(Ord. 82-346. Passed 7-20-82.)

373.13 MOTORIZED BICYCLE OPERATION, EQUIPMENT AND LICENSE.

(a) No person shall operate a motorized bicycle upon any street or highway or any public or private property used by the public for purposes of vehicular travel or parking, unless all of the following conditions are met:

- (1) The person possesses a valid license or permit authorizing such operation and which is issued by the Ohio Registrar of Motor Vehicles under Ohio R.C. Chapter 4506 or 4507 or Ohio R.C. 4511.521;
- (2) The motorized bicycle is equipped in accordance with rules adopted by the Ohio Director of Public Safety and is in proper working order;

- (3) The person, if under eighteen years of age, is wearing a protective helmet on the person's head with the chin strap properly fastened, and the motorized bicycle is equipped with a rear-view mirror; and
 - (4) The person operates the motorized bicycle when practicable within three feet of the right edge of the roadway obeying all traffic rules applicable to vehicles.
 - (b) No person operating a motorized bicycle shall carry another person upon the motorized bicycle. (ORC 4511.521)
 - (c) The protective helmet and rearview mirror required by subsection (a)(3) of this section shall, on and after January 1, 1985, conform with rules adopted by the Ohio Director of Public Safety.
 - (d) Whoever violates this section is guilty of a minor misdemeanor.
- (ORC 4511.521; Ord. 22-244. Passed 8-2-22.)

373.14 SKATEBOARDS.

- (a) No person shall ride a skateboard on any sidewalk, street, alley or public ground in the Central Business District.
 - (b) For the purpose of this section, the Central Business District of the City is as follows:
Beginning at a point of the intersection of the west right-of-way line of South Fountain Avenue and the north right-of-way line of East Main Street; thence in an eastwardly direction along the north right-of-way line of East Main Street to its intersection with the east right-of-way line of South Limestone Street; thence in a southerly direction along the east right-of-way line of South Limestone Street to its intersection with the south right-of-way line of East Washington Street; thence in a westwardly direction along the south right-of-way line of East Washington Street to its intersection with the west right-of-way line of South Fountain Avenue; thence in a northerly direction along the west right-of-way line of South Fountain Avenue to the point of beginning.
- (Ord. 88-393. Passed 6-28-88.)

373.15 PATHS EXCLUSIVELY FOR BICYCLES.

No person shall operate a motor vehicle, snowmobile, or all-purpose vehicle upon any path set aside for the exclusive use of bicycles, when an appropriate sign giving notice of such use is posted on the path.

Nothing in this section shall be construed to affect any rule of the Ohio Director of Natural Resources governing the operation of motor vehicles, snowmobiles, all-purpose vehicles, and bicycles on lands under his jurisdiction. (ORC 4511.713)

373.16 ELECTRIC BICYCLES.

- (a) (1) The operation of a class 1 electric bicycle and a class 2 electric bicycle is permitted on a path set aside for the exclusive use of bicycles or on a shared-use path, unless the Municipality by resolution, ordinance, or rule prohibits the use of a class 1 electric bicycle or class 2 electric bicycle on such a path.
 - (2) No person shall operate a class 3 electric bicycle on a path set aside for the exclusive use of bicycles or a shared-use path unless that path is within or adjacent to a highway or the Municipality by resolution, ordinance, or rule authorizes the use of a class 3 electric bicycle on such a path.
 - (3) No person shall operate a class 1 electric bicycle, a class 2 electric bicycle or a class 3 electric bicycle on a path that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use, unless the Municipality by resolution, ordinance or rule authorizes the use of a class 1 electric bicycle, a class 2 electric bicycle, or a class 3 electric bicycle on such a path.
 - (4) Subsections (a)(2) and (a)(3) of this section do not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle while in the performance of the officer's duties.
- (ORC 4511.522; Ord. 22-244. Passed 8-2-22.)
- (b) (1) No person under sixteen years of age shall operate a class 3 electric bicycle; however, a person under sixteen years of age may ride as a passenger on a class 3 electric bicycle that is designed to accommodate passengers.
 - (2) No person shall operate or be a passenger on a class 3 electric bicycle unless the person is wearing a protective helmet that meets the standards established by the Consumer Product Safety Commission or the American Society for Testing and Materials.
 - (c) The offenses established under subsections (a) and (b) of this section are strict liability offenses and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
- (ORC 4511.522)

373.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the fourth degree.

CHAPTER 375

Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles

- 375.01 Definitions.**
- 375.02 Equipment.**
- 375.03 Code application; prohibited operation.**
- 375.04 Permitted operation.**
- 375.05 Licensing requirements of operator.**
- 375.06 Registration of vehicles.**
- 375.07 Accident reports.**
- 375.08 Certificate of title.**

CROSS REFERENCES

See sectional histories for similar State law
 Lights, brakes and muffler - see OAC Ch. 4501.29
 Power of trial court of record to impound registration certificate for certain violations - see Ohio R.C 4519.47
 Power to regulate; municipal licensing prohibited - see Ohio R.C. 4519.48
 Street or highway defined - see TRAF. 301.42
 Required usage of helmets and safety glasses - see TRAF. 373.02(f)

375.01 DEFINITIONS.

As used in this chapter:

- (a) "Snowmobile" means any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners or caterpillar treads. (ORC 4519.01(A))
- (b) "All purpose vehicle" means any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all season vehicles, mini-bikes and trail bikes. "All-purpose vehicle" does not include a utility vehicle as defined in Ohio R.C. 4501.01 or any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Ohio R.C. Chapter 4503 or Chapter 4561, and any vehicle excepted from definition as a motor vehicle by Section 301.20 of this Traffic Code. (ORC 4519.01(B))
- (c) "Owner" means any person, firm or corporation, other than a lienholder or dealer, having title to a snowmobile, off-highway motorcycle, or all purpose vehicle, or other right to the possession thereof. (ORC 4519.01(C))

- (d) "Operator" means any person who operates or is in actual physical control of a snowmobile, off-highway motorcycle or all purpose vehicle.
- (e) "Limited access highway" or "freeway" means a highway especially designed for through traffic and over which abutting property owners have no easement or right of access by reason of the fact that their property abuts upon such highway, and access to which may be allowed only at highway intersections designated by the Ohio Director of Transportation. (ORC 5511.02)
- (f) "Interstate highway" means any part of the interstate system of highways as defined in subsection (e), 90 Stat. 431 (1976), 23 U.S.C.A. 103, and amendments thereof.
- (g) "Off-highway motorcycle" means every motorcycle, as defined in Ohio R.C. 4511.01, that is designed to be operated primarily on lands other than a street or highway. (ORC 4519.01)

375.02 EQUIPMENT.

(a) Equipment of snowmobiles, off-highway motorcycles, and all purpose vehicles shall include, but not necessarily be limited to requirements for the following items:

- (1) At least one headlight having a minimum candlepower of sufficient intensity to reveal persons and objects at a distance of at least 100 feet ahead under normal atmospheric conditions during hours of darkness;
- (2) At least one red taillight having a minimum candlepower of sufficient intensity to be plainly visible from a distance of 500 feet to the rear under normal atmospheric conditions during hours of darkness;
- (3) Adequate brakes. Every snowmobile, while traveling on packed snow, shall be capable of carrying a driver who weighs 175 pounds or more, and, while carrying such driver, be capable of stopping in not more than forty feet from an initial steady speed of twenty miles per hour, or locking its traction belt.
- (4) A muffler system capable of precluding the emission of excessive smoke or exhaust fumes, and of limiting the engine noise of vehicles. On snowmobiles manufactured after January 1, 1973, such requirement shall include sound dampening equipment such that noise does not exceed eighty-two decibels on the "A" scale at fifty feet as measured according to SAE J192 (September 1970).

(b) No person shall operate any snowmobile, off-highway motorcycle, or all purpose vehicle in violation of this section, except that equipment specified in subsections (a)(1) and (2) hereof shall not be required on snowmobiles, off-highway motorcycles, or all purpose vehicles operated during the daylight hours.

(c) Except as otherwise provided in this subsection, whoever violates subsection (b) of this section shall be fined not more than fifty dollars (\$50.00). If the offender within the preceding year previously has committed a violation of subsection (b) of this section, whoever violates subsection (b) of this section shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100.00), imprisoned not more than three days, or both.
(ORC 4519.20)

375.03 CODE APPLICATION; PROHIBITED OPERATION.

- (a) The applicable provisions of this Traffic Code shall be applied to the operation of snowmobiles, off-highway motorcycles, and all purpose vehicles; except that no snowmobile, off-highway motorcycle, or all purpose vehicle shall be operated as follows:
- (1) On any street or highway except for emergency travel only during such time and in such manner as the State or local authority having jurisdiction over such street or highway shall designate, and except as provided in Section 375.04;
 - (2) Upon any property owned or leased by the Municipality except in areas designated for such purposes;
 - (3) On any private property, or in any nursery or planting area, without the permission of the owner or other person having the right to possession of the property;
 - (4) On any land or waters controlled by the State, except at those locations where a sign has been posted permitting such operation;
 - (5) On tracks or right of way of any operating railroad;
 - (6) While transporting any firearm, bow or other implement for hunting, that is not unloaded and securely encased;
 - (7) For the purpose of chasing, pursuing, capturing or killing any animal or wild fowl;
 - (8) During the time from sunset to sunrise, unless displaying lighted lights as required by Section 375.02.
- (b) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisoned not less than three nor more than thirty days, or both. (ORC 4519.40)

375.04 PERMITTED OPERATION.

Snowmobiles, off-highway motorcycles, and all purpose vehicles may be operated as follows:

- (a) To make a crossing of a highway, other than a freeway or limited access highway, whenever the crossing can be made in safety and will not interfere with the movement of vehicular traffic approaching from any direction on the highway, and provided that the operator yields the right of way to any approaching traffic that presents an immediate hazard;
- (b) On highways in the County or Township road systems whenever the local authority having jurisdiction over such highway so permits;
- (c) Off and alongside a street or highway for limited distances from the point of unloading from a conveyance to the point at which the snowmobile, off-highway motorcycle, or all purpose vehicle is intended and authorized to be operated.
- (d) On the berm or shoulder of a highway, other than a highway as designated in Ohio R.C. 4519.40(A), when the terrain permits such operation to be undertaken safely and without the necessity of entering any traffic lane;
- (e) On the berm or shoulder of a county or township road, while traveling from one area of operation of the snowmobile, off-highway motorcycle, or all-purpose vehicle to another such area. (ORC 4519.41)

375.05 LICENSING REQUIREMENTS OF OPERATOR.

- (a) No person who does not hold a valid, current motor vehicle driver's or commercial driver's license, motorcycle operator's endorsement or probationary license issued under Ohio R.C. Chapter 4506 or 4507, or a valid, current driver's license issued by another jurisdiction, shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any street or highway, on any portion of the right of way thereof, or on any public land or waters. This subsection shall not be construed to permit the holder of such a license to operate a snowmobile, off-highway motorcycle, or all purpose vehicle in violation of Section 375.03.
- (b) No person who is less than sixteen years of age shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any land or waters other than private property or waters owned by or leased to such person's parent or guardian, unless accompanied by another person who is eighteen years of age, or older, and who holds a license as provided in subsection (a) hereof, except that the Ohio Department of Natural Resources may permit such operation on State controlled land under its jurisdiction when such person is less than sixteen years of age and is accompanied by a parent or guardian who is a licensed driver eighteen years of age or older.
- (c) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisoned not less than three nor more than thirty days, or both. (ORC 4519.44)

375.06 REGISTRATION OF VEHICLES.

- (a) Except as provided in Ohio R.C 4519.02(B), (C) and (D), no person shall operate any snowmobile, off-highway motorcycle, or all purpose vehicle unless the snowmobile, off-highway motorcycle, or all purpose vehicle is registered and numbered in accordance with Ohio R.C. 4519.03 and 4519.04.
- (b) Except as otherwise provided in this subsection, whoever violates subsection (a) of this section shall be fined not more than twenty-five dollars (\$25.00). If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a) of this section, whoever violates subsection (a) of this section shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). (ORC 4519.02)

375.07 ACCIDENT REPORTS.

- (a) The operator of a snowmobile, off-highway motorcycle, or all purpose vehicle involved in any accident resulting in bodily injury to or death of any person or damage to the property of any person in excess of one hundred dollars (\$100.00) shall report the accident within forty-eight hours to the Chief of Police, and, within thirty days, shall forward a written report of the accident to the Ohio Registrar of Motor Vehicles on a form prescribed by the Registrar. If the operator is physically incapable of making the reports and there is another participant in the accident not so incapacitated, the participant shall make the reports. In the event that there is no other participant, and the operator is other than the owner, the owner, within the prescribed periods of time, shall make the reports.
- Any law enforcement officer or other person authorized by Ohio R.C. 4519.42 and 4519.43, who investigates or receives information of an accident involving a snowmobile, off-highway motorcycle, or all purpose vehicle shall forward to the Registrar a written report of the accident within forty-eight hours. (ORC 4519.46)

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

375.08 CERTIFICATE OF TITLE.

- (a) No person shall do any of the following:
- (1) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle without having a certificate of title for the off-highway motorcycle or all-purpose vehicle, if such a certificate is required by Ohio R.C. Chapter 4519 to be issued for the off-highway motorcycle or all-purpose vehicle, or, if a physical certificate of title has not been issued for it, operate an off-highway motorcycle or all-purpose vehicle knowing that the ownership information relating to the motorcycle or vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;
 - (2) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle if a certificate of title to the off-highway motorcycle or all-purpose vehicle has been issued and then has been canceled;
 - (3) Fail to surrender any certificate of title upon cancellation of it by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4519;
 - (4) Fail to surrender the certificate of title to a clerk of the court of common pleas as provided in Ohio R.C. Chapter 4519, in case of the destruction or dismantling of, or change in, the off-highway motorcycle or all-purpose vehicle described in the certificate of title;
 - (5) Violate any provision of Ohio R.C. 4519.51 to 4519.70 or any lawful rules adopted pursuant to those sections;
 - (6) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle knowing that the certificate of title to or ownership of the motorcycle or vehicle as otherwise reflected in the automated title processing system has been canceled.
- (b) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both. (ORC 4519.66)

CHAPTER 377

Electric Scooters (E-Scooters)

(Entire Chapter 377 enacted by Ordinance No. 21-169, passed June 8, 2021.)

- 377.01 Policy statement and purpose.**
377.02 Code application.
377.03 Provider procedures.
377.04 Required equipment for E-Scooters.
377.05 Operation restrictions for E-Scooters.
377.06 Operation upon bicycle/ pedestrian way and streets.
377.07 Parking requirements for E-Scooters.
377.08 Penalty.

377.01 POLICY STATEMENT AND PURPOSE.

The purpose of this chapter is to establish rules and regulations governing the operation of shared electric scooters ("E-Scooters") and their providers within the City of Springfield, Ohio, (the "City") and to ensure that such mobility sharing systems are consistent with the safety and well-being of the citizens of Springfield, Ohio.

377.02 CODE APPLICATION.

- (a) The provisions of this code are applicable to E-Scooter providers and E-Scooter operators within the jurisdictional limits of the City.
(b) For the purposes of this chapter, E-Scooters also fall within the definition of "vehicle" as defined in City of Springfield Codified Ordinances ("SCO") Section 301.51.

377.03 PROVIDER PROCEDURES.

- (a) Any business seeking to operate a shared electric scooter program within the City shall first enter into an Electric Scooter Use Agreement ("Use Agreement") from the City conditioned on compliance with the provisions of this Ordinance and any other conditions (including insurance, indemnity, and performance bond) established by Use Agreement.
(b) No business shall operate a shared electric scooter program within the City except pursuant to such Use Agreement and provisions (each such operator being considered a "Provider").
(c) Providers shall provide easily visible contact information, including toll-free phone number and/or e-mail address on each shared electric scooter for City employees and/or members of the public to make relocation requests or to report other issues with devices.
(d) The City reserves the right to terminate a Use Agreement for cause or woefully negligent practices that cannot be remedied after a 30-day written notice of alleged negligence and after providing such Provider a right to remedy such deficiency. Upon completion of the aforementioned, the City can require that a Provider's fleet of E-Scooters be removed from the City's right-of-way within 30 days.
(e) Providers will take reasonable steps to ensure that all riders understand the requirements of ADA accessibility and the importance of leaving ADA paths of travel clear and accessible.
(f) Providers may stage its E-Scooters in permitted parking areas described in this Chapter. To the extent a Provider desires to stage E-Scooters in areas other than the public right-of-way, the Provider must first obtain the right to do so from the City Manager's Office, property owner, or public agency.
(g) Provider must adhere to all indemnification and insurance requirements included in the Use Agreement. Failure to abide by requirements of this provision or the Use Agreement is grounds for revocation under paragraph (d) above.

377.04 REQUIRED EQUIPMENT FOR E-SCOOTERS.

E-Scooter shall mean a device weighing less than 150 pounds, which has:

- (a) Handlebars;
- (b) Two wheels, one in the front and one in the back;
- (c) An electric motor (solely powered by the electric motor and/or human power);
- (d) Has a reflector light in the back;
- (e) Lamp pointed forward in the front; and
- (f) A maximum speed of no more than 20 mph on a paved level surface when powered solely by the electric motor.

377.05 OPERATION RESTRICTIONS FOR E-SCOOTERS.

Operators of E-Scooters must adhere to the following restrictions:

- (a) E-Scooters cannot be operated on sidewalks except as described in Section 377.06(a).
- (b) E-Scooters cannot be operated on streets or highways with speed limits higher than 35mph.
- (c) E-Scooters cannot exceed 20 mph.
- (d) E-Scooter riders must be at least 18 years of age.
- (e) E-Scooter riders must be seated if a seat is present on the E-Scooter; if not, must be standing on a standing board.
- (f) Not more than one rider per E-Scooter is permitted.
- (g) Riders shall not carry items that require both hands, a rider must keep one hand on the steering handle bars at all times.
- (h) Riders cannot operate an E-Scooter without due regard for safety, exercising reasonable and ordinary control over the device.
- (i) Riders cannot weave or zigzag while operating an E-Scooter.

377.06 OPERATION UPON BICYCLE/PEDESTRIAN WAY AND STREETS.

- (a) E-scooters may be operated on shared bicycle/pedestrian ways, including on such shared bicycle/pedestrian ways in public parks as well as streets, and where available, in bike lanes and bike paths.
- (b) Any person riding an E-Scooter upon a bicycle/pedestrian way who is approaching a pedestrian lawfully using such way shall give audible

warning and shall yield to such pedestrian, dismounting if necessary to do so.

- (1) E-Scooters are to stay to the right of street lanes and to offer the right of way to bicycles in bike lanes and on bike paths.
- (2) The SCO and Ohio Revised Code pertaining to traffic law applies when operation upon any street or highway;
- (3) A person who commits any such violation while operating an E-Scooter shall not have any points assessed against the person's driver's license, commercial driver's license, temporary instruction permit, or probationary license under Chapter 4510 of the Ohio Revised Code.

377.07 PARKING REQUIREMENTS FOR E-SCOOTERS.

- (a) Riders of E-Scooters shall park devices upright on hard surfaces on the curb of the sidewalk, beside a bicycle rack or in another area specifically designated for bicycle parking, or on the street next to an unmarked curb.
- (b) Riders shall not park E-Scooters in such a manner as to block the pedestrian clear zone area of the sidewalk; ADA paths of travel including accessible ramps, any fire hydrant, call box, or other emergency facility; bus bench; or utility pole or box.
- (c) Riders shall not park E-Scooters in such a manner as to impede or interfere with the reasonable use of any commercial window display or access to or from any building entrance/exit doorway.
- (d) Riders shall not park E-Scooters in such a manner as to impede or interfere with the reasonable use of any bicycle rack or news rack.
- (e) Riders may park E-Scooters in on-street parking spaces in the following circumstances:
 - (1) When marked parking spaces are officially designated stations for such devices;
 - (2) Where the curb is less than three feet wide;
 - (3) In neighborhoods with rolled curbs or with inadequate sidewalk space;
 - (4) In marked parking spaces designated for motorcycles.
- (f) Riders may park E-Scooters on blocks without sidewalks only if the travel lane(s) and six-foot pedestrian clear zone are not impeded.
- (g) Riders shall not park E-Scooters directly adjacent to or within the following areas, such that access is impeded:
 - (1) Transit zones, including bus stops, shelters, passenger waiting areas and bus layover and staging zones, except at existing bicycle racks;
 - (2) Loading zones;
 - (3) Disabled parking zone;
 - (4) Street curb that requires pedestrian access (e.g., benches, parking pay stations, bus shelters, transit information signs, etc.);
 - (5) Curb ramps;
 - (6) Entryways; and
 - (7) Driveways.

377.08 PENALTY.

Whoever violates Sections 377.05, 377.06 and 377.07 above is guilty of a minor misdemeanor under Section 303.99(b).

CODIFIED ORDINANCES OF SPRINGFIELD

PART FIVE - GENERAL OFFENSES CODE

Chap. 501. General Provisions and Penalty.
Chap. 505. Animals and Fowl.
Chap. 509. Disorderly Conduct and Peace Disturbance.
Chap. 511. Juvenile Curfew.
Chap. 513. Drug Abuse Control.
Chap. 517. Gambling.
Chap. 521. Health, Safety and Sanitation.
Chap. 523. Smoking Prohibitions.
Chap. 525. Law Enforcement and Public Office.
Chap. 529. Liquor Control.
Chap. 533. Obscenity and Sex Offenses.
Chap. 537. Offenses Against Persons.
Chap. 541. Property Offenses.
Chap. 543. Registration of Felons.
Chap. 545. Theft and Fraud.
Chap. 549. Weapons and Explosives.
Chap. 553. Railroads.
Chap. 557. Park Rules and Regulations.

CHAPTER 501

General Provisions and Penalty

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

501.99 Penalties for misdemeanors.

CROSS REFERENCES

See sectional histories for similar State law

Limitation of prosecution for income tax violations - see Ohio R.C. 718.06

Modification of sentence - see Ohio R.C. 2929.10(C), (D)

Penalty considerations - see Ohio R.C. 2929.22

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

501.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) "Force" means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.
- (c) "Physical harm to persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (d) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.
- (e) "Serious physical harm to persons" means any of the following:
 - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
 - (2) Any physical harm that carries a substantial risk of death;
 - (3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
 - (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
 - (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) "Serious physical harm to property" means any physical harm to property that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (i) "Offense of violence" means any of the following:
 - (1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.18, 2903.21, 2903.211, 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:
 - 1. Her delivery of a stillborn baby;
 - 2. Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;
 - 3. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;
 - 4. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;
 - 5. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.
 - (p) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.
 - (q) "School", "school building" and "school premises" have the same meaning as in Ohio R.C. 2925.01.
 - (r) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Ohio R.C. Chapter 3314; a governing board of an educational service center; or the governing body of a nonpublic school for which the Ohio Director of Education and Workforce prescribes minimum standards under Ohio R.C. 3301.07.
 - (s) "School bus" has the same meaning as in Ohio R.C. 4511.01. (ORC 2901.01)
- (Ord. 17-289. Passed 12-5-17.)

501.02 CLASSIFICATION OF OFFENSES.

As used in the Codified Ordinances:

- (a) Offenses include misdemeanors of the first, second, third and fourth degree, minor misdemeanors and offenses not specifically classified.
 - (b) Regardless of the penalty that may be imposed, any offense specifically classified as a misdemeanor is a misdemeanor.
 - (c) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty.
 - (d) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following:
 - (1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars (\$100.00);
 - (2) For an offense committed on or after January 1, 2004, a fine not exceeding one hundred fifty dollars (\$150.00), community service under division (D) of Ohio R.C. 2929.27, or a financial sanction other than a fine under Ohio R.C. 2929.28.
- (ORC 2901.02)

501.03 COMMON LAW OFFENSES ABROGATED.

- (a) No conduct constitutes a criminal offense against the Municipality unless it is defined as an offense in the Codified Ordinances or any other

Municipal ordinance.

(b) An offense is defined when one or more sections of the Codified Ordinances state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty.

(c) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law to enforce an order, civil judgment or decree.

(ORC 2901.03)

501.04 RULES OF CONSTRUCTION.

(a) Except as otherwise provided in subsection (c) hereof, sections of the Codified Ordinances defining offenses or penalties shall be strictly construed against the Municipality and liberally construed in favor of the accused.

(b) Rules of criminal procedure and sections of the Ohio Revised Code providing for criminal procedure shall be construed so as to effect the fair, impartial, speedy and sure administration of justice.

(c) Any provision of a section of the Codified Ordinances that refers to a previous conviction of or plea of guilty to a violation of a section of the Codified Ordinances or Ohio Revised Code or of a division of a section of the Codified Ordinances or Ohio Revised Code shall be construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing or former law of this State, another state, or the United States or under an existing or former municipal ordinance.

(d) Any provision of the Codified Ordinances that refers to a section, or to a division of a section, of the Codified Ordinances that defines or specifies a criminal offense shall be construed to also refer to an existing or former law of this State, another state, or the United States, to an existing or former municipal ordinance, or to an existing or former division of any such existing or former law or ordinance that defines or specifies, or that defined or specified, a substantially equivalent offense. (ORC 2901.04)

501.05 CRIMINAL LAW JURISDICTION.

(a) A person is subject to misdemeanor prosecution and punishment in this Municipality if any of the following occur:

(1) The person commits an offense under the laws of this Municipality, any element of which takes place in this Municipality.

(2) While in this Municipality, the person attempts to commit, or is guilty of complicity in the commission of, an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality or this State and the other jurisdiction, or, while in this Municipality, the person conspires to commit an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality or this State and the other jurisdiction, and a substantial overt act in furtherance of the conspiracy is undertaken in this Municipality by the person or another person involved in the conspiracy, subsequent to the person's entrance into the conspiracy. In any case in which a person attempts to commit, is guilty of complicity in the commission of, or conspires to commit an offense in another jurisdiction as described in this subsection, the person is subject to criminal prosecution and punishment in this Municipality for the attempt, complicity, or conspiracy, and for any resulting offense that is committed or completed in the other jurisdiction.

(3) While out of this Municipality, the person conspires or attempts to commit, or is guilty of complicity in the commission of, an offense in this Municipality.

(4) While out of this Municipality, the person omits to perform a legal duty imposed by the laws of this Municipality, which omission affects a legitimate interest of the Municipality in protecting, governing or regulating any person, property, thing, transaction or activity in this Municipality.

- (5) While out of this Municipality, the person unlawfully takes or retains property and subsequently brings any of the unlawfully taken or retained property into this Municipality.
- (6) While out of this Municipality, the person unlawfully takes or entices another and subsequently brings the other person into this Municipality.
- (7) The person, by means of a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, causes or knowingly permits any writing, data, image, or other telecommunication to be disseminated or transmitted into this Municipality in violation of the law of this Municipality.

(b) This Municipality includes the land and water within its boundaries and the air space above such land and water, and real property outside the corporate limits, with respect to which this Municipality has either exclusive or concurrent legislative jurisdiction. Where the boundary between this Municipality and another jurisdiction is disputed, the disputed territory is conclusively presumed to be within this Municipality for purposes of this section.

(c) When an offense is committed under the laws of this Municipality, and it appears beyond a reasonable doubt that the offense or any element of the offense took place either in this Municipality or in another jurisdiction or jurisdictions, but it cannot reasonably be determined in which it took place, the offense or element is conclusively presumed to have taken place in this Municipality for purposes of this section.

(d) When a person is subject to criminal prosecution and punishment in this Municipality for an offense committed or completed outside of this Municipality, the person is subject to all specifications for that offense that would be applicable if the offense had been committed within this Municipality.

(e) Any act, conduct, or element that is a basis of a person being subject under this section to criminal prosecution and punishment in this Municipality need not be committed personally by the person as long as it is committed by another person who is in complicity or conspiracy with the person.

(f) This section shall be liberally construed, consistent with constitutional limitations, to allow this Municipality the broadest possible jurisdiction over offenses and persons committing offenses in, or affecting, this Municipality.

(g) For purposes of subsection (a)(2) of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(h) As used in this section, "computer", "computer system", "computer network", "information service", "telecommunication", "telecommunications device", "telecommunications service", "data", and "writing" have the same meaning as in Ohio R.C. 2913.01. (ORC 2901.11)

501.06 LIMITATION OF CRIMINAL PROSECUTION.

(a) Except as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

- (1) For misdemeanor other than a minor misdemeanor, two years;
- (2) For a minor misdemeanor, six months.

(b) If the period of limitation provided in subsection (a) hereof has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of a fiduciary duty, within one year after discovery of the offense either by an aggrieved person, or by his legal representative who is not himself a party to the offense.

(c) (1) If the period of limitation provided in this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:

- A. For an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter;
- B. For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.

(2) As used in this subsection:

- A. An "offense is directly related to the misconduct in office of a public servant" includes, but is not limited to, a violation of Ohio R.C. 101.71, 101.91, 121.61 or 2921.13, division (F) or (H) of Ohio R.C. 102.03, division (A) of Ohio R.C. 2921.02, division (A) or (B) of Ohio R.C. 2921.43, or division (F) or (G) of Ohio R.C. 3517.13, that is directly related to an offense involving misconduct in office of a public servant.
- B. "Public servant" has the same meaning as in Section 525.01.

(d) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

(e) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation or other process, unless reasonable diligence is exercised to execute the same.

(f) The period of limitation shall not run during any time when the *corpus delicti* remains undiscovered.

(g) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused absented himself from this Municipality or concealed his identity or whereabouts is prima-facie evidence of his purpose to avoid prosecution.

(h) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this State, even though the indictment, information or process that commenced the prosecution is quashed or the proceedings on the indictment, information or process are set aside or reversed on appeal.

(i) The period of limitation for a violation of any provision of this General Offenses Code that involves a physical or mental wound, injury, disability or condition of a nature that reasonably indicates abuse or neglect of a child under eighteen years of age or of a child with a developmental disability or physical impairment under twenty-one years of age shall not begin to run until either of the following occurs:

- (1) The victim of the offense reaches the age of majority.
- (2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred. (ORC 2901.13)

(j) This section shall not apply to prosecutions commenced within the period of limitations set forth in Ohio R.C. 718.12(B) for violations of the

501.07 REQUIREMENTS FOR CRIMINAL LIABILITY.

(a) Except as provided in subsection (b) hereof, a person is not guilty of an offense unless both of the following apply:

- (1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;
- (2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the language defining the offense.

(b) When the language defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. The fact that one subsection of a section plainly indicates a purpose to impose strict liability for an offense defined in that subsection does not by itself plainly indicate a purpose to impose strict criminal liability for an offense defined in other subsections of the section that do not specify a degree of culpability.

(c) (1) When language defining an element of an offense that is related to knowledge or intent or to which mens rea could fairly be applied neither specifies culpability nor plainly indicates a purpose to impose strict liability, the element of the offense is established only if a person acts recklessly.

(2) Subsection (c)(1) of this section does not apply to offenses defined in the Traffic Code.

(3) Subsection (c)(1) of this section does not relieve the prosecution of the burden of proving the culpable mental state required by any definition incorporated into the offense.

(d) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

(e) As used in this section:

(1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.

(2) Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition, are involuntary acts.

(3) "Culpability" means purpose, knowledge, recklessness or negligence, as defined in Section 501.08.

(4) "Intoxication" includes, but is not limited to, intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.

(ORC 2901.21)

501.08 CULPABLE MENTAL STATES.

(a) A person acts purposely when it is the person's specific intention to cause a certain result, or when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is the offender's specific intention to engage in conduct of that nature.

(b) A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.

When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

(c) A person acts recklessly when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that such circumstances are likely to exist.

(d) A person acts negligently when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist.

(e) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element.

(ORC 2901.22)

501.09 ATTEMPT.

(a) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.

(b) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(c) No person who is convicted of committing a specific offense or of complicity in the commission of an offense, shall be convicted of an attempt to commit the same offense in violation of this section.

(d) It is an affirmative defense to a charge under this section that the actor abandoned the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

(e) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other misdemeanor is a misdemeanor of the next lesser degree than the misdemeanor attempted. In the case of an attempt to commit an offense other

than a violation of Ohio R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony under the Ohio Revised Code, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. An attempt to commit a minor misdemeanor is not an offense under this section.

(f) As used in this section, "drug abuse offense" has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.02)

501.10 COMPLICITY.

(a) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

- (1) Solicit or procure another to commit the offense;
- (2) Aid or abet another in committing the offense;
- (3) Cause an innocent or irresponsible person to commit the offense.

(b) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(c) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of Section 501.09.

(d) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense or an offense, the court when it charges the jury, shall state substantially the following:

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

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

(e) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.

(f) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense. (ORC 2923.03)

501.11 ORGANIZATIONAL CRIMINAL LIABILITY.

(a) An organization may be convicted of an offense under any of the following circumstances:

- (1) The offense is a minor misdemeanor committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.
- (2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.
- (3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.
- (4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated or performed by the board of directors, trustees, partners or by a high managerial officer, agent or employee acting in behalf of the organization and within the scope of such a board's or person's office or employment.

(b) If strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

(c) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(d) As used in this section, "organization" means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated nonprofit association, estate, trust or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program. (ORC 2901.23)

501.12 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

(a) An officer, agent or employee of an organization as defined in Section 501.11 may be prosecuted for an offense committed by such organization, if he acts with the kind of culpability required for the commission of the offense, and any of the following apply:

- (1) In the name of the organization or in its behalf, he engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct responsibility;
- (2) He has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

(b) When a person is convicted of an offense by reason of this section, he is subject to the same penalty as if he had acted in his own behalf. (ORC 2901.24)

501.13 CONSPIRACY.

(a) No person, with purpose to commit or to promote or facilitate the commission of aggravated murder, murder, kidnapping, abduction, compelling prostitution, promoting prostitution, trafficking in persons, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary, engaging in a pattern of corrupt activity, corrupting another with drugs, a felony drug trafficking, manufacturing, processing or possession offense, theft of drugs, or illegal processing of drug documents, the commission of a felony offense of unauthorized use of a vehicle, illegally transmitting multiple commercial electronic mail messages or unauthorized access of a computer in violation of Ohio R.C. 2923.421 or the commission of a violation of any provision of Ohio R.C. Chapter 3734, other than Ohio R.C. 3734.18, that relates to hazardous wastes, shall do either of the following:

- (1) With another person or persons, plan or aid in planning the commission of any of the specified offenses;
- (2) Agree with another person or persons that one or more of them will engage in conduct that facilitates the commission of any of the specified

offenses.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the accused or a person with whom the accused conspired, subsequent to the accused's entrance into the conspiracy. For purposes of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(c) When the offender knows or has reasonable cause to believe that a person with whom the offender conspires also has conspired or is conspiring with another to commit the same offense, the offender is guilty of conspiring with that other person, even though the other person's identity may be unknown to the offender.

(d) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the conspiracy was impossible under the circumstances.

(e) A conspiracy terminates when the offense or offenses that are its objects are committed or when it is abandoned by all conspirators. In the absence of abandonment, it is no defense to a charge under this section that no offense that was the object of the conspiracy was committed.

(f) A person who conspires to commit more than one offense is guilty of only one conspiracy, when the offenses are the object of the same agreement or continuous conspiratorial relationship.

(g) When a person is convicted of committing or attempting to commit a specific offense or of complicity in the commission of or attempt to commit the specific offense, the person shall not be convicted of conspiracy involving the same offense.

(h) (1) No person shall be convicted of conspiracy upon the testimony of a person with whom the defendant conspired, unsupported by other evidence.

(2) If a person with whom the defendant allegedly has conspired testifies against the defendant in a case in which the defendant is charged with conspiracy and if the testimony is supported by other evidence, the court, when it charges the jury, shall state substantially the following:

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

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

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

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

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

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

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

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

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

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

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

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

A. The provisions of divisions (D), (F) and (G) of Ohio R.C. 2925.03, division (D) of Ohio R.C. 2925.04, division (D) of Ohio R.C. 2925.05, division (D) of Ohio R.C. 2925.06 and division (E) of Ohio R.C. 2925.11 that pertain to mandatory and additional fines, driver's or commercial driver's license or permit suspensions, and professionally licensed persons and that would apply under the appropriate provisions of those divisions to a person who is convicted of or pleads guilty to the felony drug trafficking, manufacturing, processing, or possession offense that is the most serious offense that is the basis of the conspiracy shall apply to the person who is convicted of or pleads guilty to the conspiracy as if the person had been convicted or pleaded guilty to the felony drug trafficking, manufacturing, processing or possession offense that is the most serious offense that is the basis of the conspiracy.

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

(m) As used in this section:

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

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

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

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

501.99 PENALTIES FOR MISDEMEANORS.

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

(1) Restitution.

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

- B. The court shall determine the amount of restitution to be paid by the offender. The victim, victim's representative, victim's attorney, if applicable, the prosecutor or the prosecutor's designee, and the offender may provide information relevant to the determination of the amount of restitution. The amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result of the offense. If the court decides to or is required to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, victim's representative, victim's attorney, if applicable, or victim's estate disputes the amount of restitution. The court shall determine the amount of full restitution by a preponderance of the evidence.
- C. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or the victim's estate against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.
- D. The court may order that the offender pay a surcharge, of not more than five percent (5%) of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.
- E. The victim, victim's attorney, if applicable, or the attorney for the victim's estate may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate but shall not reduce the amount of restitution ordered, except as provided in Ohio R.C. 2929.281(A).

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

- A. For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000);
- B. For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
- C. For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
- D. For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00);
- E. For a minor misdemeanor, not more than one hundred fifty dollars (\$150.00).

(3) Reimbursement of costs of sanctions.

- A. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:
 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) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.
- (4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:
 - A. The court shall specify both of the following as part of the sentence:
 1. If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
 2. If the person does not dispute the bill described in subsection (b)(4)A.1. of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.
 - B. The sentence automatically includes any certificate of judgment issued as described in subsection (b)(4)A.2. of this section.

(ORC 2929.24)

(c) Organizations. Regardless of the penalties provided in subsections (a) and (b) hereof, an organization convicted of an offense pursuant to Section 501.11 shall be fined, in accordance with this section. The court shall fix the fine as follows:

Type of Misdemeanor	Maximum Fine
First degree	\$5000.00
Second degree	4000.00
Third degree	3000.00

Fourth degree	2000.00
Minor	1000.00
Misdemeanor not specifically classified	2000.00
Minor misdemeanor not specifically classified	1000.00

- (1) When an organization is convicted of an offense that is not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then the penalty so provided shall be imposed in lieu of the penalty provided in this subsection (c).
 - (2) When an organization is convicted of an offense that is not specifically classified, and the penalty provided includes a higher fine than the fine that is provided in this subsection (c), then the penalty imposed shall be pursuant to the penalty provided for the violation of the section defining the offense.
 - (3) This subsection (c) does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 501.11, either in addition to or in lieu of a fine imposed pursuant to this subsection (c).
- (ORC 2929.31)

CHAPTER 505

Animals and Fowl

505.01 Dogs and other animals running at large; grazing.

505.02 Impounding and disposition.

505.03 Annual registration of dogs; tags required.

505.04 Abandoning animals.

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505.13 Dangerous wild animals and restricted snakes.

505.14 Rights of blind, deaf or hearing impaired, or mobility impaired person, or trainer with assistance dog.

505.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Owner or keeper liable for damages - see Ohio R.C 951.10

Dog registration - see Ohio R.C. 955.01

Discharging firearms prohibited - see GEN. OFF. 549.02

505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE; GRAZING.

(a) No person being the owner or having charge of any horses, mules, cattle, sheep, goats, swine, geese or any other animals shall permit the same to run at large upon any street or public place, or upon any enclosed or unenclosed land of another person, or cause such animals to be herded, kept or detained within the City for the purpose of grazing the same on premises other than those owned or occupied by the owner or keeper of such animals.

(Ord. 65-37. Passed 3-1-65.)

(b) No person being the owner of or having charge of any dog, whether wearing a registration tag or not, shall permit it to run at large upon any public place or upon the premises of another. No owner, keeper or harbinger of any female dog shall permit such dog to go beyond the premises of such owner or keeper at any time such dog is in heat, unless such dog is properly on leash. The owner or keeper of every dog shall at all times keep such dog either confined upon the premises of the owner or keeper, or under reasonable control of some person.

(ORC 955.22)

(c) The running at large of any such animal in or upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section.

(ORC 951.02)

(d) Whoever violates this section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.
(ORC 955.99(D))

505.02 IMPOUNDING AND DISPOSITION.

Any dog or other animal found running at large in violation of Section 505.01 may be impounded on sight and placed in the Animal Shelter maintained by the Springfield and Clark County Humane Society. The costs of impounding and maintaining an animal in the Animal Shelter shall be paid by the owner or other person having charge or control of the animal so impounded before the animal may be returned by the agent in charge of the Animal Shelter to the owner or other person having charge or control thereof. When an animal is impounded, the owner or person having charge or control of the animal shall be notified by mail or by personal service, if known, or if not known, by publication of a general description of the animal once in a local newspaper of general circulation in Clark County. In the event that the owner or person having charge or control of the animal does not redeem the animal within a period of three days from the mailing of the notice, the service of the notice or the publication of the notice, then the agent in charge of the Animal Shelter may make such disposition as he desires of such animal.
(Ord. 65-37. Passed 3-1-65.)

505.03 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED.

(a) Except for guide dogs registered under Ohio R.C. 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio R.C. 955.16.

(b) Whoever violates this section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.
(ORC 955.99(D)).

505.04 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. (ORC 959.01)
(b) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
(ORC 959.99 (E)(3))

505.05 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a farm animal, dog, cat or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity.
(ORC 959.02)

(b) Whoever violates this section, if the value of the animal killed or the injury done amounts to less than three hundred dollars (\$300.00), is guilty of a misdemeanor of the second degree; if the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, such person is guilty of a misdemeanor of the first degree.
(ORC 959.99(B))

505.06 POISONING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a farm animal, dog, cat, poultry or other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another.
(ORC 959.03)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(ORC 959.99(C))

505.07 CRUELTY TO ANIMALS GENERALLY.

(a) No person shall:

- (1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;
- (2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This subsection (a)(2) does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means a man-made enclosure, windbreak, sunshade or natural windbreak or sunshade that is developed from the earth's contour, tree development or vegetation;
- (3) Carry or convey an animal in a cruel or inhuman manner;
- (4) Keep animals other than cattle, poultry or fowl, swine, sheep or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;
- (5) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water and attention, nor permit such livestock to be so crowded as to overlie, crush, wound or kill each other.

(b) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which such livestock may be detained in any cars or compartments without food, water and attention, may be extended to thirty-six hours without penalty therefor. This section does not prevent the dehorning of cattle.
(ORC 959.13)

(c) Whoever violates this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this subsection, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.
(ORC 959.99(D))

505.071 CRUELTY TO COMPANION ANIMALS.

- (a) As used in this section:
- (1) "Animal rescue for dogs", has the same meaning as in Ohio R.C. 956.01.
 - (2) "Boarding kennel" has the same meaning as in Ohio R.C. 956.01.
 - (3) "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in Ohio R.C. 956.01. The term does not include livestock or any wild animal.
 - (4) "Cruelty", "torment" and "torture" have the same meaning as in Ohio R.C. 1717.01.
 - (5) "Dog kennel" means an animal rescue for dogs, a boarding kennel or a training kennel.
 - (6) "Federal Animal Welfare Act" means the "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C. §2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976) and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
 - (7) "Practice of veterinary medicine" has the same meaning as in Ohio R.C. 4741.01.
 - (8) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
 - (9) "Wild animal" has the same meaning as in Ohio R.C. 1531.01.
- (b) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.
- (c) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:
- (1) Torture, torment or commit an act of cruelty against the companion animal;
 - (2) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
 - (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.
- (d) No person who confines or who is the custodian or caretaker of a companion animal shall recklessly deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water.
- (e) No owner, manager or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:
- (1) Torture, torment, or commit an act of cruelty against the companion animal;
 - (2) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
 - (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.
- (f) Subsections (b), (c), (d) and (e) of this section do not apply to any of the following:
- (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
 - (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. Chapter 4741;
 - (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
 - (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
 - (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. Chapter 4741.
- (g) Notwithstanding any section of the Ohio Revised Code that otherwise provides for the distribution of fine moneys, the Clerk of Court shall forward all fines the Clerk collects that are so imposed for any violation of this section to the Treasurer of the municipality, whose county humane society or law enforcement agency is to be paid the fine money as determined under this section. The Treasurer shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this section, the county humane society shall use the fine moneys either to provide the training that is required for humane society agents under Ohio R.C. 1717.061 or to provide additional training for humane society agents.
(ORC 959.131)
- (h) (1) Whoever violates subsection (b) or (d) hereof is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law.
- (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
 - (3) Whoever violates subsection (e) 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 has 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. (ORC 959.99)

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) No person having possession of real property in the City of Springfield shall permit the “mass feeding” of animals on real property occupied by that person in the City of Springfield.

“Mass feeding” occurs when cat, dog, or pet food or other edible material attractive to animals is left out of doors where it is readily accessible to feral cats, stray dogs, rodents, vermin and other species capable of carrying disease.

(c) It shall not be a violation of subsection (b) of this section to:

(1) Permit cat, dog, pet food or other edible material attractive to animals to be left out of doors if

A. The material is in a sealed container,

B. The material is in an unsealed container for the sole purpose of feeding the occupant’s domestic pets, during daylight hours for a period not exceeding four consecutive hours, or

C. The material is in a container suspended above the ground for the feeding of birds or squirrels.

(2) Engage in the mass feeding of animals as part of a licensed kennel operation on a lot zoned for such purpose.

(d) Whoever violates subsections (a) or (b) of this section is guilty of a minor misdemeanor. If the offender has been previously convicted of a violation of any provision of this section, a subsequent violation of any provision of this chapter shall be a misdemeanor of the fourth degree.

(e) A violation of subsections (a) or (b) of this section may constitute a “public nuisance” as defined in Section 1323.01(i) and subject to the procedures and provisions of Chapter 1323 of the Springfield Codified Ordinances.

(Ord. 08-97. Passed 4-8-08.)

505.09 BARKING OR HOWLING ANIMALS OR FOWL.

(a) No person shall keep or harbor any animal or fowl which howls or barks, or omits audible sounds which are unreasonably loud or disturbing and which are of such a character, intensity and duration as to disturb the peace and quiet of the neighborhood or to be detrimental to the life and health of any individual.

(Ord. 67-235. Passed 11-27-67.)

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

505.10 ANIMAL BITES; REPORTS AND QUARANTINE.

(a) Whenever any animal shall bite any person, the Director of Health may order such animal quarantined for a period extending not longer than ten days from the time of the biting. Any owner or person in custody or possession of such animal who shall fail to comply with such quarantine order shall be deemed guilty of a misdemeanor. All expenses incurred for the keeping of such animal or the necessary tests to determine whether rabies exists, shall be borne exclusively by the owner or keeper of such animal. No person, having knowledge of the existence of any rabies, or the fact that any animal has bitten any other person, shall fail to immediately report such information to the Director of Health.

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

505.11 HUNTING PROHIBITED.

(a) No person shall hunt with a gun or with any other dangerous weapon any bird or quadruped or any animal within the corporate limits of the City.

(Ord. 63-181. Passed 12-30-63.)

(b) Whoever violates this section is guilty of a misdemeanor of the second degree.

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.

The signs shall comply with standards established in rules adopted by the State Director of Agriculture.

- (4) No person shall allow a dangerous wild animal or restricted snake to roam off the property where it is confined.

- (5) No person shall remove any teeth or claws from a dangerous wild animal or restricted snake, as applicable, unless determined to be medically necessary by a veterinarian. (ORC 935.18)

(c) Whoever violates this section is guilty of a misdemeanor of the first degree on the first offense. On a second or subsequent offense, such person is guilty of a felony and shall be prosecuted under appropriate State law. (ORC 935.99)

505.14 RIGHTS OF BLIND, DEAF OR HEARING IMPAIRED, OR MOBILITY IMPAIRED PERSON, OR TRAINER WITH ASSISTANCE DOG.

(a) When either a blind, deaf or hearing impaired, or mobility impaired person, or a training of an assistance dog is accompanied by an assistance dog, the person or trainer, as applicable, is entitled to the full and equal accommodations, advantages, facilities, and privileges of all public conveyances, hotels, and lodging places, all places of public accommodation, amusement, or resort, and other places to which the general public is invited, and may take the dog into such conveyances and places, subject only to the conditions and limitations applicable to all persons not so accompanied, except that:

- (1) The dog shall not occupy a seat in any public conveyance; and
- (2) The dog shall be leashed while using the facilities of a common carrier.
- (3) Any dog in training to become an assistance dog shall be covered by a liability insurance policy provided by the nonprofit special agency engaged in such work protecting members of the public against personal injury or property damage caused by the dog.

(b) No person shall deprive a blind, deaf or hearing impaired, or mobility impaired person, or a training of an assistance dog who is accompanied by an assistance dog, of any of the advantages, facilities or privileges provided in subsection (a) of this section, nor charge the person or training a fee or charge for the dog.

(ORC 955.43(A), (B))

(c) As used in this section:

- (1) "Assistance dog" means a dog that has been trained by a nonprofit or for-profit special agency and that is one of the following:

- A. A guide dog;
- B. A hearing dog;
- C. A service dog.

- (2) "Blind" means either of the following:

- A. Vision 20/20 or less in the better eye with proper correction;
- B. Field defect in the better eye with proper correction that contracts the peripheral field so that the diameter of the visual field subtends an angle no greater than twenty degrees.

- (3) "Guide dog" means a dog that has been trained or is in training to assist a blind person.

- (4) "Hearing dog" means a dog that has been trained or is in training to assist a deaf or hearing-impaired person.

- (5) "Institutions of education" means:

- A. Any state university or college as defined in Ohio R.C. 3345.32;
- B. Any private college or university that holds a certificate of authorization issued by the Ohio Board of Regents pursuant to Ohio R.C. Chapter 1713;
- C. Any elementary or secondary school operated by a board of education;
- D. Any chartered or nonchartered nonpublic elementary or secondary school; or
- E. Any school issued a certificate of registration by the state Board of Career Colleges and Schools.

- (6) "Person with a mobility impairment" means any person, regardless of age, who is subject to a physiological impairment regardless of its cause, nature or extent that renders the person unable to move about without the aid of crutches, a wheelchair, or any other form of support, or that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any related function. The phrase includes a person with a neurological or psychological disability that limits the person's functional ability to ambulate, climb, descend, sit, rise or perform any related function. The phrase also includes a person with a seizure disorder and a person who is diagnosed with autism.

- (7) "Service dog" means a dog that has been trained or is in training to assist a person with a mobility impairment.

(ORC 955.011(B), 955.43(C))

- (d) Whoever violates any provision of this section shall be guilty of a misdemeanor of the fourth degree. (ORC 955.99(D))

505.99 PENALTY.

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

CHAPTER 509

Disorderly Conduct and Peace Disturbance

509.01 Riot.

509.011 Inciting to violence.

509.02 Failure to disperse.

509.03 Disorderly conduct; intoxication.

509.04 Disturbing a lawful meeting.

509.05 Misconduct at an emergency.

509.06 Inducing panic.

509.07 Emergency orders and proclamations; obedience required.

509.08 Begging prohibited. (Repealed)

509.09 Sound trucks.

509.10 Political signs. (Repealed)

509.11 Unreasonable noise.

509.12 Sound amplifying equipment regulated.

509.13 Motor vehicle noise control regulations.

509.131 Sound amplification systems in motor vehicles.

509.14 Stationary noise control regulations.

509.15 Impeding public passage of an emergency service responder.

509.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law.

Criminal trespass - see Ohio R.C. 2911.21

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

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 such 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 which serves no lawful and reasonable purpose of the offender;
- (5) Creating a condition which is physically offensive to persons or which presents a risk of physical harm to persons or property, by any act which serves no lawful and reasonable purpose of the offender;
- (6) Making unreasonably loud or disturbing noise by any means.

(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 he were not intoxicated, should know is likely to have such effect on others;
- (2) Engage in conduct or create a condition which presents a risk of physical harm to himself 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.

(ORC 2917.13)

509.06 INDUCING PANIC.

(a) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

- (1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that such report or warning is false;
- (2) Threatening to commit any offense of violence;
- (3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(b) Division (a) hereof does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree. If inducing panic results in physical harm to any person, economic harm of one thousand dollars (\$1,000) 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) "Biological agent" has the same meaning as in Ohio R.C. 2917.33.
- (2) "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.
- (3) "Emergency medical services personnel" has the same meaning as in Ohio R.C. 2133.21.
- (4) "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 Chancellor of Higher Education 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)

- (5) "School" means any school operated by a board of education or any school for which the Director of Education and Workforce 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.
- (6) "Weapon of mass destruction" means any of the following:
- 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;
 - Any weapon involving a disease organism or biological agent;
 - Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;
 - 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:
 - 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;
 - 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.

509.07 EMERGENCY ORDERS AND PROCLAMATIONS; OBEDIENCE REQUIRED.

(a) When there is a tumult, riot, mob or a body of people acting together with the intent to commit a felony, or to do or offer violence to person or property, or by force and violence to break or resist the law, or in the event of a disaster affecting life and property and which substantially impairs the functioning of the City government and its ability to protect the lives and property of the people, the City Manager is authorized and directed to issue executive orders covering the City at large or prescribed areas therein as he deems necessary to protect life and property. Such executive orders may include, but are not limited to, the establishment of curfew; prohibiting the sale of beer or intoxicating liquor; prohibiting the sale of firearms; restricting or prohibiting movement into, out of or within the affected area or areas; or prohibiting or limiting the assemblage of persons. If the Mayor deems it necessary to proclaim a state of emergency and govern the City by proclamation, he is authorized to issue proclamations covering the City at large or prescribed areas therein as he deems necessary to protect life and property. Such proclamations may include, but are not limited to the establishment of curfew; prohibiting the sale of beer or intoxicating liquor; prohibiting the sale of firearms; restricting or prohibiting movement into, out of or within the affected area or areas; or prohibiting or limiting the assemblage of persons. In the absence or disability of the Mayor, the Assistant Mayor shall be vested with the authority herein granted to the Mayor.

(b) No person shall fail to obey the lawful order of any police officer, militiaman or other authorized person, and no person shall in any way intentionally interfere with any person in the protection or preservation of life or property during the existence of a proclaimed state of emergency, as provided in subsection (a) hereof.

(Ord. 67-186. Passed 9-5-67.)

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

509.08 BEGGING PROHIBITED. (REPEALED)

(EDITOR'S NOTE: This section was repealed by Ordinance 18-268, passed October 23, 2018.)

509.09 SOUND TRUCKS.

(a) Definitions. As used in this section:

- "Person" includes the singular and the plural, and means any person, firm, corporation, association, club, partnership, society or any other form of association or organization.
- "Sound truck" means any motor vehicle or horse-drawn vehicle, having mounted thereon, or attached thereto, any sound amplifying equipment.
- "Sound amplifying equipment" means any machine or device for the amplification of the human voice, music or any other sound. "Sound amplifying equipment" shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed, or warning devices on authorized emergency vehicles, or horns or other warning devices on other vehicles used only for traffic safety purposes.

(b) Noncommercial Use of Sound Trucks.

- Registration required. No person shall use or cause to be used, a sound truck with its sound amplifying equipment in operation for noncommercial purposes in the Municipality before filing a registration statement with the City Manager in writing. This registration statement shall be filed in duplicate and shall state the following:

- Name and home address of the applicant;
- Address of place of business of the applicant;
- License number and motor number of the sound truck to be used by the applicant;
- Name and address of person who owns the sound truck;
- Name and address of person having direct charge of sound truck;
- Names and addresses of all persons who will use or operate the sound truck;
- The purpose for which the sound truck will be used;
- A general statement as to the section or sections of the Municipality in which the sound truck will be used;
- The proposed hours of operation of the sound truck;
- The number of days of proposed operation of the sound truck;
- A general description of the sound amplifying equipment which is to be used;
- The maximum sound producing power of the sound amplifying equipment to be used in or on the sound truck, and also the following:
 - The wattage to be used;
 - The volume in decibels of the sound which will be produced; and
 - The approximate maximum distance for which sound will be thrown from the sound truck.

- Registration statement amendment. All persons using or causing to be used, sound trucks for noncommercial purposes shall amend any registration statement filed pursuant to subsection (b)(1) hereof within forty-eight hours after any change in the information therein furnished.

- Registration and identification. The City Manager shall return to each applicant under subsection (b)(1) hereof one copy of the registration statement duly certified by the City Manager as a correct copy of the application. The certified copy of the application shall be in the possession of any person operating the sound truck at all times while the sound truck's sound amplifying equipment is in operation, and the copy shall be promptly displayed and shown to any police officer upon request.

- Regulations for use. Noncommercial use of sound trucks in the Municipality with sound amplifying equipment in operation are subject to the following regulations:

- The only sounds permitted are music or human speech.
- Operations are permitted for four hours each day, except on Sundays and legal holidays when no operations are authorized. The permitted four hours of operation are between the hours of 11:30 a.m. and 1:30 p.m., and between the hours of 4:30 p.m. and 6:30 p.m.

- C. Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour, except when the truck is stopped or impeded by traffic. Where stopped by traffic, the sound amplifying equipment shall not be operated for longer than one minute at each such stop.
- D. Sound shall not be issued within 100 yards of hospitals, schools, churches or court houses.
- E. No sound truck with its amplifying device in operation shall be operated in the business district.
- F. The human speech and music amplified shall not be profane, lewd, indecent or slanderous.
- G. The volume of sound shall be controlled so that it will not be audible for a distance in excess of 100 feet from the sound truck and so that the volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area of audibility.
- H. No sound amplifying equipment shall be operated with an excess of fifteen watts of power in the last stage of amplification.

(c) Commercial Advertising by Sound Truck Prohibited. No person shall operate or cause to be operated, any sound truck for commercial sound advertising purposes in the Municipality with sound amplifying equipment in operation.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 69-155. Passed 9-2-69.)

509.10 POLITICAL SIGNS.

(EDITOR'S NOTE: This section was repealed by Ordinance 94-354, passed September 27, 1994.)

509.11 UNREASONABLE NOISE.

(a) No person shall make, cause, or permit to be caused, any unreasonable noise, which, because of its volume level, duration, or character, annoys, disturbs, injures, or endangers the comfort, health, safety, or peace and quiet having due regard for the proximity of places of residence, hospitals, or other residential institutions and to any other conditions affected by such noises. The prohibitions contained in this section shall not apply to any noise originating from a fixed location, other than those on to which a D series liquor permit has been issued pursuant to Ohio R.C. 4303.13 through 4303.183, upon which activity is carried on which is specifically permitted by applicable provisions of the Zoning Code other than those regulating Residential Office - Residential and University uses. (Ord. 91-95. Passed 3-19-91.)

(b) The using, operating, or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or chamber in which such machine or device is operated and who are voluntary listeners thereto is declared to be an unreasonable noise in violation of this section. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of 25 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
(Ord. 97-183. Passed 5-13-97.)

(c) Violation of this section is a minor misdemeanor. Each day a violation occurs shall be a separate offense.
(Ord. 00-285. Passed 8-8-00.)

509.12 SOUND AMPLIFYING EQUIPMENT REGULATED.

(a) For the purpose of this section, "sound amplifying equipment" shall have the same meaning as specified in Section 509.09(a)(3), and shall also include radios, television receivers, phonographs, tape players, and other electronic equipment played at a volume sufficiently loud to be heard at a distance of 25 feet.
(Ord. 97-183. Passed 5-13-97.)

(b) No person shall use, or cause to be used, sound amplifying equipment within any of the City's parks without the written consent of the Director of Parks and Recreation, unless in conjunction with an activity officially sponsored by the Division of Parks and Recreation.

(c) Violation of this section is a minor misdemeanor. Each day a violation occurs shall be a separate offense.
(Ord. 91-95. Passed 3-19-91.)

509.13 MOTOR VEHICLE NOISE CONTROL REGULATIONS.

(a) Definitions. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning. All definitions and terminology used in this section, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- (1) "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.
- (2) "Decibel, (db)" means a unit of sound pressure measurement as defined by the American National Standards Institute Bulletin.
- (3) "dB(A)" refers to a weighted scale for measuring decibel as defined in the American National Standards Institute Bulletin.
- (4) "Noise level" refers to the A-weighted sound level produced by a motor vehicle.
- (5) "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels. Such instrument shall be used for measurement of the intensity of sound and calibrated in decibels as standardized by the American Standard Association Readings and shall be made on a dB(A) scale.
- (6) "Traffic noise" means sound made by a motor vehicle operated either on the public right of way or private property.
- (7) "Motor vehicle" means any automobile, van, motorcycle, motor-driven cycle, motor scooter, dune buggy, snowmobile, all terrain vehicles, go-carts, minibikes, trail bikes, and trucks with gross vehicular weight of less than 8,000 pounds.
- (8) "Modified exhaust system" means an exhaust system in which the original noise abatement devices have been physically altered causing them to be less effective in reducing noise or the original noise abatement devices which are not as effective in reducing noise as their original devices, or devices have been added to the original noise abatement devices such that noise levels are increased.

(b) No person shall cause noise levels from the operation of motor vehicles in excess of 80 db(A) in any area within the City at any time. Such noise level limit of 80 db(A) shall be based on a distance of not less than fifteen feet from the noise source.

(c) No person shall operate a motor vehicle which causes excessive noise levels as a result of a defective or modified exhaust system, or as a result of an unnecessary rapid acceleration, deceleration, revving, or tire squealing.

(d) In any criminal prosecution for a violation of this section the court may admit evidence of a noise level as tested by any sound level meter which meets or exceeds the American National Standards Institute (ANSI) specifications for type II equipment.

(e) Any emission of noise from any motor vehicle source in excess of the limitations established by this section shall be deemed and is declared a public nuisance.

(f) Violation of this section is a minor misdemeanor. Each day a violation occurs shall be a separate offense.

509.131 SOUND AMPLIFICATION SYSTEMS IN MOTOR VEHICLES.

(a) In addition to any other prohibition set forth in this chapter, no person shall operate a motor vehicle on a street or highway if the sound from any sound amplifying equipment located inside of, outside of but attached to, or held by a person inside, the motor vehicle, is discernible at a distance of 25 feet or more from the vehicle.

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

- (1) The sound amplifying equipment of the motor vehicle is to warn others of a hazardous road, vehicle operating, or traffic safety condition.
- (2) The motor vehicle is an emergency vehicle or public safety vehicle and is on an emergency run.
- (3) The motor vehicle is owned and operated by the state, a political subdivision, or a public utility.
- (4) The motor vehicle is participating in a parade for which the sponsors of the parade have obtained the proper permits.
- (5) The sound amplifying equipment of the motor vehicle is being operated as a requirement of federal or state law.
- (6) Vendors of ice cream and related products between the hours of 9:00 o'clock a.m. and 8:00 o'clock p.m.

(c) Violation of this section is a minor misdemeanor. For a second offense committed within one year after the commission of the first offense, violation of this section shall be a fourth degree misdemeanor. For a third and/or subsequent offense committed within one year after the commission of the first offense, violation of this section is a third degree misdemeanor.

(Ord. 97-183. Passed 5-13-97.)

509.14 STATIONARY NOISE CONTROL REGULATIONS.

(a) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning. All definitions and terminology used in this section, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- (1) "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A) or dBA.
- (2) "Decibel, (db)" means a unit of sound pressure measurement as defined by the American National Standards Institute Bulletin.
- (3) "dB(A)" refers to a weighted scale for measuring decibel as defined in the American National Standards Institute Bulletin.
- (4) "Noise level" refers to the A-weighted sound level produced by a stationary source.
- (5) "Person" means any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality thereof.
- (6) "Property line" means the line which represents the legal boundary of property (including an apartment, condominium, room or other dwelling unit) owned, leased, or otherwise occupied by a person. In cases involving sound from an activity on a public street or other public right of way, the property line shall be the nearest public right-of-way line.
- (7) "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels. Such instrument shall be used for measurement of the intensity of sound and calibrated in decibels as standardized by the American Standard Association Readings and shall be made on a dB(A) scale.
- (8) "Stationary noise" means sound made by any machine or device for the amplification of the human voice or music, or any other sound originating from a fixed location.

(b) Prohibitions. No person shall cause or permit noise levels from the operation of a stationary noise device or from any other source in excess of 64 dB(A) in any areas or districts of the City that are zoned Residential Office-Residential, and University in the Zoning Code between the hours of 10:00 p.m. and 7:00 a.m. or in excess of 70 dB(A) in any such areas or districts between the hours of 7:00 a.m. and 10:00 p.m. All noise measurements shall be made on the property line where the noise originates. The prohibitions contained in this paragraph shall not apply to any sound originating from a fixed location, other than those as to which a D series liquor permit has been issued pursuant to Ohio R.C. 4303.13 through 4303.183, upon which activity is carried on which is a legal nonconforming use, nor to any activity conducted in the public right of way and expressly permitted, in writing, by an authorized City official.

(c) In any criminal prosecution for a violation of this section the court may admit evidence of a noise level as tested by any sound level meter which meets or exceeds the American National Standards Institute (ANSI) specifications for type II equipment.

(d) Any emission of noise from any stationary noise device in excess of the limitations established by this section shall be deemed and is declared a public nuisance.

(e) Violation of this section is a minor misdemeanor. Each day a violation occurs shall be a separate offense.

(Ord. 91-95. Passed 3-19-91.)

509.15 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. 2903.13. (ORC 2917.14)

509.99 PENALTY.

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

CHAPTER 511

Juvenile Curfew

511.01 Definitions.

511.02 Curfew for minors.

511.03 Exceptions.

511.04 Parental responsibility.

511.05 Police procedures.

511.99 Penalty.

CROSS REFERENCES

Liquor sales to underage persons - see GEN. OFF. 529.02, 529.021, 529.06

Underage purchase, consumption or possession - see GEN. OFF. 529.03

False information for liquor employment - see GEN. OFF. 529.10

Cigarette or tobacco distribution - see GEN. OFF. 537.03

Contributing to delinquency of - see GEN. OFF. 537.05

Parent culpability for delinquent acts - see GEN. OFF. 537.06

511.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply:

- (a) "Minor" means any person under the age of eighteen, or, an equivalent phrasing often herein employed, any person seventeen or less years of age.
- (b) "Parent" means any person having legal custody of a minor:
 - (1) As a natural or adoptive parent;
 - (2) As a legal guardian;
 - (3) As a person who stands in loco parentis; or
 - (4) As a person to whom legal custody has been given by order of court.
- (c) "Remain" means to stay behind, to tarry and to stay unnecessarily upon the streets, including, but not limited to, the congregating of groups totaling four or more persons in which any minor involved would not be using the streets for ordinary or serious purposes such as mere passage or going home.
- (d) "Street" means a way or place, of whatsoever nature, open to the use of the public as a matter of right for the purpose of vehicular travel or in the case of a sidewalk thereof for pedestrian travel. The term street includes the legal right of way, including, but not limited, the cartway or traffic lanes, the curb, the sidewalks, whether paved or unpaved, and any grass, plots, or other grounds found within the legal right of way of a street. The term street applies irrespective of what it is called or formerly named, whether alley, avenue, court, road, or otherwise. The term street shall also include shopping centers, parking lots, parks, playgrounds, public buildings, the common areas of public housing developments, and similar areas that are open to the use of the public.
- (e) "Time of night" means the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Saving Time, generally observed at that hour by the public in Springfield, Ohio, prima facie the time then observed in the Springfield, Ohio, administrative offices and police station.
- (f) "Community service" means such public service as the Juvenile Court shall determine is appropriate in connection with proved juvenile curfew violations under this chapter.
(Ord. 93-137. Passed 4-27-93.)

511.02 CURFEW FOR MINORS.

No person seventeen years of age or less (under 18) shall be or remain in or upon the streets within the City of Springfield, at night during the period beginning at 12:00 a.m. (midnight) and ending at 6:00 a.m.
(Ord. 93-137. Passed 4-27-93.)

511.03 EXCEPTIONS.

In the following exceptional cases a minor in a City street during the nocturnal hours for which Section 511.02 is intended to provide the maximum limits of regulation shall not, however, be considered in violation of the curfew ordinance:

- (a) When accompanied by a parent of such minor.
- (b) When accompanied by an adult authorized by a parent of such minor to take such parent's place in accompanying such minor for a designated period of time and purpose within a specified area.
- (c) When exercising first amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly.
- (d) When the minor is on the sidewalk of the place where such minor resides, or on the sidewalk of either next door neighbor not communicating an objection to the police officer.
- (e) When returning home, by a direct route from, and within thirty minutes of the termination of, a school activity, an activity of a religious or other voluntary association, or place of employment.
- (f) When the minor is, with parental consent, in a motor vehicle engaged in interstate movement through the City, or interstate travel beginning or ending in the City.
(Ord. 93-137. Passed 4-27-93.)

511.04 PARENTAL RESPONSIBILITY.

No parent having legal custody of a minor shall knowingly permit or by inefficient control allow, such minor to be or remain upon any City street under circumstances not constituting an exception to or otherwise beyond the scope of, this chapter. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. It is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It shall be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor.
(Ord. 93-137. Passed 4-27-93.)

511.05 POLICE PROCEDURES.

(a) Police procedures may provide that the police officer may deliver to a parent thereof a minor under appropriate circumstances, for example, a minor of tender age (under the age of thirteen years) near home whose identity and address may readily be ascertained or known.

(b) Those minors who are found to be in violation of this curfew ordinance shall be issued a citation by the police officer. Except as provided in subsection (a) hereof, such a minor shall not be delivered to a parent, but shall be informed that he or she must proceed home without delay.

(c) In the case of a second or subsequent violation, the minor shall again be issued a citation. He or she shall also either be taken home or brought to police headquarters. The parent of such minor may be issued a citation for a violation of Section 511.04.

(Ord. 93-137. Passed 4-27-93.)

511.99 PENALTY.

(a) If a parent violates Section 511.04 in connection with a second, or subsequent, violation by a minor, this shall be treated as a parental offense. For such parental offense, a parent shall be guilty of a minor misdemeanor.

(b) Any minor who violates Section 511.02, shall be adjudged an unruly child, with such disposition of the case as may be appropriate under Ohio R.C. Chapter 2151.

(Ord. 93-217. Passed 6-15-93.)

CHAPTER 513

Drug Abuse Control

513.01 Definitions.

513.02 Gift of marihuana.

513.03 Drug abuse; controlled substance possession or use.

513.04 Illegal cultivation of marihuana.

513.05 Permitting drug abuse.

513.06 Controlled substance or prescription labels.

513.07 Hypodermic possession, display and dispensing.

513.08 Sale of dextromethorphan.

513.09 Adult use cannabis control; limitations on conduct by individuals.

513.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Using weapons while under the influence - see Ohio R.C. 2923.15

Federal prosecution bar to local prosecution - see Ohio R.C. 2925.50, 3719.19

Analysis report and notarized statement as evidence - see Ohio R.C. 2925.51

Adulterating food with drug of abuse - see Ohio R.C. 3716.11

Criteria for granting probation - see Ohio R.C. 3719.70(B)

513.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words, terms and phrases and their derivatives used in this chapter which are not defined in this section shall have the meanings given to them in the Ohio Revised Code.

(a) "Administer." Has the same meaning as in Ohio R.C. 3719.01.

(b) "Adulterate." To cause a drug to be adulterated as described in Ohio R.C. 3715.63.

(c) "Alcohol and Drug Addiction Services". Has the same meaning as in Ohio R.C. 5119.01.

(d) "Bulk amount." Of a controlled substance, means any of the following:

(1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in subsection (c)(2), (5), or (6) of this definition, whichever of the following is applicable:

A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;

B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;

C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;

D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;

E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;

F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;

G. An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws;

(2) An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;

- (3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III opiate or opium derivative;
 - (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance;
 - (5) An amount equal to or exceeding 200 solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid;
 - (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, if the defendant is charged with a violation of Ohio R.C. 2925.11 and the sentencing provisions set forth in Ohio R.C. 2925.11(C)(10)(b) and (C)(11) will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (1), (2), (3), (4), or (5) of this definition for the other Schedule III, Schedule IV, or Schedule V controlled substance that is combined with the fentanyl-related compound.
- (e) "Certified grievance committee." A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.
- (f) "Cocaine." Any of the following:
- (1) A cocaine salt, isomer or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.
 - (2) Coca leaves or a salt, compound, derivative or preparation of coca leaves, including ecgonine, a salt, isomer or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.
 - (3) A salt, compound, derivative or preparation of a substance identified in subsection (e)(1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.
- (g) "Committed in the vicinity of a juvenile." An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (h) "Committed in the vicinity of a school." An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.
- (i) "Committed in the vicinity of a substance addiction services provider or a recovering addict". An offense is "committed in the vicinity of a substance addiction services provider or a recovering addict" if either of the following apply:
- (1) The offender commits the offense on the premises of a substance addiction services provider's facility, including a facility licensed prior to June 29, 2019, under Ohio R.C. 5119.391 to provide methadone treatment or an opioid treatment program licensed on or after that date under Ohio R.C. 5119.37, or within 500 feet of the premises of a substance addiction services provider's facility and the offender knows or should know that the offense is being committed within the vicinity of the substance addiction services provider's facility.
 - (2) The offender sells, offers to sell, delivers, or distributes the controlled substance or controlled substance analog to a person who is receiving treatment at the time of the commission of the offense, or received treatment within 30 days prior to the commission of the offense, from a substance addiction services provider and the offender knows that the person is receiving or received that treatment.
- (j) "Controlled substance." Has the same meaning as in Ohio R.C. 3719.01.
- (k) "Controlled substance analog." Has the same meaning as in Ohio R.C. 3719.01.
- (l) "Counterfeit controlled substance." Any of the following:
- (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to the trademark, trade name or identifying mark.
 - (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it.
 - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.
 - (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its markings, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (m) "Cultivate." Includes planting, watering, fertilizing or tilling.
- (n) "Dangerous drug." Has the same meaning as in Ohio R.C. 4729.01.
- (o) "Deception." Has the same meaning as in Ohio R.C. 2913.01.
- (p) "Disciplinary counsel." The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.
- (q) "Dispense." Has the same meaning as in Ohio R.C. 3719.01.
- (r) "Distribute." Has the same meaning as in Ohio R.C. 3719.01.
- (s) "Drug." Has the same meaning as in Ohio R.C. 4729.01.
- (t) "Drug abuse offense." Any of the following:
- (1) A violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs, or any violation of Ohio R.C. 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37.
 - (2) A violation of an existing or former law of any municipality, state or of the United States, that is substantially equivalent to any section listed in subsection (r)(1) of this definition.
 - (3) An offense under an existing or former law of any municipality, state or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element.
 - (4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under subsection (r)(1), (2) or (3) of this definition.
- (u) "Drug of abuse." Has the same meaning as in Ohio R.C. 3719.011.
- (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-piperidyl]-N-phenylpropanamide);
 - (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidyl]-N-phenylpropanamide);
 - (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidyl]-N-phenylpropanamide);
 - (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
 - (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidyl]-N-phenylpropanamide);
 - (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidyl]propanamide);
 - (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidyl]-propanamide);
 - (10) Alfentanil;
 - (11) Carfentanil;
 - (12) Remifentanil;

- (13) Sufentanil;
- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-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 barber's license, barber instructor's license, assistant barber instructor's license, or independent contractor's license under 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 license to practice cosmetology, advanced license to practice hair design, advanced license to practice manicuring, advanced license to practice esthetics, advanced license to practice natural hair styling, 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 3776;
- (23) A person licensed to operate or maintain a junkyard under Ohio R.C. Chapter 4737;
- (24) A person who has been issued a motor vehicle salvage dealer's license under Ohio R.C. Chapter 4738;
- (25) A person who has been licensed to act as a steam engineer under Ohio R.C. Chapter 4739;
- (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Ohio R.C. Chapter 4741;
- (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Ohio R.C. Chapter 4747;
- (28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under Ohio R.C. Chapter 4749;
- (29) A person licensed to practice as a nursing home administrator under Ohio R.C. Chapter 4751;
- (30) A person licensed to practice as a speech-language pathologist or audiologist under Ohio R.C. Chapter 4753;
- (31) A person issued a license as an occupational therapist or physical therapist under Ohio R.C. Chapter 4755;
- (32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Ohio R.C. Chapter 4757;
- (33) A person issued a license to practice dietetics under Ohio R.C. Chapter 4759;
- (34) A person who has been issued a license or limited permit to practice respiratory therapy under Ohio R.C. Chapter 4761;
- (35) A person who has been issued a real estate appraiser certificate under Ohio R.C. Chapter 4763;
- (36) A person who has been issued a home inspector license under Ohio R.C. Chapter 4764;
- (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.
- (vv) "Public premises." Any hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort.
- (ww) "Sale." Has the same meaning as in Ohio R.C. 3719.01.
- (xx) "Sample drug." A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (yy) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" or "Schedule V." Have the same meaning as in Ohio R.C. 3719.01.
- (zz) "School." Any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the Director of Education and Workforce prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (aaa) "School building." Any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (bbb) "School premises." Either of the following:
 - (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.
 - (2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the Director of Education and Workforce prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.
- (ccc) "Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (ddd) "Substance Addiction Services Provider". Means an agency, association, corporation or other legal entity, individual, or program that provides one or more of the following at a facility:
 - (1) Either alcohol addiction services, or drug addiction services, or both such services that are certified by the Ohio Director of Mental Health and Addiction Services under Ohio R.C. 5119.36;
 - (2) Recovery supports that are related to either alcohol addiction services, or drug addiction services, or both such services and paid for with federal, state, or local funds administered by the Ohio Department of Mental Health and Addiction Services or a board of alcohol, drug addiction, and mental health services.
- (eee) "Unit dose." An amount or unit or a compound, mixture or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.
- (fff) "Wholesaler." Has the same meaning as in Ohio R.C. 3719.01.

513.02 GIFT OF MARIHUANA.

(EDITOR'S NOTE: Former Ohio R.C. 2925.03 from which Section 513.02 was derived was superseded by the changes made to Ohio R.C. 3780.36 enacted by Initiative Petition. See "Section 513.09 Adult Use Cannabis Control; Limitations on Conduct by Individuals" for relevant provisions.)

513.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.

- (a) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog.
- (b) (1) This section does not apply to the following:

- A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.
 - B. If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
 - C. Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;
 - D. Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose and not altered, forged or obtained through deception or commission of a theft offense.
- As used in subsection (b)(1)D. of this section, "deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01.
- (2) A. As used in subsection (b)(2) of this section:
- 1. "Community addiction services provider" has the same meaning as in Ohio R.C. 5119.01.
 - 2. "Community control sanction" and "drug treatment program" have the same meanings as in Ohio R.C. 2929.01.
 - 3. "Health care facility" has the same meaning as in Ohio R.C. 2919.16.
 - 4. "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.
 - 5. "Post-release control sanction" has the same meaning as in Ohio R.C. 2967.28.
 - 6. "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
 - 7. "Public agency" has the same meaning as in Ohio R.C. 2930.01.
 - 8. "Qualified individual" means a person who is acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
 - 9. "Seek or obtain medical assistance" includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.
- B. Subject to subsection (b)(2)E. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted or penalized pursuant to this chapter for a minor drug possession offense or a violation of Ohio R.C. 2925.12, Ohio R.C. 2925.14(C)(1) or Ohio R.C. 2925.141 if all of the following apply:
- 1. The evidence of the obtaining, possession or use of the controlled substance or controlled substance analog, drug abuse instruments, or drug paraphernalia that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.
 - 2. Subject to subsection (b)(2)F. of this section, within thirty days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.
 - 3. Subject to subsection (b)(2)F. of this section, the qualified individual who obtains a screening and receives a referral for treatment under subsection (b)(2)B.2. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that subsection. The documentation shall be limited to the date and time of the screening obtained and referral received.
- C. If a person who is serving a community control sanction or is under a sanction on post-release control acts pursuant to subsection (b)(2)B. of this section, then Ohio R.C. 2929.141(B), Ohio R.C. 2929.15(B)(2), Ohio R.C. 2929.25(D)(3) or Ohio R.C. 2967.28(F)(3) applies to the person with respect to any violation of the sanction or post-release control sanction based on a minor drug possession offense, as defined in Ohio R.C. 2925.11, or a violation of Ohio R.C. 2925.12, Ohio R.C. 2925.14(C)(1), or Ohio R.C. 2925.141.
- D. Nothing in subsection (b)(2)B. of this section shall be construed to do any of the following:
- 1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of subsection (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense or a violation of Ohio R.C. 2925.12, Ohio R.C. 2925.14(C)(1) or Ohio R.C. 2925.141 committed by a person who qualifies for protection pursuant to subsection (b)(2)B. of this section;
 - 2. Limit any seizure of evidence or contraband otherwise permitted by law;
 - 3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;
 - 4. Limit, modify or remove any immunity from liability available pursuant to law in effect prior to September 13, 2016, to any public agency or to an employee of any public agency.
- E. Subsection (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under subsection (b)(2)B. of this section. 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 less than six months or more than five years the offender's driver's or commercial driver's license or permit.
- (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 less than six months or more than five years the offender's driver's or commercial driver's license or permit. (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 less than six months or more than five years the offender's driver's or commercial driver's license or permit.

(e) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767.
(ORC 2925.13)

513.06 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.

(a) No person shall alter, deface or remove any label affixed by a manufacturer, wholesaler, pharmacist or licensed health professional authorized to prescribe drugs who dispenses a controlled substance in a package or container, as long as any of the original contents remain, except when lawfully filling a prescription. (ORC 3719.08)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree, if the offender has not previously been convicted of a violation of this section, Ohio R.C. 3719.07 or 3719.08 or a drug abuse offense. (ORC 3719.99(C))

513.07 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(D))

513.08 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; Ord. 22-244. Passed 8-2-22.)

513.09 ADULT USE CANNABIS CONTROL; LIMITATIONS ON CONDUCT BY INDIVIDUALS.

(a) Except as otherwise provided in Ohio R.C. Chapter 3780 and notwithstanding any conflicting provision of this code or the Ohio Revised Code, an adult use consumer, may do the following:

- (1) Use adult use cannabis;
- (2) Possess, transfer without remuneration to another adult consumer, or transport adult use cannabis, subject to subsection (b) of this section; and
- (3) Purchase adult use cannabis from an adult use dispensary per day in amounts that do not exceed the possession limits set forth in subsection

(b)(1) of this section.

(b) Except as otherwise provided in Ohio R.C. Chapter 3796:

(1) The amount of cannabis that may be possessed by an adult use consumer shall not exceed:

- A. Two and one-half ounces of adult use cannabis in any form except adult use extract; and
- B. Fifteen grams of adult use cannabis in the form of adult use extract.

(2) The amount of cannabis that may be transferred by an adult use consumer without remuneration and not advertised or promoted to the public shall not exceed:

- A. Two and one-half ounces of adult use cannabis in any form except adult use extract; and
- B. Fifteen grams of adult use cannabis in the form of adult use extract.

(3) The amount of cannabis that may be transported by an adult use consumer shall not exceed:

- A. Two and one-half ounces of adult use cannabis in any form except adult use extract; and
- B. Fifteen grams of adult use cannabis in the form of adult use extract.

(c) Except as otherwise provided in Ohio R.C. Chapter 3780, an adult use consumer shall not be subject to arrest, criminal prosecution, or civil penalty for engaging in any of the activities authorized under Ohio R.C. Chapter 3780, including:

- (1) Obtaining, using, possessing, or transporting adult use cannabis;
- (2) Performing conduct authorized under Ohio R.C. 3780.29;
- (3) Acquiring, possessing, using, purchasing, manufacturing, selling, or transporting paraphernalia; and
- (4) Assisting another adult use consumer, or allowing property to be used, in any of the acts authorized by Ohio R.C. Chapter 3780.

(d) (1) An individual is prohibited from operating a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft while using adult use cannabis or while under the influence of adult use cannabis and is subject to Ohio R.C. 4511.19 or a substantially equivalent municipal ordinance for any violation of this division.

(2) An individual is prohibited from smoking, vaporizing, or using any other combustible adult use cannabis product while in a vehicle, motor vehicle, streetcar, trackless trolley, bike, watercraft, or aircraft and is subject to Ohio R.C. 4511.19 or a substantially equivalent municipal ordinance for any violation of this section.

(e) Except as otherwise provided in Ohio R.C. Chapter 3780, no individual under twenty-one years of age shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of purchasing adult use cannabis from an adult use dispensary licensed under Ohio R.C. Chapter 3780.

(f) Nothing in Ohio R.C. Chapter 3780 is intended to permit the transfer or sale of adult use cannabis, with or without remuneration, to an individual under twenty-one years of age, or to allow an individual under twenty-one years of age to purchase, possess, use, process, transport, or cultivate cannabis except where authorized by Ohio R.C. Chapter 3796.

(g) It is unlawful for any parent or guardian to knowingly permit their residence, any other private property under their control, or any vehicle, conveyance, or watercraft under their control to be used by an invitee of the parent's child or the guardian's ward, if the invitee is under twenty-one years of age, in a manner that constitutes a violation of Ohio R.C. Chapter 3780.

(1) A parent or guardian is deemed to have knowingly permitted their residence, any other private property under their control, or any vehicle, conveyance, or watercraft under their control to be used in violation of Ohio R.C. Chapter 3780 if they knowingly authorize or permit consumption of cannabis by underage invitees.

(2) Where the residence or other property has an owner and a tenant or lessee, the trier of fact may infer that the residence or other property is occupied only by the tenant or lessee.

(ORC 3780.36)

(h) Penalties.

(1) Except as otherwise provided in Ohio R.C. Chapter 3796, Ohio R.C. 2925.11 or a substantially equivalent municipal ordinance shall apply when an adult use consumer possesses an amount of cannabis greater than the limits set forth in subsection (b)(1) of this section.

(2) Except as otherwise provided in Ohio R.C. Chapter 3780, an adult use consumer who uses adult use cannabis in public areas, or who violates subsection (d)(2) of this section as a passenger, is guilty of a minor misdemeanor.

(3) A. An individual under twenty-one years of age who knowingly shows or gives false information concerning the individual's name, age, or other identification for the purpose of purchasing or otherwise obtaining adult use cannabis from an adult use dispensary licensed under Ohio R.C. Chapter 3780 is guilty of a misdemeanor of the first degree. If, in committing a first violation, the offender presented to an adult use dispensary licensed under Ohio R.C. Chapter 3780 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 an adult use dispensary licensed under Ohio R.C. Chapter 3780 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). The court, in lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

C. On a third or subsequent violation in which, for the third or subsequent time, the offender presented to an adult use dispensary licensed under Ohio R.C. Chapter 3780 a false, fictitious, or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months.

Except as provided in this subsection, the court also may impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one years. The court, in lieu of suspending the offender's temporary instruction permit, probationary driver's license, or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

(4) An individual who is under twenty-one years of age and who solicits another individual to purchase adult use cannabis from an adult use dispensary licensed under Ohio R.C. Chapter 3780 is guilty of:

- A. For a first violation, a misdemeanor of the fourth degree; and
- B. For a second or subsequent violation, a misdemeanor of the second degree.

(5) An employee or agent of an adult use dispensary licensed under Ohio R.C. Chapter 3780 who knowingly sells cannabis to an individual under twenty-one years of age is guilty of a misdemeanor of the first degree.

(6) Any individual who violates Ohio R.C. 3780.10(A), or 3780.29(F), is guilty of the illegal trafficking in drugs under Ohio R.C. 2925.03 and the illegal manufacture of drugs under Ohio R.C. 2925.04.

(7) Any individual who violates subsection (b)(2) or (b)(3) of this section is guilty of the illegal trafficking in drugs under Ohio R.C. 2925.03.

(8) Any individual who violates Ohio R.C. 3780.20(B) is guilty of illegal dispensing of drug samples under Ohio R.C. 2925.36 or a substantially equivalent municipal ordinance.

(9) A. An individual who violates subsection (g) of this section is guilty of:

- 1. For a first violation, a misdemeanor of the third degree; and

2. For a second or subsequent violation, a misdemeanor of the first degree.
- B. If a violation of subsection (g) of this section directly or indirectly results in great bodily harm or death to any individual, the individual violating subsection (g) is guilty of a felony to be prosecuted under appropriate state law.
- (ORC 3780.99)

513.99 PENALTY.

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

CHAPTER 517

Gambling

- 517.01 Definitions.**
- 517.02 Gambling.**
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- 517.07 Instant bingo conduct.**
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- 517.12 Bingo operator prohibitions.**
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- 517.14 Instant bingo conduct by a veteran's or fraternal organization.**
- 517.15 Seizure and destruction of gambling devices.**
- 517.16 Skill-based amusement machines.**
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CROSS REFERENCES

See sectional histories for similar State law
Lotteries prohibited; exception - see Ohio Const., Art. XV, Sec. 6
Contributing to delinquency of minors - see Ohio R.C. 2151.41
Search warrants - see Ohio R.C. 2933.21(E)
Licensing charitable bingo games - see Ohio R.C. 2915.08

517.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "Bet" means the hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.
- (b) "Bingo" means either of the following:
 - (1) A game with all of the following characteristics:
 - A. The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into twenty-five (25) spaces arranged in five (5) horizontal and five (5) vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space;
 - B. The participants cover the spaces on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator;
 - C. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains seventy-five (75) objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the seventy-five (75) possible combinations of a letter and a number that can appear on the bingo cards or sheets;
 - D. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers, as described in subsection (b)(1)C. hereof, that a predetermined and pre-announced pattern of spaces has been covered on a bingo card or sheet being used by the participant.
 - (2) Instant bingo, electronic instant bingo, and raffles.
- (c) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo including but not limited to collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, selling or redeeming electronic instant bingo tickets, credits, or vouchers, accessing an electronic instant bingo system other than as a participant, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages. "Bingo game operator" does not include a person who is installing, maintaining, updating, or repairing an electronic instant bingo system.
- (d) "Bingo session" means a period that includes both of the following:
 - (1) Not to exceed five (5) continuous hours for the conduct of one or more games described in subsection (d)(1) hereof the definition of "bingo" in this section, instant bingo, and electronic instant bingo;
 - (2) A period for the conduct of instant bingo and electronic instant bingo for not more than two (2) hours before and not more than two (2) hours after the period described in subsection (d)(1) hereof.
- (e) "Bingo supplies" means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; electronic instant bingo systems; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter or Ohio R.C. Chapter 2915. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.
- (f) "Bookmaking" means the business of receiving or paying off bets.
- (g) "Chamber of Commerce" means any organization of individuals, professionals, and businesses that has the purpose to advance the commercial, financial, industrial, and civic interests of the community and that is, and has received from the Internal Revenue Service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(6).
- (h) "Charitable bingo game" means any bingo game described in subsections (b)(1) or (2) hereof that is conducted by a charitable organization that has obtained a license pursuant to Ohio R.C. 2915.08 and the proceeds of which are used for a charitable purpose.
- (i) "Charitable instant bingo organization" means an organization that is exempt from federal income taxation under IRC 501(a) and described in

IRC 501(c)(3) and is a charitable organization as defined in this section. The term does not include a charitable organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to Section 517.14.

(j) "Charitable organization" means:

(1) Except as otherwise provided in this chapter, "charitable organization" means either of the following:

A. An organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3);

B. A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under IRC 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10) or 501(c)(19).

(2) To qualify as a charitable organization, an organization shall have been in continuous existence as such in this state for a period of two (2) years immediately preceding either the making of an application for a bingo license under Ohio R.C. 2915.08 or the conducting of any game of chance as provided Section 517.02(d).

(k) "Charitable purpose" means that the net profit of bingo, other than instant bingo or electronic instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

(1) Any organization that is described in IRC 509(a)(1), 509(a)(2), or 509(a)(3) and is either a governmental unit or an organization that is tax exempt under IRC 501(a) and described in IRC 501(c)(3);

(2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five percent (75%) of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in Ohio R.C. 5739.02(B)(12), is used for awarding scholarships to or for attendance at an institution mentioned in that division of the Ohio Revised Code, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;

(3) A fraternal organization that has been in continuous existence in this state for fifteen (15) years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, if contributions for such use would qualify as a deductible charitable contribution under IRC 170;

(4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in the definition of "volunteer firefighter's organization" in this section.

(l) "Community action agency" has the same meaning as in Ohio R.C. 122.66.

(m) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, a scheme of chance, or a sweepstakes.

(n) "Deal" means a single game of instant bingo tickets, or a single game of electronic instant bingo tickets, all with the same serial number.

(o) "Distributor" means any person who purchases or obtains bingo supplies and who does either of the following:

(1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state;

(2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this state.

(p) "Electronic bingo aid" means:

(1) An electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:

A. It provides a means for a participant to input numbers and letters announced by a bingo caller.

B. It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.

C. It identifies a winning bingo pattern.

(2) The term does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.

(q) "Electronic instant bingo" means:

(1) A form of bingo that consists of an electronic or digital representation of instant bingo in which a participant wins a prize if the participant's electronic instant bingo ticket contains a combination of numbers or symbols that was designated in advance as a winning combination, and to which all of the following apply:

A. Each deal has a predetermined, finite number of winning and losing tickets and a predetermined prize amount and deal structure, provided that there may be multiple winning combinations in each deal and multiple winning tickets.

B. Each electronic instant bingo ticket within a deal has a unique serial number that is not regenerated.

C. Each electronic instant bingo ticket within a deal is sold for the same price.

D. After a participant purchases an electronic instant bingo ticket, the combination of numbers or symbols on the ticket is revealed to the participant.

E. The reveal of numbers or symbols on the ticket may incorporate an entertainment or bonus theme, provided that the reveal does not include spinning reels that resemble a slot machine.

F. The reveal theme, if any, does not require additional consideration or award any prize other than any predetermined prize associated with the electronic instant bingo ticket.

(2) The term shall not include any of the following:

A. Any game, entertainment, or bonus theme that replicates or simulates any of the following:

1. The gambling games of keno, blackjack, roulette, poker, craps, other casino-style table games;

2. Horse racing;

3. Gambling games offered in this state on slot machines or video lottery terminals. As used in this division, "video lottery terminal" has the same meaning as in Ohio R.C. 3770.21.

B. Any device operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more rotating reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to a rest;

C. Any device that includes a coin or token slot, tray, or hopper and the ability to dispense coins, cash, tokens, or anything of value other than a credit ticket voucher.

(r) "Electronic instant bingo system" means both of the following:

(1) A mechanical, electronic, digital, or video device and associated software to which all of the following apply:

A. It is used by not more than one player at a time to play electronic instant bingo on a single screen that is physically connected to the device;

B. It is located on the premises of the principal place of business of a veteran's or fraternal organization that holds a type II or type III bingo license to conduct electronic instant bingo at that location issued under Ohio R.C. 2915.08.

(2) Any associated equipment or software used to manage, monitor, or document any aspect of electronic instant bingo.

(s) "Expenses" means the reasonable amount of gross profit actually expended for all of the following:

(1) The purchase or lease of bingo supplies;

(2) The annual license fee required under Ohio R.C. 2915.08;

(3) Bank fees and service charges for a bingo session or game account described in Ohio R.C. 2915.10;

(4) Audits and accounting services;

(5) Safes;

(6) Cash registers;

(7) Hiring security personnel;

(8) Advertising bingo;

(9) Renting premises in which to conduct a bingo session;

(10) Tables and chairs;

- (11) Expenses for maintaining and operating a charitable organization's facilities, including but not limited to a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
- (12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
- (13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under Ohio R.C. 2915.08(F)(1).
- (t) "Fraternal organization" means any society, order, state headquarters, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, that exists exclusively for the common business or sodality of its members.
- (u) "Gambling device" means any of the following:
 - (1) A book, totalizer, or other equipment used for recording bets;
 - (2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;
 - (3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;
 - (4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;
 - (5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter or Ohio R.C. Chapter 2915.
- (v) "Gambling offense" means any of the following:
 - (1) A violation of Ohio R.C. Chapter 2915;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States substantially equivalent to any provision of this chapter or Ohio R.C. Chapter 2915 or a violation of Ohio R.C. 2915.06 as it existed prior to July 1, 1996;
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state or of the United States, of which gambling is an element;
 - (4) A conspiracy or attempt to commit, or complicity in committing, any offense under subsections (v)(1), (2), or (3) hereof.
- (w) "Game flare" means the board or placard, or electronic representation of a board or placard, that accompanies each deal of instant bingo or electronic instant bingo tickets and that includes the following information for the game:
 - (1) The name of the game;
 - (2) The manufacture's name or distinctive logo;
 - (3) The form number;
 - (4) The ticket count;
 - (5) The prize structure, including the number of winning tickets by denomination and the respective winning symbol or number combinations for the winning tickets;
 - (6) The cost per play;
 - (7) The serial number of the game.
- (x) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.
- (y) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.
- (z) "Gross annual revenues" means the annual gross receipts derived from the conduct of bingo described in subsection (b)(1) hereof plus the annual net profit derived from the conduct of bingo described subsection (b)(2) hereof.
- (aa) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards.
- (bb) "Gross receipts" means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. The term does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:
 - (1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two (2) years prior to conducting bingo.
 - (2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.
 - (3) The food and beverages are sold at customary and reasonable prices.
- (cc) "Instant bingo" means a form of bingo that shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, and may also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. "Instant bingo" also includes a punch board game. In all "instant bingo" the prize amount and structure shall be predetermined. The term does not include electronic instant bingo or any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.
- (dd) "Instant bingo ticket dispenser" means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:
 - (1) It is activated upon the insertion of United States currency.
 - (2) It performs no gaming functions.
 - (3) It does not contain a video display monitor or generate noise.
 - (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.
 - (5) It does not simulate or display rolling or spinning reels.
 - (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or non-winning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.
 - (7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.
 - (8) It is not part of an electronic network and is not interactive.
- (ee) "Internal Revenue Code (IRC)" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1 et seq., as now or hereafter amended.
- (ff) "Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.
- (gg) "Merchandise prize" means any item of value, but shall not include any of the following:
 - (1) Cash, gift cards, or any equivalent thereof;
 - (2) Plays on games of chance, state lottery tickets, or bingo;
 - (3) Firearms, tobacco, or alcoholic beverages; or
 - (4) A redeemable voucher that is redeemable for any of the items listed in subsections (hh)(1), (2) or (3) hereof.
- (hh) "Net profit" means gross profit minus expenses.
- (ii) "Net profit from the proceeds of the sale of instant bingo or electronic instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of bingo supplies for the purpose of conducting instant bingo or electronic instant bingo, and, in the case of instant bingo or electronic instant bingo conducted by a veteran's, fraternal, or sporting organization, minus the payment by that organization of real property taxes and assessments levied on a premises on which instant bingo or electronic instant bingo is conducted.
- (jj) "Participant" means any person who plays bingo.
- (kk) "Person" has the same meaning as in Ohio R.C. 1.59 and includes any firm or any other legal entity, however organized.
- (ll) "Pool not conducted for profit" means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.
- (mm) "Punch board" means a form of instant bingo that uses a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.
- (nn) "Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one

or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. The term does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:

- (1) The ticket stub or other detachable section is used to select the winner of a free prize given away at the professional sporting event; and
 - (2) The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away.
- (oo) "Redeemable voucher" means any ticket, token, coupon, receipt, or other noncash representation of value.
- (pp) "Religious organization" means any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances.
- (qq) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- (rr) "Scheme of chance" means:
- (1) A slot machine unless authorized under Ohio R.C. Chapter 3772, lottery unless authorized under Ohio R.C. Chapter 3770, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. "Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:
 - A. Less than fifty percent (50%) of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location;
 - B. Less than fifty percent (50%) of participants who purchase goods or services at any one location do not accept, use, or redeem the goods or services sold or purportedly sold;
 - C. More than fifty percent (50%) of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in Ohio R.C. 3772.01;
 - D. The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;
 - E. A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
 - F. A participant may use the electronic device to purchase additional game entries;
 - G. A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
 - H. A scheme of chance operator pays out in prize money more than twenty percent (20%) of the gross revenue received at one location; or
 - I. A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.
 - (2) As used in this subsection, "electronic device" means a mechanical, video, digital, or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased, or otherwise possessed by any person conducting a scheme of chance, or by that person's partners, affiliates, subsidiaries, or contractors. "Electronic device" does not include an electronic instant bingo system.
- (ss) "Seal card" means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.
- (tt) "Security personnel" includes any person who either is a Sheriff, deputy sheriff, Marshal, deputy marshal, township constable, or member of an organized police department of a municipal corporation or has successfully completed a peace officer's training course pursuant to Ohio R.C. 109.71 through 109.79 and who is hired to provide security for the premises on which bingo is conducted.
- (uu) "Skill-based amusement machine" means:
- (1) A. A mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:
 1. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed ten dollars (\$10.00);
 2. Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than ten dollars (\$10.00);
 3. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than ten dollars (\$10.00) times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
 4. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.
 - B. A card for the purchase of gasoline is a redeemable voucher for purposes of subsection (vv)(1) hereof even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.
 - (2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:
 - A. The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game;
 - B. Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;
 - C. The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game;
 - D. The success of any player is or may be determined by a chance event that cannot be altered by player actions;
 - E. The ability of any player to succeed at the game is determined by game features not visible or known to the player;
 - F. The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.
 - (3) All of the following apply to any machine that is operated as described in subsection (vv)(1) hereof:
 - A. As used in this definition of "skill-based amusement machine", "game" and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition, or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.
 - B. Advance play for a single game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play.
 - C. To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition, or tournament.
 - (4) For purposes of subsection (vv)(1) hereof, the mere presence of a device, such as a pinsetting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.
- (vv) "Slot machine" means:
- (1) Either of the following:
 - A. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;
 - B. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.
 - (2) The term does not include a skill-based amusement machine, an instant bingo ticket dispenser, or an electronic instant bingo system.
- (ww) "Sporting organization" means a hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to the League of Ohio Sportsmen, and that has been in continuous existence in this state for a period of three (3) years.
- (xx) "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or

2915.082 or a charitable gaming license issued by another jurisdiction.

- (yy) "Sweepstakes" means any game, contest, advertising scheme or plan, or other promotion where consideration is not required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance. "Sweepstakes" does not include bingo as authorized under Ohio R.C. Chapter 2915, pari-mutuel wagering as authorized by Ohio R.C. Chapter 3769, lotteries conducted by the State Lottery Commission as authorized by Ohio R.C. Chapter 3770, and casino gaming as authorized by Ohio R.C. Chapter 3772.
- (zz) "Sweepstakes terminal device" means:
- (1) A mechanical, video, digital, or electronic machine or device that is owned, leased, or otherwise possessed by any person conducting a sweepstakes, or by that person's partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device if any of the following apply:
 - A. The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
 - B. The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.
 - C. The device selects prizes from a predetermined finite pool of entries.
 - D. The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
 - E. The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
 - F. The device utilizes software to create a game result.
 - G. The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded.
 - H. The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
 - (2) As used in this definition and in Section 517.02:
 - A. "Enter" means the act by which a person becomes eligible to receive any prize offered in a sweepstakes.
 - B. "Entry" means one event from the initial activation of the sweepstakes terminal device until all the sweepstakes prize results from that activation are revealed.
 - C. "Prize" means any gift, award, gratuity, good, service, credit, reward, or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.
- (aaa) "Sweepstakes terminal device facility" means any location in this state where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in Ohio R.C. 2915.02(G).
- (bbb) "Veteran's organization" means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit is incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this definition, "National Veterans' Association" means any veteran's association that has been in continuous existence as such for a period of at least five (5) years and either is incorporated by an act of the United States Congress or has a national dues-paying membership of at least 5,000 persons.
- (ccc) "Volunteer firefighter's organization" means any organization of volunteer firefighters, as defined in Ohio R.C. 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.
- (ddd) "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization, as defined in Ohio R.C. 4765.01.
- (eee) "Youth athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are twenty-one (21) years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.
- (fff) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:
- (1) It owns, operates, and maintains playing fields that satisfy both of the following:
 - A. The playing fields are used for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are eighteen (18) years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.
 - B. The playing fields are not used for any profit-making activity at any time during the year.
 - (2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in subsection (ggg)(1) hereof.
- (ORC 2915.01; Ord. 22-244. Passed 8-2-22.)

517.02 GAMBLING.

- (a) No person shall do any of the following:
- (1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking;
 - (2) Establish, promote, or operate or knowingly engage in conduct that facilitates any game of chance conducted for profit or any scheme of chance;
 - (3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any game of chance conducted for profit or any scheme of chance;
 - (4) Engage in betting or in playing any scheme or game of chance as a substantial source of income or livelihood;
 - (5) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility and either:
 - A. Give to another person any item described in subsection (hh)(1), (2), (3) or (4) of Section 517.01 as a prize for playing or participating in a sweepstakes; or
 - B. Give to another person any merchandise prize, or a redeemable voucher for a merchandise prize, the wholesale value of which is in excess of ten dollars (\$10.00) and which is awarded as a single entry for playing or participating in a sweepstakes. Redeemable vouchers shall not be redeemable for a merchandise prize that has a wholesale value of more than ten dollars (\$10.00).
 - (6) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility without first obtaining a current annual "certificate of registration" from the Attorney General as required by division (F) of Ohio R.C. 2915.02.
 - (7) With purpose to violate subsection (a)(1), (2), (3), (4), (5) or (6) of this section, acquire, possess, control, or operate any gambling device.
- (b) For purposes of subsection (a)(1) of this section, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of subsection (a)(2) of this section, a person facilitates a game of chance conducted for profit or a scheme of chance if the person in any way knowingly aids in the conduct or operation of any such game or scheme, including, without limitation, playing any such game or scheme.
- (c) This section does not prohibit conduct in connection with gambling expressly permitted by law.
- (d) This section does not apply to any of the following:
- (1) Games of chance, if all of the following apply:
 - A. The games of chance are not craps for money or roulette for money.
 - B. The games of chance are conducted by a charitable organization that is, and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is, exempt from Federal income taxation

under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code.

- C. The games of chance are conducted at festivals of the charitable organization that are conducted not more than a total of five days a calendar year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance.

A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof if the veteran's or fraternal organization has already leased the premises twelve times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under Section 517.06(b)(1) when it leases premises from another charitable organization to conduct bingo games.

- D. All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated or otherwise transferred to, any organization that is described in subsection 509(a)(1), (2) or (3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

- E. The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to Section 517.13.

No person shall receive any commission, wage, salary, reward, tip, donations, gratuity or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance.

- (2) Any tag fishing tournament operated under a permit issued under Ohio R.C. 1533.92, as "tag fishing tournament" is defined in Ohio R.C. 1531.01.

- (3) Bingo conducted by a charitable organization that holds a license issued under Ohio R.C. 2915.08.

(e) Subsection (d) hereof shall not be construed to authorize the sale, lease or other temporary or permanent transfer of the right to conduct games of chance, as granted by subsection (d) hereof, by any charitable organization that is granted that right.

(f) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, gambling is a felony and shall be prosecuted under appropriate State law.

(ORC 2915.02; Ord. 22-244. Passed 8-2-22.)

517.03 OPERATING A GAMBLING HOUSE.

- (a) No person, being the owner or lessee, or having custody, control or supervision of premises, shall:

- (1) Use or occupy such premises for gambling in violation of Section 517.02;
- (2) Recklessly permit such premises to be used or occupied for gambling in violation of Section 517.02.

(b) Whoever violates this section is guilty of operating a gambling house, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, operating a gambling house is a felony and shall be prosecuted under appropriate State law.

(c) Premises used or occupied in violation of this section constitute a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2915.03)

517.04 PUBLIC GAMING.

(a) No person, while at a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall make a bet or play any game of chance or scheme of chance.

(b) No person, being the owner or lessee, or having custody, control, or supervision, of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall recklessly permit those premises to be used or occupied in violation of subsection (a) of this section.

(c) Subsections (a) and (b) of this section do not prohibit conduct in connection with gambling expressly permitted by law.

(d) Whoever violates this section is guilty of public gaming. Except as otherwise provided in this subsection, public gaming is a minor misdemeanor. If the offender previously has been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.

(e) Premises used or occupied in violation of subsection (b) of this section constitute a nuisance subject to abatement under Ohio R.C. Chapter 3767. (ORC 2915.04)

517.05 CHEATING.

(a) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of any of the following:

- (1) The subject of a bet;
- (2) A contest of knowledge, skill, or endurance that is not an athletic or sporting event;
- (3) A scheme or game of chance;
- (4) Bingo.

(b) Whoever violates this section is guilty of cheating. Except as otherwise provided in this subsection cheating is a misdemeanor of the first degree. If the potential gain from the cheating is one thousand dollars (\$1,000) or more, or if the offender previously has been convicted of any gambling offense or of any theft offense as defined in Ohio R.C. 2913.01, cheating is a felony and shall be prosecuted under appropriate State law. (ORC 2915.05)

517.06 METHODS OF CONDUCTING A BINGO GAME; PROHIBITIONS.

- (a) No charitable organization that conducts bingo shall fail to do any of the following:

- (1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;

- (2) Except as otherwise provided in subsection (a)(3) of this section, use all of the gross receipts from bingo for paying prizes, for reimbursement of expenses for or for renting premises in which to conduct bingo, for reimbursement of expenses for or for purchasing or leasing bingo supplies used in conducting bingo, for reimbursement of expenses for or for hiring security personnel, for reimbursement of expenses for or for advertising bingo, or for reimbursement of other expenses or for other expenses listed in the definition for "expenses" in Section 517.01(s), provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring, advertising, or expense. If the building in which bingo is conducted is owned by the charitable organization conducting bingo and the bingo conducted includes a form of bingo described in the definition of "bingo" in Section 517.01(b)(1), the charitable organization may deduct from the total amount of the gross receipts from each session a sum equal to the lesser of six hundred dollars (\$600.00) or forty-five percent (45%) of the gross receipts from the bingo described in that division as consideration for the use of the premises;

- (3) Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo described in Section 517.01(b)(1), for a charitable purpose listed in its license application and described in Section 517.01(k), or distribute all of the net profit from the proceeds of the sale of instant bingo or electronic instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101, as applicable.

- (b) No charitable organization that conducts a bingo game described in Section 517.01(b)(1) shall fail to do any of the following:

- (1) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of six hundred dollars (\$600.00) per bingo session or forty-five percent (45%) of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for

premises that are similar in location, size, and quality but not in excess of four hundred fifty dollars (\$450.00) per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars (\$450.00) per bingo session. No charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than three (3) other charitable organizations per calendar week for conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three (3) charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine (9) bingo sessions be conducted on any premises in any calendar week.

- (2) Display its license conspicuously at the premises where the bingo session is conducted;
- (3) Conduct the bingo session in accordance with the definition of bingo set forth in Section 517.01(b)(1).
- (c) No charitable organization that conducts a bingo game described in Section 517.01(b)(1) shall do any of the following:
 - (1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
 - (2) Pay consulting fees to any person for any services performed in relation to the bingo session;
 - (3) Pay concession fees to any person who provides refreshments to the participants in the bingo session;
 - (4) Except as otherwise provided in subsection (c)(4) of this section, conduct more than three bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five (5) bingo sessions in a calendar year may conduct more than three (3) bingo sessions in a seven-day period after notifying the Attorney General when it will conduct the sessions;
 - (5) Pay out more than six thousand dollars (\$6,000) in prizes for bingo games described in Section 517.01(b)(1) during any bingo session that is conducted by the charitable organization. "Prizes" does not include awards from the conduct of instant bingo;
 - (6) Conduct a bingo session at any time during the eight-hour period between 2:00 a.m. and 10:00 a.m., at any time during, or within ten (10) hours of, a bingo game conducted for amusement only pursuant to Ohio R.C. 2915.12, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. Subsection (c)(6) of this section does not prohibit the sale of instant bingo tickets beginning at 9:00 a.m. for a bingo session that begins at 10:00 a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time, specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the Attorney General for an amended license, pursuant to division (J) of Ohio R.C. 2915.08. A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;
 - (7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen (18) to work as a bingo game operator;
 - (8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;
 - (9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;
 - (10) Purchase or lease bingo supplies from any person except a distributor issued a license under Ohio R.C. 2915.081;
 - (11) A. Use or permit the use of electronic bingo aids except under the following circumstances:
 1. For any single participant, not more than ninety (90) bingo faces can be played using an electronic bingo aid or aids.
 2. The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.
 3. The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.
 4. An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.
 5. An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.
 6. An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.B. The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the Attorney General to verify the number of bingo cards or sheets played during each bingo session.
- (12) Permit any person the charitable organization knows, or should have known, to be under eighteen (18) years of age to play bingo described in Section 517.01(b)(1).
- (d) (1) Except as otherwise provided in subsection (d)(3) hereof, no charitable organization shall provide to a bingo game operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session.
- (2) Except as otherwise provided in subsection (d)(3) of this section, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly regardless of the source, for conducting instant bingo, electronic instant bingo, or both other than at a bingo session at the site of instant bingo, electronic instant bingo, or both other than at a bingo session.
- (3) Nothing in subsection (d) hereof prohibits an employee of a fraternal organization, veteran's organization, or sporting organization from selling instant bingo tickets or cards to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.
- (e) Notwithstanding subsection (b)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two (2) bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two (2) bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the Attorney General in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the Attorney General prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the Attorney General prior to December 6, 1977.

(f) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo ticket as a prize.

(g) Except as otherwise provided in this subsection, whoever violates subsection (a)(1) or (2), (b)(1), (2), or (3), (c)(1) to (11) or (d) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of subsection (a)(1) or (2), (b)(1), (2) or (3), (c)(1) to (11), or (d) of this section, a violation of subsection (a)(1) or (2), (b)(1), (2) or (3) or (c)(1) to (11) or (d) of this section is a misdemeanor of the first degree. Whoever violates subsection (c)(12) of this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c)(12) of this section, a violation of subsection (c)(12) is a felony and shall be prosecuted under appropriate State law.

(ORC 2915.09; Ord. 22-244. Passed 8-2-22.)

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; Ord. 22-244. Passed 8-2-22.)

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 (s)(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; Ord. 22-244. Passed 8-2-22.)

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.

517.11 BINGO OR GAME OF CHANCE RECORDS.

(a) No charitable organization that conducts bingo or a game of chance pursuant to Section 517.02(d), shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:

- (1) An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each electronic instant bingo game by serial number, each raffle, each punch board game, and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number and each electronic instant bingo game by serial number;
- (2) An itemized list of all expenses, other than prizes, that are incurred in conducting bingo, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;
- (3) A list of all prizes awarded during each bingo session, each raffle, each punch board game, and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial number and each electronic instant bingo game by serial number, and the name, address, and social security number of all persons who are winners of prizes of six hundred dollars (\$600.00) or more in value;
- (4) An itemized list of the recipients of the net profit of the bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in Section 517.01(k), Section 517.02(d), or Ohio R.C. 2915.101, a list of each purpose and an itemized list of each expenditure for each purpose;
- (5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;
- (6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from "gross receipts" Section 517.01(bb);
- (7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo or electronic instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.

(b) A charitable organization shall keep the records that it is required to maintain pursuant to subsection (a) of this section at its principal place of business in this State or at its headquarters in this State and shall notify the Attorney General of the location at which those records are kept.

(c) The gross profit from each bingo session or game described in Section 517.01(b)(1) or (2) shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks or electronic fund transfers drawn on the bingo session or game account.

(d) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.

(e) The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that establish standards of accounting, record keeping, and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.

(f) A distributor shall maintain, for a period of three (3) years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this State. The record shall include all of the following for each instance:

- (1) The name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase;
- (2) The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;
- (3) A description that clearly identifies the bingo supplies;
- (4) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise

provided to each charitable organization.

(g) A manufacturer shall maintain, for a period of three (3) years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this State. The record shall include all of the following for each instance:

- (1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;
- (2) A description that clearly identifies the bingo supplies, including serial numbers;
- (3) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.

(h) (1) The Attorney General, or any law enforcement agency, may do all of the following:

- A. Investigate any charitable organization, distributor, or manufacturer or any officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer;
- B. Examine the accounts and records of the charitable organization, distributor, or manufacturer or of any officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer;
- C. Conduct inspections, audits, and observations of bingo or games of chance;
- D. Conduct inspections of the premises where bingo or games of chance are conducted or where bingo supplies are manufactured or distributed;
- E. Take any other necessary and reasonable action to determine if a violation of any provision of this chapter or Ohio R.C. Chapter 2915 has occurred and to determine whether Section 517.12 has been complied with.

(2) If any law enforcement agency has reasonable grounds to believe that a charitable organization, distributor, or manufacturer or an officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer has violated any provision of this chapter or Ohio R.C. Chapter 2915, the law enforcement agency may proceed by action in the proper court to enforce this chapter or Ohio R.C. Chapter 2915, provided that the law enforcement agency shall give written notice to the Attorney General when commencing an action as described in this division.

(i) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization, distributor, or manufacturer that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance, of premises where bingo or a game of chance is conducted, or of premises where bingo supplies are manufactured or distributed, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the Attorney General or a law enforcement agency pursuant to subsection (h) hereof.

(j) Whoever violates subsection (a) or (i) of this section is guilty of a misdemeanor of the first degree. (ORC 2915.10; Ord. 22-244. Passed 8-2-22.)

517.12 BINGO OPERATOR PROHIBITIONS.

- (a) No person shall be a bingo game operator unless he is eighteen (18) years of age or older.
- (b) No person who has been convicted of a felony or a gambling offense in any jurisdiction shall be a bingo game operator.
- (c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the third degree.
- (d) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree. (ORC 2915.11)

517.13 BINGO EXCEPTIONS.

(a) Ohio R.C. 2915.07 to 2915.11 and 2915.14 or Section 517.06 et seq. of this chapter do not apply to bingo games that are conducted for the purpose of amusement only. A bingo game is conducted for the purpose of amusement only if it complies with all of the requirements specified in either subsection (a)(1) or (2) hereof:

- (1) A. The participants do not pay any money or any other thing of value including an admission fee, or any fee for bingo cards, sheets, objects to cover the spaces or other devices used in playing bingo, for the privilege of participating in the bingo game or to defray any costs of the game, or pay tips or make donations during or immediately before or after the bingo game.
- B. All prizes awarded during the course of the game are nonmonetary, and in the form of merchandise, goods or entitlements to goods or services only, and the total value of all prizes awarded during the game is less than one hundred dollars (\$100.00).
- C. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
- D. The bingo game is not conducted either during or within ten (10) hours of any of the following:
 1. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter;
 2. A scheme or game of chance or bingo described in Section 517.01(b)(2).
- E. The number of players participating in the bingo game does not exceed fifty (50).

- (2) A. The participants do not pay money or any other thing of value as an admission fee, and no participant is charged more than twenty-five cents (25¢) to purchase a bingo card or sheet, objects to cover the spaces or other devices used in playing bingo.
- B. The total amount of money paid by all of the participants for bingo cards or sheets, objects to cover the spaces or other devices used in playing bingo does not exceed one hundred dollars (\$100.00).
- C. All of the money paid for bingo cards or sheets, objects to cover spaces or other devices used in playing bingo is used only to pay winners monetary and nonmonetary prizes and to provide refreshments.
- D. The total value of all prizes awarded during the game does not exceed one hundred dollars (\$100.00).
- E. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
- F. The bingo game is not conducted during or within ten (10) hours of either of the following:
 1. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.15 or Section 517.06 et seq. of this chapter;
 2. A scheme of chance or game of chance or bingo described in Section 517.01(b)(2).
- G. All of the participants reside at the premises where the bingo game is conducted.
- H. The bingo games are conducted on different days of the week and not more than twice in a calendar week.

(b) The Attorney General, or any local law enforcement agency, may investigate the conduct of a bingo game that purportedly is conducted for purposes of amusement only if there is reason to believe that the purported amusement bingo game does not comply with subsection (a) hereof. A local law enforcement agency may proceed by action in the proper court to enforce this section if the local law enforcement agency gives written notice to the Attorney General when commencing the action. (ORC 2915.12; Ord. 22-244. Passed 8-2-22.)

517.14 INSTANT BINGO CONDUCT BY A VETERAN'S OR FRATERNAL ORGANIZATION.

(a) Subject to the requirements of Ohio R.C. 2915.14 and 2915.15 concerning electronic instant bingo, a veteran's organization, a fraternal organization, or a sporting organization authorized to conduct a bingo session pursuant to Ohio R.C. Chapter 2915 may conduct instant bingo, electronic instant bingo, or both other than at a bingo session under a type III license issued under Ohio R.C. 2915.08 if all of the following apply:

- (1) The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo or electronic instant bingo to twelve (12) hours during any day, provided that the sale does not begin earlier than 10:00 a.m. and ends not later than 2:00 a.m.
- (2) The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo or electronic instant bingo to its own premises and to its own members and invited guests.
- (3) The veteran's organization, fraternal organization, or sporting organization is raising money for an organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), and that is in good standing in this state and executes a written contract with that organization as required in subsection (b) hereof.

(b) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo or electronic instant bingo pursuant to subsection (a) hereof is raising money for another organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c), and that is in good standing in this state, the veteran's organization, fraternal organization, or sporting

organization shall execute a written contract with the organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c), and that is in good standing in this state in order to conduct instant bingo or electronic instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veterans, fraternal, or sporting organization will be distributing to the organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) and is either a governmental unit or an organization that maintains its principal place of business in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), and that is in good standing in this state.

- (c) (1) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo or electronic instant bingo pursuant to subsection (b) hereof has been issued a liquor permit under Ohio R.C. Chapter 4303, that permit may be subject to suspension, revocation, or cancellation if the veteran's organization, fraternal organization, or sporting organization violates a provision of this chapter or Ohio R.C. Chapter 2915.
- (2) No veteran's organization, fraternal organization, or sporting organization that enters into a written contract pursuant to subsection (b) hereof shall violate any provision of this chapter or Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of this chapter or Ohio R.C. Chapter 2915.
- (d) A veteran's organization, fraternal organization, or sporting organization shall give all required proceeds earned from the conduct of instant bingo or electronic instant bingo to the organization with which the veteran's organization, fraternal organization, or sporting organization has entered into a written contract.
- (e) Whoever violates this section is guilty of illegal instant bingo or electronic instant bingo conduct. Except as otherwise provided in this division, illegal instant bingo or electronic instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal instant bingo or electronic instant bingo conduct is a felony to be prosecuted under appropriate state law. (ORC 2915.13; Ord. 22-244. Passed 8-2-22.)

517.15 SEIZURE AND DESTRUCTION OF GAMBLING DEVICES.

The Chief of Police, or any other police officer, shall destroy all such tables, banks, devices and apparatus that shall come into his possession under the provisions of this chapter or in any other way, when ordered to do so by the judge having jurisdiction thereof. (Ord. 76-359. Passed 11-16-76.)

517.16 SKILL-BASED AMUSEMENT MACHINES.

- (a) (1) No person shall give to another person any item described in Section 517.01(hh)(1), (2), (3), or (4) in exchange for a noncash prize, toy, or novelty received as a reward for playing or operating a skill-based amusement machine or for a free or reduced-prize game won on a skill-based amusement machine.
- (2) Whoever violates subsection (a)(1) of this section is guilty of skill-based amusement machine prohibited conduct. Except as provided herein, a violation of subsection (a)(1) is a misdemeanor of the first degree for each redemption of a prize that is involved in the violation. If the offender previously has been convicted of a violation of subsection (a)(1), a violation of subsection (a)(1) is a felony and shall be prosecuted under appropriate State law. (ORC 2915.06)
- (b) Any regulation of skill-based amusement machines shall be governed by this chapter and Ohio R.C. Chapter 2915 and not by Ohio R.C. Chapter 1345. (ORC 2915.061; Ord. 22-244. Passed 8-2-22.)

517.17 ELECTRONIC INSTANT BINGO; PROHIBITED CONDUCT.

- (a) No charitable organization shall conduct electronic instant bingo unless all of the following are true:
- (1) The organization is a veteran's organization described in Ohio R.C. 2915.01(J), or is a fraternal organization described in Ohio R.C. 2915.01(L), and the organization qualified as a veteran's organization or fraternal organization, as applicable, on or before June 30, 2021.
- (2) The organization is a veteran's organization described in IRC 501(c)(4) or is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under IRC 501(a), and is described in IRC 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19).
- (3) The organization has not conducted a raffle in violation of Ohio R.C. 2915.092(B) using an electronic raffle machine, as described in Ohio Veterans and Fraternal Charitable Coalition v. DeWine, Case No. 13-CV-13610 (C.P. Franklin Co. February 23, 2018), at any time on or after January 1, 2022.
- (b) No charitable organization that conducts electronic instant bingo shall do any of the following:
- (1) Possess an electronic instant bingo system that was not obtained in accordance with Ohio R.C. Chapter 2915 or with any rule adopted under Ohio R.C. Chapter 2915;
- (2) Conduct electronic instant bingo on any day, at any time, or on any premises not specified on the organization's type II or type III license issued under Ohio R.C. 2915.08;
- (3) Hold more than one valid license to conduct electronic instant bingo at any one time;
- (4) Conduct electronic instant bingo on more than one premises or on any premises other than the charitable organization's principal place of business;
- (5) Operate more than ten electronic bingo systems at the premises on which the charitable organization conducts electronic instant bingo under its license;
- (6) Fail to display both of the following conspicuously at the premises on which the charitable organization conducts electronic instant bingo:
- A. The charitable organization's bingo license;
- B. The serial number of each deal of electronic instant bingo tickets being sold.
- (7) Permit any person the charitable organization knows, or should have known, to be under eighteen (18) years of age to play electronic instant bingo;
- (8) Sell or provide to any person an electronic instant bingo ticket for a price different from the price displayed on the game flare for that deal, except that the charitable organization may give a participant who wins an electronic instant bingo game an electronic instant bingo ticket as a prize in place of a cash prize;
- (9) Fail, once an electronic instant bingo deal is begun, to continue to sell tickets in that deal until all prizes have been awarded;
- (10) Permit any person whom the organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of electronic instant bingo;
- (11) Permit a bingo game operator to play electronic instant bingo;
- (12) A. Except as otherwise provided in subsection (b)(12)B. hereof, pay compensation to a bingo game operator for conducting electronic instant bingo.
- B. Subsection (b)(12)A. hereof does not prohibit an employee of a veteran's organization or fraternal organization from redeeming electronic instant bingo tickets or vouchers for the organization's members or invited guests, so long as no portion of the employee's compensation is paid from any bingo receipts.
- (13) Pay consulting fees to any person in relation to electronic instant bingo.
- (c) No person shall sell, offer to sell, or otherwise provide or offer to provide an electronic instant bingo system to any person for use in this municipality unless the electronic instant bingo system has been approved under Ohio R.C. 2915.15.
- (d) Whoever knowingly violates subsection (a), (b) or (c) hereof or a rule adopted under Ohio R.C. 2915.14(D) is guilty of illegal electronic instant bingo conduct. Illegal electronic instant bingo conduct is a misdemeanor of the first degree, except that if the offender previously has been convicted of a violation of subsection (a) or (b) hereof, or any substantially equivalent municipal ordinance or state law, or of a rule adopted under Ohio R.C. 2915.14(D), illegal instant bingo conduct is a felony to be prosecuted under appropriate state law. (ORC 2915.14; Ord. 22-244. Passed 8-2-22.)

517.99 PENALTY.

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

Health, Safety and Sanitation

- 521.01 Abandoned refrigerators and airtight containers.**
- 521.02 Venting of heaters and burners.**
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- 521.05 Notice to fill lots, remove putrid substances.**
- 521.06 Nuisance conditions on public property.**
- 521.07 Placing articles on streets and public grounds.**
- 521.08 Littering and deposit of garbage, rubbish, junk, etc.**
- 521.09 Noxious or offensive odors.**
- 521.10 Camping in floodplain safety.**
- 521.11 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.
Removal of noxious weeds or litter - see Ohio R.C. 731.51 et seq.
Nuisances - see Ohio R.C. Ch. 3767
Tampering with safety devices - see GEN. OFF. 541.03

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)

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 BARRICADES AND WARNING LIGHTS; ABANDONED EXCAVATIONS.

(a) No person shall abandon or knowingly permit to remain on public or private property, any excavation, well, cesspool or structure which is in the process of construction, reconstruction, repair or alteration unless the same is adequately protected by suitable barricades and guarded by warning devices or lights at night so that the condition will not reasonably prove dangerous to life or limb.

(b) No person shall destroy, remove, damage or extinguish any barricade or warning light that is placed for the protection of the public so as to prevent injury to life or limb.

(c) Any owner or agent in control of a premises upon which a basement, cellar, well or cistern has been abandoned due to demolition, failure to build or any other reason shall cause the same to be filled to the ground surface with rock, gravel, earth or other suitable material.

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

521.04 SIDEWALK OBSTRUCTIONS; DAMAGE OR INJURY.

(a) No person shall place or knowingly drop upon any part of a sidewalk, playground or other public place any tacks, bottles, wire, glass, nails or other articles which may damage property of another or injure any person or animal traveling along or upon such sidewalk or playground.

(b) No person shall walk on, or allow any animal upon, or injure or deface in any way, any soft or newly laid sidewalk pavement.

(c) No person shall place, deposit or maintain any merchandise, goods, material or equipment upon any sidewalk so as to obstruct pedestrian traffic thereon except for such reasonable time as may be actually necessary for the delivery or pickup of such articles. In no such case shall the obstruction remain on such sidewalk for more than one hour.

(d) No person shall unload upon, or transport any heavy merchandise, goods, material or equipment over or across any sidewalk or curb without first placing some sufficient protection over the pavement to protect against damage or injury. The affected area shall be rendered safe and free from danger.

(e) No person shall allow any cellar or trap door, coal chute or elevator or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous condition.

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

521.05 NOTICE TO FILL LOTS, REMOVE PUTRID SUBSTANCES.

(a) No person shall fail to comply with the following requirements within the lawful time after service or publication of the notice or resolution is made as required by law:

To fill or drain any lot or land or remove all putrid substances therefrom, or remove all obstructions from culverts, covered drains or natural watercourses as provided in Ohio R.C. 715.47.

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

521.06 NUISANCE CONDITIONS ON PUBLIC PROPERTY.

(a) No person shall create any nuisance dangerous to persons or property or make, or cause to be made any excavation in, or place or cause to be placed any obstruction upon, or occupy or cause to be occupied with building or other material, any portion of any public street, alley, sidewalk, pavement, or other public ground, unless duly authorized by law or the proper City officials.

(1907 Code Sec. 279)

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

521.07 PLACING ARTICLES ON STREETS AND PUBLIC GROUNDS.

(a) No person shall place or deposit or cause to be placed or deposited on any street, alley, sidewalk or public grounds of the City, any wood, coal, box, barrel, crate, cask, keg, casting, lumber, goods, wares, furniture, merchandise or any other material or obstruction whatsoever, except for such reasonable time as may be actually necessary for receiving or discharging the same from some store, building or other place. In such event the same shall be placed so as not to block the street, alley, sidewalk or public ground upon which it is placed or so as not to interfere with the free passage of water in the gutters of such street or alley. This section does not apply to such cases of a temporary use of the street or sidewalk as are now or may hereafter be authorized by ordinance or resolution of the City Commission or by permit from the City Manager. However, the City Manager, upon signing of the proper releases by the applicant, may authorize the placing on any sidewalk temporary and permanent ornamental or functional devices.

(Ord. 66-230. Passed 12-19-66.)

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

521.08 LITTERING AND DEPOSIT OF GARBAGE, RUBBISH, JUNK, ETC.

(a) Except as provided in Section 521.10, no person shall, without lawful authority, place or dispose of in any manner, upon any public property or upon the premises of another, any paper, trash, garbage, waste, rubbish, refuse, junk or any substance or material which is or may become noxious, offensive, injurious or dangerous to the public health, comfort or safety.
(Ord. 75-259. Passed 9-9-75.)

(b) No person shall cause or allow trash, garbage, waste, rubbish, refuse or any other noxious or offensive materials or substances to be collected or remain in any place to the damage or prejudice of others or of the public, or unlawfully obstruct, impede, divert, corrupt or render unwholesome or impure, any natural watercourse.

(c) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on each subsequent offense such person is guilty of a misdemeanor of the fourth degree.

521.09 NOXIOUS OR OFFENSIVE ODORS.

(a) No person shall erect, continue, use or maintain a dwelling, building, structure or place for a residence or for the exercise of a trade, employment or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public.

(ORC 3767.13)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree.

(Ord. 92-261. Passed 8-11-92.)

521.10 CAMPING IN FLOODPLAIN SAFETY.

(a) Any owner of property in the 100 year floodplain area, who allows the use of said floodplain by occupied recreational vehicles, tent campers, or other temporary housing, has the obligation to provide warning to such users anytime the adjacent watercourse rises from its banks.

(b) In order to allow for an orderly and safe evacuation of the floodplain area, owners of property described in subparagraph (a), above, shall oblige all temporary residents of their floodplain property to be ready to depart on short notice. Specifically, recreational vehicles, camping trailers and similar vehicles must have functioning tires and undercarriage, and have their departure path unobstructed by fences or other barricades.

(Ord. 00-305. Passed 9-5-00.)

521.11 SPREADING CONTAGION.

(a) No person, knowing or having reasonable cause to believe that the person has a dangerous, contagious disease, shall knowingly fail to take reasonable measures to prevent exposing self to other persons, except when seeking medical aid.

(b) No person, having charge or care of a person whom the person having charge or care knows or has reasonable cause to believe has a dangerous, contagious disease, shall recklessly fail to take reasonable measures to protect others from exposure to the contagion, and to inform health authorities of the existence of the contagion.

(c) No person, having charge of a public conveyance or place of public accommodation, amusement, resort or trade, and knowing or having reasonable cause to believe that persons using such conveyance or place have been or are being exposed to a dangerous, contagious disease, shall negligently fail to take reasonable measures to protect the public from exposure to the contagion, and to inform health authorities of the existence of the contagion.

(ORC 3701.81)

(d) Whoever violates this section is guilty of a misdemeanor of the second degree.

(ORC 3701.99(C))

521.99 PENALTY.

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

CHAPTER 523

Smoking Prohibitions

523.01 Definitions.

523.02 Prohibition.

523.03 Signs; posting, content and location.

523.04 Enforcement.

523.05 Other prohibitions not affected.

523.06 Violation.

523.99 Penalty.

CROSS REFERENCES

Cigarette or tobacco distribution to minors - see GEN. OFF. 537.03

523.01 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

(a) "Person" means any individual, firm, partnership, association, corporation, company or organization of any kind.

(b) "City-owned and occupied facilities" means all enclosed areas which are owned by the City of Springfield, Ohio, and occupied by an employee or employees of the City who are carrying out their assigned duties on behalf of the City therein, except the pro shops and restaurants at City-owned golf courses.

(c) "Enclosed area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows, exclusive of door or passage ways, which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, or similar structures.

(d) "Smoking" means the lighting, holding or carrying of, or emitting or exhaling the smoke of, a pipe, cigar or cigarette of any kind.

(Ord. 93-58. Passed 2-16-93.)

523.02 PROHIBITION.

No person shall smoke in any City-owned and occupied facility.

(Ord. 93-58. Passed 2-16-93.)

523.03 SIGNS; POSTING, CONTENT AND LOCATION.

The City shall post or cause to be posted and prominently displayed, and shall maintain, "No Smoking" signs in conspicuous locations within all City-owned and occupied facilities. Such signs shall clearly and conspicuously recite the phrase "No Smoking" and/or use the international no-smoking symbol. Signs shall be of sufficient number and prominent location to convey the message clearly and legibly.

(Ord. 93-58. Passed 2-16-93.)

523.04 ENFORCEMENT.

The City Manager, or the department head having the authority to manage and control any City-owned and occupied facility, or a designated agent of such person, shall inform persons smoking in restricted areas that they are in violation of the law.

(Ord. 93-58. Passed 2-16-93.)

523.05 OTHER PROHIBITIONS NOT AFFECTED.

Nothing in this chapter shall be construed to permit smoking where it is otherwise prohibited by law or regulation.
(Ord. 93-58. Passed 2-16-93.)

523.06 VIOLATION.

The following acts constitute a violation of this chapter:

- (a) Smoking in a posted no-smoking area;
 - (b) Willful destruction or defacement of a sign posted as required by Section 523.03.
- (Ord. 93-58. Passed 2-16-93.)

523.99 PENALTY.

Any person violating any provision of this chapter shall be guilty of a minor misdemeanor. A separate offense shall be committed on each day during or on which a violation occurs or continues.

(Ord. 93-58. Passed 2-16-93.)

CHAPTER 525

Law Enforcement and Public Office

525.01 Definitions.

525.02 Falsification.

525.03 Impersonation of peace officer.

525.04 Compounding a crime.

525.05 Failure to report a crime, injury or knowledge of death.

525.06 Failure to aid a law enforcement officer.

525.07 Resisting arrest.

525.08 Having an unlawful interest in a public contract.

525.09 Soliciting or receiving improper compensation.

525.10 Dereliction of duty.

525.11 Interfering with civil rights.

525.12 Unauthorized display of law enforcement emblems on motor vehicles.

525.13 Giving false or fictitious information to enforcement agents; failure to identify.

525.14 Assaulting police dog or horse or an assistance dog.

525.15 Refusal to disclose personal information in public place.

525.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Personating an officer to defraud - see Ohio R.C. 2913.44

Making false alarms - see Ohio R.C. 2917.32

Law enforcement officer defined - see GEN. OFF. 501.01(k)

Misconduct at an emergency - see GEN. OFF. 509.05

525.01 DEFINITIONS.

As used in this chapter:

- (a) "Public official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision thereof, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges and law enforcement officers. "Public official" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.
- (b) "Public servant" means any of the following:
 - (1) Any public official;
 - (2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor or consultant;
 - (3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this subsection if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have the person's name placed on the ballot in a primary, general or special election, or if the person campaigns as a write-in candidate in any primary, general or special election. "Public servant" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.
- (c) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which the person directs, conducts or participates in directing or conducting party affairs at any level of responsibility.
- (d) "Official proceeding" means any proceeding before a legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary or other person taking testimony or a deposition in connection with an official proceeding.
- (e) "Detention" means arrest, confinement in any vehicle subsequent to an arrest, confinement in any public or private facility for custody of persons charged with or convicted of a crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States; hospitalization, institutionalization or confinement in any public or private facility that is ordered pursuant to or under the authority of Ohio R.C. 2945.37, 2945.371, 2945.38, 2945.39 or 2945.40, 2945.401 or 2945.402; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation, except as provided in this subsection, supervision by any employee of any facility of any of those natures; that is incidental to hospitalization, institutionalization or confinement in the facility but that occurs outside the facility; supervision by an employee of the Department of Rehabilitation and Correction of a person on any type of release from a State correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this State into this State by a private person or entity pursuant to a contract entered into under Ohio R.C. 311.29(E) or Ohio R.C. 5149.03(B). For a person confined in a county jail who participates in a county jail industry program pursuant to Ohio R.C.

5147.30, "detention" includes time spent at an assigned work site and going to and from the work site.

- (f) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States.
- (g) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.
- (h) "Campaign committee," "contribution," "political action committee," "legislative campaign fund" and "political party" have the same meanings as in Ohio R.C. 3517.01.
- (i) "Provider agreement" has the same meaning as in Ohio R.C. 5164.01.
(ORC 2921.01)
(Ord. 14-288. Passed 11-12-14.)

525.02 FALSIFICATION.

- (a) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:
 - (1) The statement is made in any official proceeding.
 - (2) The statement is made with purpose to incriminate another.
 - (3) The statement is made with purpose to mislead a public official in performing the public official's official function.
 - (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance as defined in Ohio R.C. 9.66; or other benefits administered by a governmental agency or paid out of a public treasury.
 - (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release or provider agreement.
 - (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
 - (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.
 - (8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.
 - (9) The statement is made with purpose to commit or facilitate the commission of a theft offense.
 - (10) The statement is knowingly made to a probate court in connection with any action, proceeding or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint or other pleading, or an inventory, account or report.
 - (11) The statement is made on an account, form, record, stamp, label or other writing that is required by law.
 - (12) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the Secretary of State, a county recorder, or the clerk of a court of record.
 - (13) The statement is required under Ohio R.C. 5743.71 in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.
- (b) It is no defense to a charge under subsection (a)(6) hereof that the oath or affirmation was administered or taken in an irregular manner.
- (c) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.
- (d) (1) Whoever violates any provision of subsection (a)(1) to (8) or (10) to (13) hereof is guilty of falsification, a misdemeanor of the first degree.
- (2) Whoever violates subsection (a)(9) hereof is guilty of falsification in a theft offense, a misdemeanor of the first degree. If the value of the property or services stolen is one thousand dollars (\$1,000) or more, falsification in a theft offense is a felony and shall be prosecuted under appropriate State law.
- (e) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this section. A civil action under this section is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.
(ORC 2921.13)

525.03 IMPERSONATION OF PEACE OFFICER.

- (a) As used in this section:
 - (1) "Peace officer" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation or township constable who is employed by a political subdivision of this State; a member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D); a member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y), a State university law enforcement officer appointed under Ohio R.C. 3345.04; a veterans' home police officer appointed under Ohio R.C. 5907.02; a special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28; an officer, agent, or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within limits of that statutory duty and authority; or a State highway patrol trooper whose primary duties are to preserve the peace, to protect life and property and to enforce the laws, ordinances or rules of the State or any of its political subdivisions.
 - (2) "Private police officer" means any security guard, special police officer, private detective or other person who is privately employed in a police capacity.
 - (3) "Federal law enforcement officer" means an employee of the United States who serves in a position the duties of which are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.
 - (4) "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.
 - (5) "Impersonate" means to act the part of, assume the identity of, wear the uniform or any part of the uniform of or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.
- (b) No person shall impersonate a peace officer, private police officer, federal law enforcement officer or investigator of the Bureau of Criminal Identification and Investigation.
- (c) No person, by impersonating a peace officer, private police officer, federal law enforcement officer, or investigator of the Bureau of Criminal Identification and Investigation, shall arrest or detain any person, search any person or search the property of any person.

(d) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the State or the Municipality or investigator of the Bureau of Criminal Identification and Investigation.

(e) It is an affirmative defense to a charge under subsection (b) hereof that the impersonation of the peace officer was for a lawful purpose.

(f) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree. Whoever violates subsections (c) or (d) hereof is guilty of a misdemeanor of the first degree. If the purpose of a violation of subsection (d) hereof is to commit or facilitate the commission of a felony, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 2921.51)

525.04 COMPOUNDING A CRIME.

(a) No person shall knowingly demand, accept or agree to accept anything of value in consideration of abandoning or agreeing to abandon a pending criminal prosecution.

(b) It is an affirmative defense to a charge under this section when both of the following apply:

(1) The pending prosecution involved is for violation of Ohio R.C. 2913.02, 2913.11 or 2913.21(B)(2) or 2913.47, of which the actor under this section was the victim.

(2) The thing of value demanded, accepted or agreed to be accepted, in consideration of abandoning or agreeing to abandon the prosecution, did not exceed an amount that the actor reasonably believed due him as restitution for the loss caused him by the offense.

(c) When a prosecuting witness abandons or agrees to abandon a prosecution under subsection (b) hereof, that abandonment or agreement in no way binds the State or Municipality to abandoning the prosecution.

(d) Whoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree.
(ORC 2921.21)

525.05 FAILURE TO REPORT A CRIME, INJURY OR KNOWLEDGE OF DEATH.

(a) (1) Except as provided in subsection (a)(2) hereof, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

(2) No person, knowing that a violation of division (B) of Ohio R.C. 2913.04 has been, or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.

(b) Except for conditions that are within the scope of subsection (e) of this section, no person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the person, or any serious physical harm to persons that the person knows or has reasonable cause to believe resulted from an offense of violence.

(c) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. For purposes of this subsection (c), "advanced practice registered nurse" does not include a certified registered nurse anesthetist.

(d) No person shall fail to provide upon request of the person to whom a report required by subsection (c) of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.

(e) (1) As used in this subsection, "burn injury" means any of the following:

A. Second or third degree burns;

B. Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;

C. Any burn injury or wound that may result in death;

D. Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by Ohio R.C. 3743.01.

(2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(4) No person who is required to report any burn injury under subsection (e)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the State Fire Marshal. The report shall comply with the uniform standard developed by the State Fire Marshal pursuant to Ohio R.C. 3737.22(A)(15).

(5) Anyone participating in the making of reports under subsection (e) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under subsection (e) of this section.

(f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.

(2) Notwithstanding Ohio R.C. 4731.22, the physician-patient privilege or advanced practice registered nurse-patient privilege shall not be a

ground for excluding any information regarding the report containing the knowledge or belief noted under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.

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

- (1) The information is privileged by reason of the relationship between attorney and client; physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, 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) (Ord. 17-289. Passed 12-5-17.)

525.06 FAILURE TO AID A LAW ENFORCEMENT OFFICER.

(a) No person shall negligently fail or refuse to aid a law enforcement officer, when called upon for assistance in preventing or halting the commission of an offense, or in apprehending or detaining an offender, when such aid can be given without a substantial risk of physical harm to the person giving it.

(b) Whoever violates this section is guilty of failure to aid a law enforcement officer, a minor misdemeanor.
(ORC 2921.23)

525.07 RESISTING ARREST.

(a) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another.

(b) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person and, during the course of or as a result of the resistance or interference, cause physical harm to a law enforcement officer.

(c) Whoever violates this section is guilty of resisting arrest. A violation of subsection (a) hereof is a misdemeanor of the second degree. A violation of subsection (b) hereof is a misdemeanor of the first degree. (ORC 2921.33)

525.08 HAVING AN UNLAWFUL INTEREST IN A PUBLIC CONTRACT.

(a) No public official shall knowingly do any of the following:

- (1) During the public official's term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by the public official or by a legislative body, commission or board of which the public official was a member at the time of authorization unless the contract was let by competitive bidding, to the lowest and best bidder;
- (2) Have an interest in the profits or benefits of a public contract entered into by or for the use of the Municipality or governmental agency or instrumentality with which the public official is connected;
- (3) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law, and that involves more than one hundred fifty dollars (\$150.00).

(b) In the absence of bribery or a purpose to defraud, a public official, member of a public official's family or any of a public official's business associates shall not be considered as having an interest in a public contract if all of the following apply:

- (1) The interest of that person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization that is the contractor on the public contract involved, or that is the issuer of the security in which public funds are invested;
- (2) The shares owned or controlled by that person do not exceed five percent (5%) of the outstanding shares of the corporation, and the amount due that person as creditor does not exceed five percent (5%) of the total indebtedness of the corporation or other organization;
- (3) That person, prior to the time the public contract is entered into, files with the Municipality or governmental agency or instrumentality involved, an affidavit giving that person's exact status in connection with the corporation or other organization.

(c) This section does not apply to a public contract in which a public official, member of a public official's family, or one of a public official's business associates, has an interest, when all of the following apply:

- (1) The subject of the public contract is necessary supplies or services for the Municipality or governmental agency or instrumentality involved;
- (2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the Municipality or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the Municipality or governmental agency or instrumentality involved;
- (3) The treatment accorded the Municipality or governmental agency or instrumentality is either preferential to or the same as that accorded

other customers or clients in similar transactions;

- (4) The entire transaction is conducted at arm's length, with full knowledge by the Municipality or governmental agency or instrumentality involved, of the interest of the public official, member of the public official's family or business associate, and the public official takes no part in the deliberations or decisions of the Municipality or governmental agency or instrumentality with respect to the public contract.

(d) Subsection (a)(4) does not prohibit participation by a public employee in any housing program funded by public moneys if the public employee otherwise qualifies for the program and does not use the authority or influence of the public employee's office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. Such participation does not constitute an unlawful interest in a public contract in violation of this section.

(e) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of this section is a misdemeanor of the first degree.

(f) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with Ohio R.C. 309.06 and 2921.421, or for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with Ohio R.C. 733.621 and 2921.421.

(g) Any public contract in which a public official, a member of the public official's family, or any of the public official's business associates has an interest in violation of this section is void and unenforceable. Any contract securing the investment of public funds in which a public official, a member of the public official's family, or any of the public official's business associates has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees and that was entered into in violation of this section is void and unenforceable.

(h) As used in this section:

- (1) "Public contract" means any of the following:

A. The purchase or acquisition, or a contract for the purchase or acquisition of property or services by or for the use of the State, any of its political subdivisions, or any agency or instrumentality of either, including the employment of an individual by the State, any of its political subdivisions, or any agency or instrumentality of either.

B. A contract for the design, construction, alteration, repair or maintenance of any public property.

- (2) "Chief legal officer" has the same meaning as in Ohio R.C. 733.621.

(ORC 2921.42)

525.09 SOLICITING OR RECEIVING IMPROPER COMPENSATION.

- (a) No public servant shall knowingly solicit or accept and no person shall knowingly promise or give to a public servant either of the following:

- (1) Any compensation, other than is allowed by Ohio R.C. 102.03(G), (H), and (I) or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;

- (2) Additional or greater fees or costs than are allowed by law to perform the public servant's official duties.

(b) No public servant for the public servant's own personal or business use and no person for the person's own personal or business use or for the personal or business use of a public servant or party official, shall solicit or accept anything of value in consideration of either of the following:

- (1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;
- (2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.

(c) No person for the benefit of a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity shall coerce any contribution in consideration of either of the following:

- (1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;
- (2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.

- (d) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.

(e) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment or position of trust in this Municipality for a period of seven years from the date of conviction.

(f) Subsections (a), (b) and (c) hereof do not prohibit a person from making voluntary contributions to a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity or prohibit a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity from accepting voluntary contributions.

(ORC 2921.43)

525.10 DERELICTION OF DUTY.

- (a) No law enforcement officer shall negligently do any of the following:

- (1) Fail to serve a lawful warrant without delay;
- (2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in the law enforcement officer's power to do so alone or with available assistance.

(b) No law enforcement, ministerial or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.

- (c) No officer, having charge of a detention facility, shall negligently do any of the following:

- (1) Allow the detention facility to become littered or unsanitary;
- (2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter and medical attention;
- (3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;
- (4) Allow a prisoner to escape;
- (5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.

(d) No public official of the Municipality shall recklessly create a deficiency, incur a liability or expend a greater sum than is appropriated by the legislative authority of the Municipality for the use in any one year of the department, agency or institution with which the public official is connected.

(e) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.

- (f) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree.

- (g) As used in this section, "public servant" includes an officer or employee of a contractor as defined in Ohio R.C. 9.08.

525.11 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; Ord. 22-244. Passed 8-2-22.)

525.12 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)

525.13 GIVING FALSE OR FICTITIOUS INFORMATION TO ENFORCEMENT AGENTS; FAILURE TO IDENTIFY.

(a) No person shall knowingly give, or assist in giving any false or fictitious information relative to the name, address or date of birth of any person to any law enforcement officer engaged in the performance of his duties.

(b) No person shall upon request of any person known by him to be a law enforcement officer, through identification, refuse to identify himself to such officer if at the time of such request such officer is engaged in the performance of his duties.
(Ord. 71-244. Passed 12-28-71.)

(c) Whoever violates this section shall be guilty of a misdemeanor of the first degree.

525.14 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 harbinger 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 harbinger 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.

525.15 REFUSAL TO DISCLOSE PERSONAL INFORMATION IN PUBLIC PLACE.

- (a) No person who is in a public place shall refuse to disclose the person's name, address, or date of birth, when requested by a law enforcement officer who reasonably suspects either of the following:
 - (1) The person is committing, has committed, or is about to commit a criminal offense.
 - (2) The person witnessed any of the following:
 - A. An offense of violence that would constitute a felony under the laws of this State;
 - B. A felony offense that causes or results in, or creates a substantial risk of, serious physical harm to another person or to property;
 - C. Any attempt or conspiracy to commit, or complicity in committing, any offense identified in subsection (a)(2)A. or B. of this section;
 - D. Any conduct reasonably indicating that any offense identified in subsection (a)(2)A. or B. of this section or any attempt, conspiracy, or complicity described in subsection (a)(2)C. of this section has been, is being, or is about to be committed.
- (b) Whoever violates this section is guilty of failure to disclose one's personal information, a misdemeanor of the fourth degree.
- (c) Nothing in this section requires a person to answer any questions beyond that person's name, address, or date of birth. Nothing in this section authorizes a law enforcement officer to arrest a person for not providing any information beyond that person's name, address, or date of birth or for refusing to describe the offense observed.
- (d) It is not a violation of this section to refuse to answer a question that would reveal a person's age or date of birth if age is an element of the crime that the person is suspected of committing. (ORC 2921.29)

525.99 PENALTY.

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

CHAPTER 529

Liquor Control

529.01 Definitions.

529.02 Sales to and use by underage persons; securing public accommodations.

529.021 Purchase by minor; misrepresentation.

529.03 Sales to intoxicated persons.

529.04 Liquor consumption in motor vehicle.

529.05 Permit required.

- 529.06 Low-alcohol beverages: sale to and purchase by underage persons prohibited.**
- 529.07 Open container prohibited.**
- 529.08 Hours of sale or consumption.**
- 529.09 Dancing and entertainment hours in liquor establishments.**
- 529.10 False information by minors for employment.**
- 529.99 Penalty.**

CROSS REFERENCES

See sectional histories for similar State law
 Prohibiting sale of intoxicating liquor on Sunday - see Ohio R.C. 4301.22(D)
 Local option - see Ohio R.C. 4301.32 et seq., 4303.29
 Disorderly conduct; intoxication - see GEN. OFF. 509.03
 Using weapons while intoxicated - see Ohio R.C. 2923.15

529.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "Alcohol". Ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. The term does not include denatured alcohol and wood alcohol.
- (b) "At Retail". For use or consumption by the purchaser and not for resale.
- (c) "Beer".
 - (1) Includes all beverages brewed or fermented wholly or in part from malt products and containing one-half of one percent (0.5%) or more of alcohol by volume.
 - (2) Beer, regardless of the percent of alcohol by volume, is not intoxicating liquor for purposes of this code, the Ohio Revised Code, or any rules adopted under it.
- (d) "Cider". All liquids that are fit to use for beverage purposes that contain one-half of one percent (0.5%) of alcohol by volume, but not more than six percent (6%) of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.
- (e) "Club". A corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for such purposes, membership in which entails the prepayment of regular dues, and includes the place so operated.
- (f) "Community Facility". Means either of the following:
 - (1) Any convention, sports or entertainment facility or complex, or any combination of these, that is used by or accessible to the general public and that is owned or operated in whole or in part by the state, a state agency, or a political subdivision of the state or that is leased from, or located on property owned by or leased from, the state, a state agency, a political subdivision of the state, or a convention facilities authority created pursuant to Ohio R.C. 351.02;
 - (2) An area designated as a community entertainment district pursuant to Ohio R.C. 4301.80.
- (g) "Controlled Access Alcohol and Beverage Cabinet". A closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device that requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages or food may be sold.
- (h) "Hotel". The same meaning as in Ohio R.C. 3731.01, subject to the exceptions mentioned in Ohio R.C. 3731.03.
- (i) "Intoxicating Liquor" and "Liquor". All liquids and compounds, other than beer, containing one half of one percent (0.5%) or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. The terms include cider and alcohol, and all solids and confections which contain one-half of one percent (0.5%) or more of alcohol by volume.
- (j) "Low-Alcohol Beverage". Any brewed or fermented malt product or any product made from the fermented juices of grapes, fruits, or other agricultural products that contains either no alcohol or less than one-half of one percent (0.5%) of alcohol by volume. The beverages described in this definition do not include a soft drink such as root beer, birch beer, or ginger beer.
- (k) "Manufacture". All processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, brewing, or in any other manner.
- (l) "Manufacturer". Any person engaged in the business of manufacturing beer or intoxicating liquor.
- (m) "Mixed Beverages". Include bottled and prepared cordials, cocktails, highballs, and solids and confections that are obtained by mixing any type of whiskey, neutral spirits, brandy, gin or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume. The phrase includes the contents of a pod.
- (n) "Nightclub". A place habitually operated for profit, where food is served for consumption on the premises, and one or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons.
- (o) "Person". Includes firms and corporations.
- (p) "Pharmacy". An establishment as defined in Ohio R.C. 4729.01, that is under the management or control of a licensed pharmacist in accordance with Ohio R.C. 4729.27.
- (q) "POD". Means a sealed capsule made from plastic, glass, aluminum, or a combination thereof to which all of the following apply:
 - (1) The capsule contains intoxicating liquor of more than twenty-one percent (21%) of alcohol by volume.
 - (2) The capsule also contains a concentrated flavoring mixture.
 - (3) The contents of the capsule are not readily accessible or intended for consumption unless certain manufacturer's processing instructions are followed.
 - (4) The instructions include releasing the contents of the capsule through a machine specifically designed to process the contents.
 - (5) After being properly processed according to the manufacturer's instructions, the final product produced from the capsule contains not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume.
- (r) "Restaurant". A place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. The term does not include pharmacies, confectionery stores, lunch stands, nightclubs, and filling stations.
- (s) "Sale" and "Sell". The exchange, barter, gift, offer for sale, sale, distribution, and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to Ohio R.C. 4301.21. Such terms do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the Division of Liquor Control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any orders until the solicitor has been registered with the Division pursuant to Ohio R.C. 4303.25.
- (t) "Sales Area or Territory". An exclusive geographic area or territory that is assigned to a particular A or B permit holder and that either has one or more political subdivisions as its boundaries or consists of an area of land with readily identifiable geographic boundaries. The term does not include, however, any particular retail location in an exclusive geographic area or territory that had been assigned to another A or B permit holder before April 9, 2001.
- (u) "Sealed Container". Any container having a capacity of not more than 128 fluid ounces, the opening of which is closed to prevent the entrance of air.
- (v) "Spiritous Liquor". All intoxicating liquors containing more than twenty-one percent (21%) of alcohol by volume. The phrase does not include the contents of a pod.

- (w) "Vehicle". All means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.
 - (x) "Wholesale Distributor" and "Distributor". A person engaged in the business of selling to retail dealers for purposes of resale.
 - (y) "Wine". All liquids fit to use for beverage purposes containing not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume, that is made from the fermented juices of grapes, fruits, or other agricultural products. The term includes cider, except as used in Ohio R.C. 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44, and, for purposes of determining the rate of the tax that applies, Ohio R.C. 4301.43(B), the term does not include cider.
- (ORC 4301.01, 4301.244; Ord. 22-244. Passed 8-2-22.)

529.02 SALES TO AND USE BY UNDERAGE PERSONS; SECURING PUBLIC ACCOMMODATIONS.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall sell beer or intoxicating liquor to an underage person, or shall buy beer or intoxicating liquor for an underage person, or shall furnish it to, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is supervised by a parent, spouse who is not an underage person or legal guardian.

In proceedings before the Liquor Control Commission, no permit holder, or no employee or agent of a permit holder, charged with a violation of this subsection shall be charged, for the same offense, with a violation of Ohio R.C. 4301.22(A)(1).

(b) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person or legal guardian and the parent, spouse who is not an underage person or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts or omissions in violation of this subsection that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(c) No person shall engage or use accommodations at a hotel, inn, cabin, campground or restaurant when he knows or has reason to know either of the following:

- (1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;
 - (2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a practitioner and has the drug of abuse in the original container in which it was dispensed to the person.
- (d) (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.
- (2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin or campground by presenting identification that falsely indicates that the underage person is twenty-one years of age or older for the purpose of violating this section.

(e) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess, or consume any beer or intoxicating liquor, in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place. The prohibitions set forth in this subsection (e) hereof against an underage person knowingly possessing, consuming, or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(f) No parent, spouse who is not an underage person or legal guardian of a minor shall knowingly permit the minor to violate this section or Section 529.021(a) to (c).

(g) The operator of any hotel, inn, cabin or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin or campground.

(h) As used in this section:

- (1) "Drug of abuse" has the same meaning as in Ohio R.C. 3719.011.
- (2) "Hotel" has the same meaning as in Ohio R.C. 3731.01.
- (3) "Licensed health professional authorized to prescribe drugs" and "prescription" have the same meanings as in Ohio R.C. 4729.01.
- (4) "Minor" means a person under the age of eighteen years.
- (5) "Underage person" means a person under the age of twenty-one years.

(ORC 4301.69)

- (i) (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).
- C. On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months. Except as provided in this subsection, the court also may impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one years. The court, in lieu of suspending the offenders temporary instruction permit, probationary driver's license or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform.

(ORC 4301.99)

529.03 SALES TO INTOXICATED PERSONS.

- (a) No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person. (ORC 4301.22)
- (b) Whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4301.99)

529.04 LIQUOR CONSUMPTION IN MOTOR VEHICLE.

- (a) No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in Section 529.07(d). (ORC 4301.64)
- (b) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree.
- (c) If an offender who violates this section was under the age of eighteen years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit, probationary driver's license, or driver's license for a period of not less than six months and not more than one year. In lieu of suspending the offender's temporary instruction permit, probationary driver's license or driver's license, the court may instead require the offender to perform community service for a number of hours to be determined by the court. If the offender is fifteen years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of fifteen years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of sixteen years. (ORC 4301.99)

529.05 PERMIT REQUIRED.

- (a) No person personally or by the person's clerk, agent or employee shall manufacture, manufacture for sale, offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this Municipality, or transport, import or cause to be transported or imported any beer, intoxicating liquor or alcohol on or into this Municipality for delivery, use or sale, unless the person has fully complied with Ohio R.C. Chapters 4301 and 4303 or is the holder of a permit issued by the Division of Liquor Control and in force at the time. (ORC 4303.25)
- (b) Whoever violates this section is guilty of a minor misdemeanor.

529.06 LOW-ALCOHOL BEVERAGES: SALE TO AND PURCHASE BY UNDERAGE PERSONS PROHIBITED.

- (a) As used in this section, "underage person" means a person under eighteen years of age.
- (b) No underage person shall purchase any low-alcohol beverage.
- (c) No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.
- (d) No person shall knowingly furnish any false information as to the name, age, or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low-alcohol beverage for an underage person, by purchase or as a gift.
- (e) No underage person shall knowingly show or give false information concerning his name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this Municipality.
- (f) No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.
- (g) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming any low-alcohol beverage, unless the low-alcohol beverage is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian, and the parent, spouse who is not an underage person, or legal guardian is present when the person possesses or consumes the low-alcohol beverage.
- An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.
- (h) No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless he is accompanied by a parent, spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of his practice or given for established religious purposes.
- (i) No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section. (ORC 4301.631)
- (j) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the fourth degree.
- (k) Whoever violates subsection (b) hereof shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (b) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.

529.07 OPEN CONTAINER PROHIBITED.

- (a) As used in this section:
- (1) "Chauffeured limousine," means a vehicle registered under Ohio R.C. 4503.24.
 - (2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.
- (b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:
- (1) Except as provided in subsection (c)(1)E. hereof, in an agency store;
 - (2) Except as provided in subsection (c) or (i) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;
 - (3) In any other public place;
 - (4) Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;
 - (5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
- (c) (1) A person may have in the person's possession an opened container of any of the following:
- A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2(f), A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, D-9, E, F, F-2, F-5, F-7, F-8 or F-9 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.
 - F. Beer or intoxicating liquor to be consumed in an outdoor area described in Ohio R.C. 4303.188(B)(1).
- (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 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.
- (6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:
1. The person is attending a racing event at the facility; and
 2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;
- B. As used in subsection (c)(6)A. of this section:
1. "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.
 2. "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:
 - a. It is two and four-tenths miles or more in length.
 - b. It is located on two hundred acres or more of land.
 - c. The primary business of the owner of the facility is the hosting and promoting of racing events.
 - d. The holder of a D-1, D-2 or D-3 permit is located on the property of the facility.
- (7) A. A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under Ohio R.C. 4301.82, if the opened container of beer or intoxicating liquor was purchased from an A-1, A-1-A, A-1c, A-2, A-2f, D class or F class permit holder to which both of the following apply:
1. The permit holder's premises is located within the outdoor refreshment area.
 2. The permit held by the permit holder has an outdoor refreshment area designation.
- B. Subsection (c)(7) of this section does not authorize a person to do either of the following:
1. Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;
 2. Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the possession is otherwise authorized under subsection (d) or (e) of this section.
- C. As used in subsection (c)(7) of this section, "D class permit holder" does not include a D-6 or D-8 permit holder.
- (8) A. A person may have in the person's possession on the property of a market, within a defined F-8 permit premises, an opened container of beer or intoxicating liquor that was purchased from a D permit premises that is located immediately adjacent to the market if both of the following apply:
1. The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;
 2. The market is hosting an event pursuant to an F-8 permit and the market has notified the Division of Liquor Control about the event in accordance with division (A)(3) of Ohio R.C. 4303.208.
- B. As used in subsection (c)(8) of this section, market means a market, for which an F-8 permit is held, that has been in operation since 1860.

- (d) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of such a person, when all of the following apply:
- (1) The person or guest is a passenger in the limousine;
 - (2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;
 - (3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.
- (e) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:
- (1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.
 - (2) The opened bottle of wine that is resealed in accordance with subsection (e)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.
- (f) (1) Except if an ordinance or resolution is enacted or adopted under subsection (f)(2) of this section, this section does not apply to a person who, pursuant to a prearranged contract, is a passenger riding on a commercial quadricycle when all of the following apply:
- A. The person is not occupying a seat in the front of the commercial quadricycle where the operator is steering or braking.
 - B. The commercial quadricycle is being operated on a street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
 - C. The person has in their possession on the commercial quadricycle an opened container of beer or wine.
 - D. The person has in their possession on the commercial quadricycle not more than either thirty-six ounces of beer or eighteen ounces of wine.
- (2) The legislative authority of a municipal corporation or township may enact an ordinance or adopt a resolution, as applicable, that prohibits a passenger riding on a commercial quadricycle from possessing an opened container of beer or wine.
- (3) As used in this section, "commercial quadricycle" means a vehicle that has fully-operative pedals for propulsion entirely by human power and that meets all of the following requirements:
- A. It has four wheels and is operated in a manner similar to a bicycle.
 - B. It has at least five seats for passengers.
 - C. It is designed to be powered by the pedaling of the operator and the passengers.
 - D. It is used for commercial purposes.
 - E. It is operated by the vehicle owner or an employee of the owner.
- (g) This section does not apply to a person that has in the person's possession an opened container of beer or intoxicating liquor on the premises of a market if the beer or intoxicating liquor has been purchased from a D liquor permit holder that is located in the market.
- As used in subsection (g) of this section, "market" means an establishment that:
- (1) Leases space in the market to individual vendors, not less than fifty percent of which are retail food establishments or food service operations licensed under Ohio R.C. Chapter 3717;
 - (2) Has an indoor sales floor area of not less than twenty-two thousand square feet;
 - (3) Hosts a farmer's market on each Saturday from April through December.
- (ORC 4301.62)
(Ord. 17-289. Passed 12-5-17.)
- (h) (1) As used in this section, "alcoholic beverage" has the same meaning as in Ohio R.C. 4303.185.
- (2) An alcoholic beverage in a closed container being transported under Ohio R.C. 4303.185 to its final destination is not an opened container for the purposes of this section if the closed container is securely sealed in such a manner that it is visibly apparent if the closed container has been subsequently opened or tampered with after sealing.
- (ORC 4301.62)
- (i) This section does not apply to a person that has in the person's possession an opened container of homemade beer or wine that is served in accordance with Ohio R.C. 4301.201(E). (ORC 4301.62)
- (j) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4301.99(A); Ord. 22-244. Passed 8-2-22.)

529.08 HOURS OF SALE OR CONSUMPTION.

- (a) This rule shall apply to the retail sale of beer, wine, mixed beverages, or spirituous liquor.
- (b) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-1c, A-2, B-1, B-2, B-4, B-5, C-1, C-2, C-2X, D-1, D-2, D-2X, D-3 when issued without a D-3A, D-3X, D-4, D-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, F-7, F-8, F-9, G or I permit holder:
- (1) From Monday to Saturday between the hours of one a.m. and five thirty a.m.
 - (2) On Sunday between the hours of one a.m. and Sunday midnight, unless statutorily authorized otherwise.
 - (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages, or spirituous liquor for on-premises consumption.
- (c) No beer, wine, mixed beverages, or spirituous liquid shall be sold or delivered by an A-1A, D-3 when issued with a D-3A, D-4A, D-5, D-5A, D-5B, D-5C, D-5D, D-5E, D-5F, D-5G, D-5I, D-5J, D-5L, D-5m, D-5n, D-5o, or D-7 permit holder:
- (1) From Monday to Saturday between the hours of two thirty a.m. and five thirty a.m.
 - (2) On Sunday between the hours of two thirty a.m. and Sunday midnight, unless statutorily authorized otherwise.
 - (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages or spirituous liquor for on-premises consumption.
- (d) Permit holders authorized to sell beer, wine, mixed beverages, or spirituous liquor at retail who are not specifically identified in subsection (b) or (c) above shall be subject to the provisions of subsection (b), unless statutorily authorized otherwise.
- (e) The hours on Sunday during which sales, delivery, or consumption of alcoholic beverages may take place are established by statute, but in no event shall they begin prior to five thirty a.m. (OAC 4301:1-1-49)
- (f) Whoever violates this section is guilty of a minor misdemeanor.

529.09 DANCING AND ENTERTAINMENT HOURS IN LIQUOR ESTABLISHMENTS.

(a) No person shall permit or allow on or within any place where beer, wine, spiritous liquor, alcohol or other intoxicating liquor is sold or offered for sale within the City any person or persons to dance therein between the hours of 2:30 a.m. and 5:00 a.m. on Tuesday, Wednesday, Thursday, Friday or Saturday of any week, or between the hours of 2:30 a.m. on Sunday morning and 5:00 a.m. on Monday of any week.

(b) No person shall permit or allow on or within any place where beer, wine, spiritous liquor, alcohol or other intoxicating liquor is sold or offered for sale within the City any vocal or instrumental music or any other form of entertainment therein between the hours of 2:30 a.m. and 5:00 a.m. on any day of any week.

(Ord. 3985. Passed 8-26-40.)

(c) Whoever violates this section is guilty of a misdemeanor of the second degree.

529.10 FALSE INFORMATION BY MINORS FOR EMPLOYMENT.

(a) No person under the age of eighteen years shall knowingly give false information concerning his or her age for the purpose of securing employment to handle beer in any manner whatsoever in any establishment in the City where beer is sold under and by virtue of a permit as issued by the State of Ohio, Department of Liquor Control.

(b) No person under the age of twenty-one shall knowingly give false information concerning his or her age for the purpose of securing employment to handle intoxicating liquor in any manner whatsoever in any establishment in the City where intoxicating liquor is sold under and by virtue of a permit as issued by the State of Ohio, Department of Liquor Control.

(Ord. 5083. Passed 11-6-50.)

(c) Whoever violates this section is guilty of a misdemeanor of the second degree.

529.99 PENALTY.

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

CHAPTER 533

Obscenity and Sex Offenses

533.01 Definitions.

533.02 Presumption of knowledge; actual notice and defense.

533.03 Disseminating matter harmful to juveniles.

533.04 Pandering obscenity.

533.05 Deception to obtain matter harmful to juveniles.

533.06 Pandering material involving a minor; illegal use of minor.

533.07 Displaying matter harmful to juveniles.

533.08 Unlawful advertising of massage.

533.09 Dissemination of private sexual images.

533.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Criminal trespass - see Ohio R.C. 2911.21

Telephone harassment - see Ohio R.C. 2917.21

Complicity - see GEN. OFF. 501.10

Offensive conduct - see GEN. OFF. 509.03

533.01 DEFINITIONS.

As used in this chapter:

(a) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.

(b) "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.

(c) "Sexual activity" means sexual conduct or sexual contact, or both.

(d) "Prostitute" means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.

(e) "Harmful to juveniles" means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:

- (1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.
 - (2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.
 - (3) The material or performance, when considered as a whole, lacks serious literary, artistic, political and scientific value for juveniles.
 - (f) When considered as a whole, and judged with reference to ordinary adults, or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to such group, any material or performance is "obscene" if any of the following apply:
 - (1) Its dominant appeal is to prurient interest;
 - (2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement or nudity in a way which tends to represent human beings as mere objects of sexual appetite;
 - (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty or brutality;
 - (4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way which inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral or artistic purpose;
 - (5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral or artistic purpose.
 - (g) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
 - (h) "Nudity" means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
 - (i) "Juvenile" means an unmarried person under the age of eighteen.
 - (j) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape or similar data storage device.
 - (k) "Performance" means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience.
 - (l) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:
 - (1) When the parties have entered into a written separation agreement authorized by Ohio R.C. 3103.06;
 - (2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage or legal separation;
 - (3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.
 - (m) "Minor" means a person under the age of eighteen years.
 - (n) "Mental health client or patient" has the same meaning as in Ohio R.C. 2305.51.
 - (o) "Mental health professional" has the same meaning as in Ohio R.C. 2305.115.
 - (p) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.
- (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 533.03, 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 533.03 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 533.03, 533.05(a) and 533.07 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 production or knowing distribution of material in violation of Section 533.03, 533.05 or 533.07, 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 533.03, 533.05 or 533.07, 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 533.03, 533.05, or 533.07 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 533.03 or 533.07 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 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)

533.04 PANDERING OBSCENITY.

(EDITOR'S NOTE: Former Section 533.04, which was derived from Ohio R.C. 2907.32 is no longer included in the Codified Ordinances. By Amended Substitute Senate Bill 2, effective July 1, 1996, the Ohio General Assembly classified all violations of pandering obscenity as felonies. Therefore each charge of pandering obscenity should now be filed under Ohio R.C. 2907.32.)

533.05 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)

533.06 PANDERING MATERIAL INVOLVING A MINOR; ILLEGAL USE OF MINOR.

(EDITOR'S NOTE: Former Section 533.06, which was derived from Ohio R.C. 2907.322 and 2907.323 is no longer included in the Codified Ordinances. By Amended Substitute Senate Bill 2, effective July 1, 1996, the Ohio General Assembly classified all violations of pandering material involving a minor and illegal use of a minor as felonies. Therefore each charge of pandering material involving a minor or illegal use of a minor should now be filed under Ohio R.C. 2907.322 or 2907.323.)

533.07 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)

533.08 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)

(d) As used in this section, "sexual activity" has the same meaning as in subsection (c) of 533.01.

533.09 DISSEMINATION OF PRIVATE SEXUAL IMAGES.

(a) As used in this section:

- (1) "Disseminate" means to post, distribute, or publish on a computer device, computer network, web site, or other electronic device or medium of communication.
- (2) "Image" means a photograph, film, videotape, digital recording or other depiction or portrayal of a person.
- (3) "Interactive computer service" has the meaning defined in the "Telecommunications Act of 1996", 47 U.S.C. 230, as amended.
- (4) "Internet provider" means a provider of internet service, including all of the following:
 - A. Broadband service, however defined or classified by the federal communications commission;
 - B. Information service or telecommunication service, both as defined in the "Telecommunications Act of 1996" 47 U.S.C. 153, as amended.
 - C. Internet protocol-enabled services, as defined in Ohio R.C. 4927.01.
- (5) "Mobile service" and "telecommunications carrier" have the meanings defined in 47 U.S.C. 153, as amended.
- (6) "Cable service provider" has the same meaning as in Ohio R.C. 1332.01.
- (7) "Direct-to-home satellite service" has the meaning defined in 47 U.S.C. 303, as amended.
- (8) "Video service provider" has the same meaning as in Ohio R.C. 1332.21.
- (9) "Sexual act" means any of the following:
 - A. Sexual activity;
 - B. Masturbation;
 - C. An act involving a bodily substance that is performed for the purpose of sexual arousal or gratification;
 - D. Sado-masochistic abuse.

(b) No person shall knowingly disseminate an image of another person if all of the following apply:

- (1) The person in the image is eighteen years of age or older;
- (2) The person in the image can be identified from the image itself or from information displayed in connection with the image and the offender supplied the identifying information.
- (3) The person in the image is in a state of nudity or is engaged in a sexual act;
- (4) The image is disseminated without consent from the person in the image;
- (5) The image is disseminated with intent to harm the person in the image.

(c) This section does not prohibit the dissemination of an image if any of the following apply:

- (1) The image is disseminated for the purpose of a criminal investigation that is otherwise lawful.
- (2) The image is disseminated for the purpose of, or in connection with, the reporting of unlawful conduct.
- (3) The image is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.
- (4) The image is disseminated by a law enforcement officer, or a corrections officer or guard in a detention facility, acting within the scope of the person's official duties.
- (5) The image is disseminated for another lawful public purpose;
- (6) The person in the image is knowingly and willingly in a state of nudity or engaged in a sexual act and is knowingly and willingly in a location in which the person does not have a reasonable expectation of privacy.
- (7) The image is disseminated for the purpose of medical treatment or examination.

(d) The following entities are not liable for a violation of this section solely as a result of an image or other information provided by another person:

- (1) A provider of interactive computer service;
- (2) A mobile service;
- (3) A telecommunications carrier;
- (4) An internet provider;
- (5) A cable service provider;
- (6) A direct-to-home satellite service;
- (7) A video service provider.

(e) Any conduct that is a violation of this section and any other section of the General Offenses Code, or the Revised Code may be prosecuted under this section, the other section, or both sections.

- (f) (1) A. Except as otherwise provided in subsection (f)(1)B., C., or D. of this section, whoever violates this section is guilty of nonconsensual dissemination of private sexual images, a misdemeanor of the third degree.
- B. If the offender previously has been convicted of or pleaded guilty to a violation of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the second degree.
- C. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the first degree.
- D. If the offender is under eighteen years of age and the person in the image is not more than five years older than the offender, the offender shall not be prosecuted under this section.
- (2) In addition to any other penalty or disposition authorized or required by law, the court may order any person who is convicted of a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit all of the following property to the state under Ohio R.C. Chapter 2981.
- A. Any profits or proceeds and any property the person has acquired or maintained in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation;
- B. Any interest in, securities of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that the person has established, operated, controlled or conducted in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation.

(g) A victim of a violation of this section may commence a civil cause of action against the offender, as described in Ohio R.C. 2307.66.
(ORC 2917.211)

533.99 PENALTY.

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

CHAPTER 537

Offenses Against Persons

537.01 Domestic violence.

537.02 Temporary protection order.

537.03 Illegal distribution of cigarettes, other tobacco products, or alternate nicotine products; transaction scans.

537.04 Reserved.

537.05 Contributing to unruliness or delinquency of a child.

537.06 Culpability of parent for delinquent act of child.

537.07 Menacing by stalking.

537.08 Telecommunication harassment.

537.09 Hazing prohibited.
537.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Physical harm to persons defined - see GEN. OFF. 501.01 (c), (e)

Fighting; provoking violent response - see GEN. OFF. 509.03

537.01 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.

537.02 TEMPORARY PROTECTION ORDER.

- (a) No person shall recklessly violate the terms of any of the following:
 - (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;
 - (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;
 - (3) A protection order issued by a court of another state.
- (b) (1) Whoever violates this section is guilty of violating a protection order.
- (2) Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.
- (3) If the offender previously has been convicted of, pleaded guilty to or been adjudicated a delinquent child for a violation of a protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214, two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 that involved the same person who is the subject of the protection order or consent agreement, or one or more violations of this section, violating a protection order is a felony and shall be prosecuted under appropriate state law.
- (4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.
- (5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device.
- (c) It is an affirmative defense to a charge under subsection (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this State or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).
- (d) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a 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)

537.03 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 twenty-one years of age or older.
- G. "Tobacco product." Means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The phrase also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).
- H. "Vapor product." Means a product, other than a cigarette or other tobacco product as defined in Ohio R.C. Chapter 5743, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. The phrase includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g). The phrase includes any product containing nicotine, regardless of concentration.

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

- (2) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:
- A. Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes:
 1. To any person under twenty-one years of age; or
 2. Without first verifying proof of age.
 - B. Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age is prohibited by law;
 - C. Knowingly furnish any false information regarding the name, age, or other identification of any person under twenty-one years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that person;
 - D. Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;
 - E. Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
 - F. Give, sell, or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.
 - G. Allow an employee under eighteen years of age to sell any tobacco product;
 - H. Give away or otherwise distribute free samples of cigarettes, other tobacco products, alternative nicotine products, or coupons redeemable for cigarettes, other tobacco products or alternative tobacco products.
- (3) No person shall sell or offer to sell cigarettes, other tobacco products, or alternative nicotine products by or from a vending machine, except in the following locations:
- A. An area within a factory, business, office, or other place not open to the general public;
 - B. An area to which persons under twenty-one years of age are not generally permitted access;
 - C. Any other place not identified in subsection (a)(3)A. or B. of this section, upon all of the following conditions:
 1. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product, and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
 2. The vending machine is inaccessible to the public when the place is closed.
 3. A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high: "It is illegal for any person under the age of twenty-one to purchase tobacco or alternative nicotine products."
- (4) The following are affirmative defenses to a charge under subsection (a)(2)A. of this section:
- A. The person under twenty-one years of age was accompanied by a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
 - B. The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age under subsection (a)(2)A. of this section is a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
- (5) A. It is not a violation of subsection (a)(2)A. or B. of this section for a person to give or otherwise distribute to a person under twenty-one years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the person under twenty-one years of age is participating in a research protocol if all of the following apply:
1. The parent, guardian, or legal custodian of the person under twenty-one years of age has consented in writing to the person under twenty-one years of age participating in the research protocol.
 2. An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.

3. The person under twenty-one years of age is participating in the research protocol at the facility or location specified in the research protocol.
 - B. It is not a violation of subsection (a)(2)A. or B. of this section for an employer to permit an employee eighteen, nineteen or twenty years of age to sell a tobacco product.
 - (6) A. No delivery service shall accept from, transport or deliver to, or allow pick-up by, a person under twenty-one years of age with respect to any of the following:
 1. Alternative nicotine products;
 2. Papers used to roll cigarettes;
 3. Tobacco products other than cigarettes.
 - B. A delivery service shall require proof of age as a condition of accepting, transporting, delivering, or allowing pickup of the items described in subsections (a)(6)A1. to 3. of this section.
 - (7) Whoever violates subsections (a)(2)A., B., D., E., F., G., H., (3) or (6) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
 - (8) Whoever violates subsection (a)(2)C. of this section is guilty of permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (a)(2)C. of this section or a substantially equivalent state law or municipal ordinance, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
 - (9) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a person under twenty-one years of age in violation of this section and that are used, possessed, purchased, or received by a person under twenty-one years of age in violation of Ohio R.C. 2151.87 are subject to seizure and forfeiture as contraband under Ohio R.C. Chapter 2981.
- (ORC 2927.02)
- (b) Transaction Scan.
- (1) For the purpose of this subsection (b) and subsection (c) of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - A. "Card holder." Any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive cigarettes, other tobacco products, or alternative nicotine products from a seller, agent or employee.
 - B. "Identification card." An identification card issued under Ohio R.C. 4507.50 to 4507.52.
 - C. "Seller." A seller of cigarettes, other tobacco products, or alternative nicotine products and includes any person whose gift of or other distribution of cigarettes, other tobacco products, or alternative nicotine products is subject to the prohibitions of subsection (a) of this section.
 - D. "Transaction scan." The process by which a seller or an agent or employee of a seller checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving cigarettes, other tobacco products, or alternative nicotine products.
 - E. "Transaction scan device." Any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.
 - (2) A. A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder as a condition for selling, giving away or otherwise distributing to the card holder cigarettes, other tobacco products, or alternative nicotine products.
 - B. If the information deciphered by the transaction scan performed under subsection (b)(2)A. of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away or otherwise distribute any cigarettes, other tobacco products, or alternative nicotine products to the card holder.
 - C. Subsection (b)(2)A. of this section does not preclude a seller or an agent or employee of a seller from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition for selling, giving away or otherwise distributing cigarettes, other tobacco products, or alternative nicotine products to the person presenting the document.
 - (3) Rules adopted by the Registrar of Motor Vehicles under Ohio R.C. 4301.61(C) apply to the use of transaction scan devices for purposes of this subsection (b) and subsection (c) of this section.
 - (4) A. No seller or agent or employee of a seller shall electronically or mechanically record or maintain any information derived from a transaction scan, except for the following:
 1. The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by the card holder;
 2. The expiration date and identification number of the driver's or commercial driver's license or identification card presented by the card holder.
 - B. No seller or agent or employee of a seller shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained under subsection (b)(4)A. of this section, except for purposes of subsection (c) of this section.
 - C. No seller or agent or employee of a seller shall use a transaction scan device for a purpose other than the purpose specified in subsection (c)(2)A. of this section.
 - D. No seller or agent or employee of a seller shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including but not limited to selling or otherwise disseminating that information for any marketing, advertising or promotional activities, but a seller or agent or employee of a seller may release that information pursuant to a court order or as specifically authorized by subsection (c) of this section or another section of these Codified Ordinances or the Ohio Revised Code.
 - (5) Nothing in this subsection (b) or subsection (c) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable local, state or federal laws or rules governing the sale, giving away or other distribution of cigarettes, other tobacco products, or alternative nicotine products.
 - (6) Whoever violates subsection (b)(2)B. or (b)(4) of this section is guilty of engaging in an illegal tobacco product or alternative nicotine product transaction scan, and the court may impose upon the offender a civil penalty of up to one thousand dollars (\$1,000) for each violation. The Clerk of the Court shall pay each collected civil penalty to the County Treasurer for deposit into the County Treasury.

(ORC 2927.021)

(c) Affirmative Defenses.

- (1) A seller or an agent or employee of a seller may not be found guilty of a charge of a violation of subsection (a) of this section in which the age of the purchaser or other recipient of cigarettes, other tobacco products, or alternative nicotine products is an element of the alleged violation, if the seller, agent or employee raises and proves as an affirmative defense that all of the following occurred:
 - A. A card holder attempting to purchase or receive cigarettes, other tobacco products, or alternative nicotine products presented a driver's or

commercial driver's license or an identification card.

- B. A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.
 - C. The cigarettes, other tobacco products, or alternative nicotine products were sold, given away or otherwise distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.
 - (2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by subsection (c)(1) of this section, the trier of fact in the action for the alleged violation of subsection (a) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of subsection (a) of this section. For purposes of subsection (c)(1)C. of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:
 - A. Whether a person to whom the seller or agent or employee of a seller sells, gives away or otherwise distributes cigarettes, other tobacco products, or alternative nicotine products is twenty-one years of age or older;
 - B. Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.
 - (3) In any criminal action in which the affirmative defense provided by subsection (c)(1) of this section is raised, the Registrar of Motor Vehicles or a Deputy Registrar who issued an identification card under Ohio R.C. 4507.50 to 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the Bureau of Motor Vehicles in the action.
- (ORC 2927.022)
- (d) Shipment of Tobacco Products.
- (1) As used in this subsection (d):
 - A. "Authorized recipient of tobacco products" means a person who is:
 - 1. Licensed as a cigarette wholesale dealer under Ohio R.C. 5743.15;
 - 2. Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;
 - 3. An export warehouse proprietor as defined in Section 5702 of the Internal Revenue Code;
 - 4. An operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555;
 - 5. An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
 - 6. A department, agency, instrumentality, or political subdivision of the federal government or of this state;
 - 7. A person having a consent for consumer shipment issued by the Tax Commissioner under Ohio R.C. 5743.71.
 - B. "Motor carrier." Has the same meaning as in Ohio R.C. 4923.01.
 - (2) The purpose of this division (d) is to prevent the sale of cigarettes to minors and to ensure compliance with the Master Settlement Agreement, as defined in Ohio R.C. 1346.01.
 - (3) A. No person shall cause to be shipped any cigarettes to any person in this municipality other than an authorized recipient of tobacco products.
 - B. No motor carrier or other person shall knowingly transport cigarettes to any person in this municipality that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes are transported to a home or residence, it shall be presumed that the motor carrier or other person knew that the person to whom the cigarettes were delivered was not an authorized recipient of tobacco products.
 - (4) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this municipality in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes."
 - (5) A court shall impose a fine of up to one thousand dollars (\$1,000) for each violation of subsection (d)(3)A., (d)(3)B. or (d)(4) of this section.
- (ORC 2927.023)
- (e) Furnishing False Information to Obtain Tobacco Products.
- (1) No person who is eighteen years of age or older but younger than twenty-one years of age shall knowingly furnish false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products.
 - (2) Whoever violates subsection (e)(1) of this section is guilty of furnishing false information to obtain tobacco products. Except as otherwise provided in this division, furnishing false information to obtain tobacco products is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (e)(1) of this section or a substantially equivalent state law or municipal ordinance, furnishing false information to obtain tobacco products is a misdemeanor of the third degree.

(ORC 2927.024)

537.04 RESERVED.

(Editor's note: This section was formerly 537.04 Criminal Child Enticement, based on Ohio R.C. 2905.05, Criminal Child Enticement. The Ohio Supreme Court held that Ohio R.C. 2905.05(A) was unconstitutionally overbroad in violation of the First Amendment. See *State v. Ramage*, 138 Ohio St. 3d. 390 (2014).)

537.05 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.

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

(c) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense.

(ORC 2919.24) (Ord. 17-289. Passed 12-5-17.)

537.06 CULPABILITY OF PARENT FOR DELINQUENT ACT OF CHILD.

(a) No parent of a child under the age of eighteen years, having the custody and control of such child, shall by any act or conduct, or by failure to exercise reasonable parental control and discipline of such child, aid, abet, induce, cause, encourage or contribute to any act of delinquency on the part of such child.

As used in this section, "act of delinquency" means any act or conduct, by any person, which violates any law of the United States, the State of Ohio, or any ordinance or regulation of a political subdivision of such State and which constitutes a crime if committed by a person eighteen years of age or older; which act or conduct is done or engaged in subsequent to a final determination by a court of competent jurisdiction, in a proceeding or prosecution to which such person was a party, that such person had done any such act or had engaged in any such conduct.

(Ord. 71-31. Passed 2-16-71.)

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

537.07 MENACING BY STALKING.

- (a) (1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or mental distress to the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.
- (2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, computer system or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:
- Violate subsection (a)(1) of this section;
 - Urge or incite another to commit a violation of subsection (a)(1) of this section.
- (3) No person, with sexual motivation, shall violate subsection (a)(1) or (2) of this section.

(b) Whoever violates this section is guilty of menacing by stalking.

- (1) Except as otherwise provided in subsections (b)(2) and (3) of this section, menacing by stalking is a misdemeanor of the first degree.
- (2) Menacing by stalking is a felony and shall be prosecuted under appropriate State law if any of the following applies:
- The offender previously has been convicted of or pleaded guilty to a violation of this section or a violation of Section 541.06.
 - In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.
 - In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.
 - The victim of the offense is a minor.
 - The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.
 - While committing the offense under subsection (a)(1) of this section or a violation of subsection (a)(3) of this section is based on conduct in violation of subsection (a)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Subsection (b)(2)F. of this section does not apply in determining the penalty for a violation of subsection (a)(2) of this section or a violation of subsection (a)(3) of this section based on conduct in violation of subsection (a)(1) of this section.
 - At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.
 - In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under subsection (a)(2) of this section, or an offense committed under subsection (a)(3) of this section based on a violation of subsection (a)(2) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.
 - Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.
- (3) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities, or duties, menacing by stalking is a felony and shall be prosecuted under appropriate State law.
- (c) Ohio R.C. 2919.271 applies in relation to a defendant charged with a violation of this section.
- (d) As used in this section:
- "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".
 - "Mental distress" means any of the following:
 - Any mental illness or condition that involves some temporary substantial incapacity;
 - Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.
 - "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
 - "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
 - "Public official" has the same meaning as in Ohio R.C. 2921.01.
 - "Computer", "computer network", "computer program", "computer system" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
 - "Post a message" means transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communicate, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.

- (8) "Third person" means, in relation to conduct as described in subsection (a)(2) of this section, an individual who is neither the offender nor the victim of the conduct.
- (9) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.
- (10) "Organization" includes an entity that is a governmental employer.
- (11) "Family or household member" means any of the following:
 - 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)

537.08 TELECOMMUNICATION HARASSMENT.

- (a) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:
 - (1) Makes the telecommunication with purpose to harass, intimidate, or abuse, any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient;
 - (2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;
 - (3) During the telecommunication, violates Ohio R.C. 2903.21;
 - (4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;
 - (5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any person at those premises.
 - (6) Knowingly makes any comment, request, suggestion, or proposal to the recipient of the telecommunication that is threatening, intimidating, menacing, coercive, or obscene with the intent to abuse, threaten or harass the recipient;
 - (7) Without a lawful business purpose, knowingly interrupts the telecommunication service of any person;
 - (8) Without a lawful business purpose, knowingly transmits to any person, regardless of whether the telecommunication is heard in its entirety, any file, document or other communication that prevents that person from using the person's telephone service or electronic communication device;
 - (9) Knowingly makes any false statement concerning the death, injury, illness, disfigurement, reputation, indecent conduct, or criminal conduct of the recipient of the telecommunication or family or household member of the recipient with purpose to abuse, threaten, intimidate, or harass the recipient;
 - (10) Knowingly incites another person through a telecommunication or other means to harass or participate in the harassment of a person;
 - (11) Knowingly alarms the recipient by making a telecommunication without a lawful purpose at an hour or hours known to be inconvenient to the recipient and in an offensive or repetitive manner.
- (b) (1) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.
- (2) No person shall knowingly post a text or audio statement or an image on an internet web site or web page for the purpose of abusing, threatening, or harassing another person.
- (c) (1) Whoever violates this section is guilty of telecommunication harassment.
- (2) A violation of subsections (a)(1), (2), (3), (5), (6), (7), (8), (9), (10), or (11) or (b) hereof is a misdemeanor of the first degree on a first offense. Each subsequent offense is a felony and shall be prosecuted under appropriate State law.
- (3) Whoever violates subsection (a)(4) hereof is guilty of a misdemeanor of the first degree for a first offense. For each subsequent offense or if a violation of subsection (a)(4) hereof results in economic harm of one thousand dollars (\$1,000) or more, a violation of subsection (a)(4) hereof is a felony and shall be prosecuted under appropriate State law.
- (d) No cause of action may be asserted in any court of this State against any provider of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, or against any officer, employee, or agent of a telecommunication service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, or an officer, employee, or agent of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, of information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section.
- (e) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electric method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service

- of any information that the person believes is, or will be sent, in violation of this section.
- (2) Subsection (e)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
- (3) Subsection (e)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.
- (4) A provider or user of an interactive computer service, as defined in Section 230 of Title 47 of the United States Code, shall neither be treated as the publisher or speaker of any information provided by another information content provider, as defined in Section 230 of Title 47 of the United States Code, nor held civilly or criminally liable for the creation or development of information provided by another information content provider, as defined in Section 230 of Title 47 of the United States Code. Nothing in this subsection shall be construed to protect a person from liability to the extent that the person developed or created any content in violation of this section.
- (f) Subsections (a)(5) to (11) and (b)(2) of this section do not apply to a person who, while employed or contracted by a newspaper, magazine, press association, news agency, news wire service, cable channel or cable operator, or radio or television station, is gathering, processing, transmitting, compiling, editing or disseminating information for the general public, within the scope of the person's employment in that capacity or the person's contractual authority in that capacity.
- (g) As used in this section:
- (1) "Economic harm" means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:
 - A. All wages, salaries, or other compensation lost as a result of the criminal conduct;
 - B. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
 - C. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 - D. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
 - (2) "Caller" means the person described in subsection (a) hereof who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.
 - (3) "Telecommunication" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
 - (4) "Sexual activity" has the same meaning as in Ohio R.C. 2907.01.
 - (5) "Family or household member" means any of the following:
 - A. Any of the following who is residing or has resided with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed:
 1. A spouse, a person living as a spouse, or a former spouse of the recipient;
 2. A parent, a foster parent, or a child of the recipient, or another person related by consanguinity or affinity to the recipient;
 - 3.. A parent or a child of a spouse, person living as a spouse, or former spouse of the recipient, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the recipient.
 - B. The natural parent of any child of whom the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed is the other natural parent or is the putative other natural parent.
 - (6) "Person living as a spouse" means a person who is living or has lived with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed in a common law marital relationship, who otherwise is cohabiting with the recipient, or who otherwise has cohabited with the recipient within five years prior to the date of the alleged commission of the act in question.
 - (7) "Cable operator" has the same meaning as in Ohio R.C. 1332.21.
 - (h) Nothing in this section prohibits a person from making a telecommunication call to a debtor that is in compliance with the "Fair Debt Collection Practices Act", 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act", 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended. (ORC 2917.21)

537.09 HAZING PROHIBITED.

- (a) As used in this section:
- (1) "Hazing" means doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization or any act to continue or reinstate membership in or affiliation with any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person, including coercing another to consume alcohol or a drug of abuse, as defined in Ohio R.C. 3719.011.
 - (2) "Organization" includes a national or international organization with which a fraternity or sorority is affiliated.
- (b) (1) No person shall recklessly participate in the hazing of another.
- (2) No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or any other educational institution, public or private, shall recklessly permit the hazing of any person associated with the organization.
- (c) (1) No person shall recklessly participate in the hazing of another when the hazing includes coerced consumption of alcohol or drugs of abuse resulting in serious physical harm to the other person.
- (2) No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or other educational institution, public or private, shall recklessly permit the hazing of any person associated with the organization when the hazing includes coerced consumption of alcohol or drugs of abuse resulting in serious physical harm to that person.
- (d) Whoever violates subsections (b) or (c) of this section is guilty of hazing. A violation of subsections (b)(1) or (b)(2) of this section is a misdemeanor of the second degree. A violation of subsections (c)(1) or (c)(2) of this section is a felony to be prosecuted under appropriate state law. (ORC 2903.31)
- (e) Reckless failure to immediately report knowledge of hazing.
- (1) No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or any other public or private educational institution, who is acting in an official and professional capacity shall recklessly fail to immediately report the knowledge of hazing to a law enforcement agency in the county in which the victim of hazing resides or in which the hazing is occurring or has occurred.
 - (2) A violation of subsection (e)(1) of this section is a misdemeanor of the fourth degree, except that the violation is a misdemeanor of the first degree if the hazing causes serious physical harm.
- (ORC 2903.311(B), (C); Ord. 22-244. Passed 8-2-22.)

537.99 PENALTY.

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

CHAPTER 541

Property Offenses

- 541.01 Determining property value in arson.**
- 541.02 Criminal damaging or endangering.**
- 541.03 Criminal mischief.**
- 541.04 Destruction of shrubs, trees or crops.**
- 541.05 Ethnic intimidation.**
- 541.06 Aggravated trespass.**

- 541.07 Defacing public property prohibited; litter control.**
- 541.08 Vehicular vandalism.**
- 541.09 Trespass on a place of public amusement.**
- 541.10 Criminal trespass.**
- 541.99 Penalty.**

CROSS REFERENCES

See sectional histories for similar State law
 Parents' liability for destructive acts of their children - see Ohio R.C. 3109.09
 Physical harm to property defined - see GEN. OFF. 501.01(d), (f)
 Damage to sidewalks - see GEN. OFF. 521.04

541.01 DETERMINING PROPERTY VALUE IN ARSON.

- (a) The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of Section 541.02.
 - (1) If the property is an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, the value of the property or the amount of physical harm involved is the amount that would compensate the owner for its loss.
 - (2) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.
 - (3) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and in the case of real property or real property fixtures, is the difference in the fair market value of the property immediately before and immediately after the offense.
- (b) As used in this section, "fair market value" has the same meaning as in Section 545.02(c)(3).
- (c) Prima-facie evidence of the value of property, as provided in Section 545.02(d) may be used to establish the value of property pursuant to this section.
 (ORC 2909.11)

541.02 CRIMINAL DAMAGING OR ENDANGERING.

- (a) No person shall cause, or create a substantial risk of physical harm to any property of another without his consent:
 - (1) Knowingly, by any means;
 - (2) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.
- (b) Whoever violates this section is guilty of criminal damaging or endangering, a misdemeanor if the property involved is not an aircraft, an aircraft engine, propeller, appliance, spare part or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation does not create a risk of physical harm to any person, and if the property involved is not an occupied aircraft. A violation of this section is a misdemeanor of the second degree. If violation of this section creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. (ORC 2909.06)
 (Ord. 17-289. Passed 12-5-17.)

541.03 CRIMINAL MISCHIEF.

- (a) No person shall:
 - (1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with the property of another;
 - (2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;
 - (3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker.
 - (4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;
 - (5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.
 - (6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, all as defined in Ohio R.C. 2909.01, knowingly do any of the following:
 - A. In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;
 - B. Introduce a computer contaminant into a computer, computer system, computer network, computer software or computer program.
 - (7) Without privilege to do so, knowingly destroy or improperly tamper with a critical infrastructure facility.
- (b) As used in this section:
 - (1) "Critical Infrastructure Facility". Has the same meaning as in Ohio R.C. 2911.21.
 - (2) "Improperly Tamper". Means to change the physical location or the physical condition of the property.
 - (3) "Safety Device". Means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.
- (c) (1) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in subsection (c)(2), (c)(3), or (c)(4) of this section.
 - (2) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of

subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is a misdemeanor of the first degree. If the property involved in the violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is a felony to be prosecuted under appropriate state law.

- (3) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of subsection (a)(6) of this section or the loss to the victim resulting from the violation is one thousand dollars (\$1,000) or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of subsection (a)(6) is used or intended to be used in the operation of an aircraft and the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of subsection (a)(6) of this section is a felony to be prosecuted under appropriate state law.
- (4) Criminal mischief committed in violation of subsection (a)(7) of this section is a felony to be prosecuted under appropriate state law. (ORC 2909.07; Ord. 22-244. Passed 8-2-22.)

541.04 DESTRUCTION OF SHRUBS, TREES OR CROPS.

(a) No person, without privilege to do so, shall recklessly cut down, destroy, girdle or otherwise injure a vine, bush, shrub, sapling, tree or crop standing or growing on the land of another or upon public land.

(b) In addition to any penalty provided, whoever violates this section is liable in treble damages for the injury caused. (ORC 901.51)

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 901.99(A))

541.05 ETHNIC INTIMIDATION.

(a) No person shall violate Ohio R.C. 2903.21, 2903.22, 2909.06, 2909.07 or 2917.21(A)(3) to (5) or Sections 541.02 or 541.03 of the General Offenses Code by reason of the race, color, religion, national origin, or sexual orientation of another person or group of persons.

(b) Whoever violates this section is guilty of ethnic intimidation. Ethnic intimidation is an offense of the next higher degree than the offense the commission of which is a necessary element of ethnic intimidation. (ORC 2927.12) (Ord. 18-24. Passed 1-30-18.)

541.06 AGGRAVATED TRESPASS.

(a) (1) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to that person.

(2) No person shall enter or remain on a critical infrastructure facility with purpose to destroy or tamper with the facility.

(b) Whoever violates this section is guilty of aggravated trespass. Aggravated trespass in violation of subsection (a)(1) of this section is a misdemeanor of the first degree. Aggravated trespass in violation of subsection (a)(2) of this section is a felony to be prosecuted under appropriate state law.

(c) As used in this section, "Critical infrastructure facility" has the same meaning as in Ohio R.C. 2911.21. (ORC 2911.211; Ord. 22-244. Passed 8-2-22.)

541.07 DEFACING PUBLIC PROPERTY PROHIBITED; LITTER CONTROL.

(a) No person shall paint, mark, or write on, or post or otherwise affix any handbills, signs, circulars, dodgers, pamphlets, cards, pictures, or any advertising to or upon any sidewalk, crosswalk, curb, curbstone, street lamppost, hydrant, tree, shrub, tree stake, or guard, railroad trestle, electric light or power or communication line pole or related appurtenance, or upon any traffic signal installation, or upon any lighting system, public bridge, drinking fountain, lifesaving equipment, street sign or traffic sign or refuse receptacle located on real property owned by the City, nor upon any other real or personal property owned by the City without first obtaining a written permission from the City Manager.

(b) No person shall maliciously or willfully deface, injure, mutilate, mar, destroy, besmear, or bedaub or aid in defacing, injuring, mutilating, marring, destroying, besmearing, or bedaubing any City owned real or personal property.

(c) No person shall distribute handbills, signs, circulars, dodger, pamphlets, cards, pictures or any advertising matter, of any kind whatsoever, by placing the same in or upon any motor vehicle standing or parked in the public streets of the City.

(d) Nothing contained in this section shall apply to improvements permitted under Chapter 903 of the Codified Ordinances.

(e) Any handbills, signs, circulars, dodgers, pamphlets, cards, pictures, or any advertising matter found posted, or otherwise affixed upon any public property or motor vehicle contrary to the provisions of this section may be removed by the City.

(f) Nothing in this section shall apply to the installation of a metal plaque or plate, or individual letters or figures in a sidewalk commemorating a historical, cultural, or artistic event, location or personality for which the City Manager or the City Commission has granted permission in writing.

(g) Nothing in this section shall prohibit the painting of house numbers on the curb in front of the building to which the number pertains.

(h) Nothing in this section shall prohibit a person from posting a sign, on a wooden stake, wire wicket, or other appropriate structure, advertising an event which will occur over a period not to exceed forty-eight (48) hours; provided, such sign is removed at the conclusion of the event advertised.

(i) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (Ord. 97-410. Passed 11-25-97.)

541.08 VEHICULAR VANDALISM.

(a) As used in this section:

- (1) "Highway" means any highway as defined in Section 301.42 of the Traffic Code or any lane, road, street, alley, bridge, or overpass.
- (2) "Alley", "street", and "vehicle" have the same meanings as in Chapter 301 of the Traffic Code.
- (3) "Vessel" and "waters in this State" have the same meanings as in Ohio R.C. 1546.01.

(b) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of any of the following:

- (1) Any vehicle on a highway;
- (2) Any boat or vessel on any of the waters in this State that are located in the Municipality.

(c) Whoever violates this section is guilty of vehicular vandalism. Except as otherwise provided in this subsection, vehicular vandalism is a misdemeanor of the first degree. If the violation of this section creates a substantial risk of physical harm to any person, serious physical harm to property, physical harm to any person or serious physical harm to any person, vehicular vandalism is a felony and shall be prosecuted under appropriate State law. (ORC 2909.09) (Ord. 17-289. Passed 12-5-17.)

541.09 TRESPASS ON A PLACE OF PUBLIC AMUSEMENT.

(a) As used in this section, "place of public amusement" means a stadium, theater or other facility, whether licensed or not, at which a live

performance, sporting event, or other activity takes place for entertainment of the public and to which access is made available to the public, regardless of whether admission is charged.

(b) No person, without privilege to do so, shall knowingly enter or remain on any restricted portion of a place of public amusement and, as a result of that conduct, interrupt or cause the delay of the live performance, sporting event, or other activity taking place at the place of public amusement after a printed written notice has been given as provided in subsection (d)(1) of this section that the general public is restricted from access to that restricted portion of the place of public amusement. A restricted portion of a place of public amusement may include, but is not limited to, a playing field, an athletic surface, or a stage located at the place of public amusement.

(c) An owner or lessee of a place of public amusement, an agent of the owner or lessee, or a performer or participant at a place of public amusement may use reasonable force to restrain and remove a person from a restricted portion of the place of public amusement if the person enters or remains on the restricted portion of the place of public amusement and, as a result of that conduct, interrupts or causes the delay of the live performance, sporting event, or other activity taking place at the place of public amusement. This subsection does not provide immunity from criminal liability for any use of force beyond reasonable force by an owner or lessee of a place of public amusement, an agent of either the owner or lessee, or a performer or participant at a place of public amusement.

(d) (1) Notice has been given that the general public is restricted from access to a portion of a place of public amusement if a printed written notice of the restricted access has been conspicuously posted or exhibited at the entrance to that portion of the place of public amusement. If a printed written notice is posted or exhibited as described in this subsection, regarding a portion of a place of public amusement, in addition to that posting or exhibition, notice that the general public is restricted from access to that portion of the place of public amusement also may be given, but is not required to be given, by either of the following means:

- A. By notifying the person personally, either orally or in writing, that access to that portion of the place of public amusement is restricted;
- B. By broadcasting over the public address system of the place of public amusement an oral warning that access to that portion of the public place of amusement is restricted.

(2) If notice that the general public is restricted from access to a portion of a place of public amusement is provided by the posting or exhibition of a printed written notice as described in subsection (d)(1) of this section, the Municipality, in a criminal prosecution for a violation of subsection (b) of this section, is not required to prove that the defendant received actual notice that the general public is restricted from access to a portion of a place of public amusement.

(e) (1) Whoever violates subsection (b) of this section is guilty of criminal trespass on a place of public amusement, a misdemeanor of the first degree.

(2) In addition to any jail term, fine or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (e)(1) of this section, a court may require an offender who violates this section to perform not less than thirty and not more than one hundred twenty hours of supervised community service work. (ORC 2911.23)

541.10 CRIMINAL TRESPASS.

(a) No person, without privilege to do so, shall do any of the following:

- (1) Knowingly enter or remain on the land or premises of another;
- (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;
- (3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;
- (4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.
- (5) Knowingly enter or remain on a critical infrastructure facility.

(b) It is no defense to a charge under this section that the land or premises involved was owned, controlled or in custody of a public agency.

(c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved when such authorization was secured by deception.

(d) (1) Whoever violates this section is guilty of criminal trespass. Criminal trespass in violation of subsection (a)(1), (a)(2), (a)(3), or (a)(4) of this section is a misdemeanor of the fourth degree. Criminal trespass in violation of subsection (a)(5) of this section is a misdemeanor of the first degree.

(2) Notwithstanding Section 501.99, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.

(3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance, or state law, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty days. In such a case, Ohio R.C. 4519.47 applies.

(e) As used in subsections (a) through (e) of this section:

(1) "All-Purpose Vehicle, Off-Highway Motorcycle" and "Snowmobile". Have the same meanings as in Ohio R.C. 4519.01.

(2) "Critical Infrastructure Facility". Means:

- A. One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with signs that are reasonably likely to come to the attention of potential intruders and that indicate entry is forbidden without site authorization:
 - 1. A petroleum or alumina refinery;
 - 2. An electric generating facility, substation, switching station, electrical control center, or electric transmission and distribution lines and associated equipment;
 - 3. A chemical, polymer, or rubber manufacturing facility;
 - 4. A water intake structure, water treatment facility, waste water facility, drainage facility, water management facility, or any similar water or sewage treatment system and its water and sewage piping;
 - 5. A natural gas company facility or interstate natural gas pipeline, including a pipeline interconnection, a natural gas compressor station and associated facilities, city gate or town border station, metering station, above-ground piping, regulator station, valve site, delivery station, fabricated assembly, or any other part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas;
 - 6. A telecommunications central switching office or remote switching facility or an equivalent network facility that serves a similar purpose;
 - 7. Wireline or wireless telecommunications infrastructure, including telecommunications towers and telephone poles and lines, including fiber optic lines;
 - 8. A port, trucking terminal, or other freight transportation facility;
 - 9. A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;
 - 10. A transmission facility used by a federally licensed radio or television station;
 - 11. A steel-making facility that uses an electric arc furnace to make steel;
 - 12. A facility identified and regulated by the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards Program under 6 C.F.R. part 27;
 - 13. A dam that is regulated by the state or federal government;
 - 14. A crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility;
 - 15. A video service network and broadband infrastructure, including associated buildings and facilities, video service headends, towers, utility poles, and utility lines such as fiber optic lines. As used in this division, "video service network" has the same meaning as in Ohio R.C. 1332.21.
- 16. Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility;
- 17. Any above-ground portion of a well, well pad, or production operation;

18. A laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate natural gas or crude oil pipeline;
19. Any mining operation, including any processing equipment, batching operation, or support facility for that mining operation.
- B. With respect to a video service network or broadband or wireless telecommunications infrastructure, the above-ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;
- C. Any railroad property;
- D. An electronic asset of any of the following:
 1. An electric light company that is a public utility under Ohio R.C. 4905.02;
 2. An electric cooperative, as defined in Ohio R.C. 4928.01;
 3. A municipal electric utility, as defined in Ohio R.C. 4928.01;
 4. A natural gas company that is a public utility under Ohio R.C. 4905.02;
 5. A telephone company that is a public utility under Ohio R.C. 4905.02;
 6. A video service provider, including a cable operator, as those terms are defined in Ohio R.C. 1332.21.
- (3) "Electronic Asset". Includes, but is not limited to, the hardware, software, and data of a programmable electronic device; all communications, operations, and customer data networks; and the contents of those data networks.
- (4) "Land" or "Premises". Includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.
- (5) "Production Operation, Well, and Well Pad". Have the same meanings as in Ohio R.C. 1509.01.
(ORC 2911.21; Ord. 22-244. Passed 8-2-22.)

541.99 PENALTY.

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

CHAPTER 543

Registration of Felons

543.01 Registration by persons convicted of certain offenses.

543.02 Registration when ordinance becomes effective.

543.03 Photograph and fingerprints required.

543.04 Notice of change of address.

543.05 Failure to report; providing false information.

543.06 Permanent records; disclosure of information.

543.07 Pardoned persons exempt.

543.99 Penalty.

CROSS REFERENCES

Division of Police - see ADM. 139.04

Carrying concealed weapons - see Ohio R.C. 2923.12

Giving false or fictitious information to enforcement agents - see GEN. OFF. 525.13

543.01 REGISTRATION BY PERSONS CONVICTED OF CERTAIN OFFENSES.

Every person who in any court of the United States, or in any court of any of the states, within a period of ten years past, shall have pleaded guilty to, or been convicted of, any of the crimes of murder, manslaughter, rape, maiming, shooting with intent to kill or wound, cutting with intent to kill or wound, assault with intent to kill or to commit robbery or rape, kidnapping, robbery, arson, burglary, breaking and entering in the daytime, grand larceny, pocket picking, embezzlement, blackmailing, extortion, malicious destruction of property, forgery, uttering a forged instrument, obtaining money or property by false pretenses, carrying concealed weapons, receiving stolen property, counterfeiting, bribery, perjury, conspiracy, using mails to defraud, or transportation of females for immoral purposes, who comes within the corporate limits of the City from any point outside thereof, whether in transit through the City or not, shall report to the Chief of Police within forty-eight hours after his or her arrival within the corporate limits, and shall furnish to the Chief of Police a written statement signed by such person containing the true name of such person and each other name or alias by which such person is or has been known, a full and complete description of such person, the name of each of the crimes hereinbefore enumerated of which he shall have been convicted or to which he shall have pleaded guilty, together with the title of the court wherein such proceedings occurred and the location of such court, the name under which he was there charged, and the date of such plea or conviction, the name and location of any and each prison, reformatory or other penal institutions in which he shall have been confined upon sentence therefor, together with the address of his residence, stopping place or living quarters within the City, if any, or the address or location of his intended residence, stopping place or living quarters and each thereof, and the length of time for which he intends to remain or reside within the City.
(Ord. 3476. Passed 11-20-33.)

543.02 REGISTRATION WHEN ORDINANCE BECOMES EFFECTIVE.

Every person who shall be within the corporate limits of the City at the time when Ordinance 3476, passed November 20, 1933, became effective, who has pleaded guilty to or been convicted of, any of the crimes enumerated in Section 543.01, in any of the courts and within the period therein mentioned, shall, within forty-eight hours from and after the effective date of such ordinance, furnish to the Chief of Police a statement prescribed and required by Section 543.01.
(Ord. 3476. Passed 11-20-33.)

543.03 PHOTOGRAPH AND FINGERPRINTS REQUIRED.

At the time of furnishing the information required by Sections 543.01 or 543.02 by any person, the Chief of Police shall cause such person to be photographed and a record of his fingerprints to be made, which photograph and record shall be made a part of the permanent record provided for by this chapter.
(Ord. 3476. Passed 11-20-33.)

543.04 NOTICE OF CHANGE OF ADDRESS.

In the event that any person specified in Section 543.01 or 543.02 shall change any place of residence, stopping place or living quarters to any new or different place or places, or establish any new place or places of residence or stopping place or living quarters within the City, other than those shown by his previous report or reports to the Chief of Police, he shall within twenty-four hours thereafter notify the Chief of Police in writing signed by him, of such change of address, and shall furnish in such written statement the address of each and additional places of residences, stopping places or living quarters.

(Ord. 3476. Passed 11-20-33.)

543.05 FAILURE TO REPORT; PROVIDING FALSE INFORMATION.

No person, required by any of the provisions of this chapter to furnish any report or information, shall fail, neglect or refuse to comply with each and all of the terms of this chapter, or make any false or fictitious statement with respect to any fact required to be included in such report or statement.

(Ord. 3476. Passed 11-20-33.)

543.06 PERMANENT RECORDS; DISCLOSURE OF INFORMATION.

The Chief of Police shall cause to be made a permanent record of all information including photographs and fingerprints required by the provisions of this chapter to be furnished to or by him, and shall forthwith furnish a copy of any part or all thereof to any duly constituted and acting officer of the City, Clark County, the State of Ohio or the United States, charged with the duty of prosecuting offenders. Such record shall at all times be open to the inspection of any officer charged with the enforcement of the laws having jurisdiction within the territorial limits of the City, but no portion thereof shall be open to the inspection of others, except when in the opinion of the Chief of Police the same shall be necessary in the administration of the law.

(Ord. 3476. Passed 11-20-33.)

543.07 PARDONED PERSONS EXEMPT.

Nothing in this chapter shall be deemed or construed to apply to any person who shall have received a full pardon for each crime with respect to which he would otherwise be required by the terms of this chapter to furnish a report or statement.

(Ord. 3476. Passed 11-20-33.)

543.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree. Each separate day during which any violation continues, and each failure, neglect or refusal to comply therewith in any respect shall be deemed to constitute a separate violation thereof, and shall be punishable accordingly.

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

CHAPTER 545

Theft and Fraud

545.01 Definitions.

545.02 Determining property value in theft offense.

545.03 Property exceptions as felony offense.

545.04 Detention of shoplifters; rights of museums and libraries.

545.05 Tampering with and theft of utilities.

545.06 Misrepresentations in eyeglass advertisements.

545.07 Vehicle trespass.

545.08 Forgery of identification cards.

545.09 Identity fraud.

545.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Property defined - see GEN. OFF. 501.01(j)

Cheating - see GEN. OFF. 517.05

Falsification - see GEN. OFF. 525.02

Impersonating a public servant - see GEN. OFF. 525.03

545.01 DEFINITIONS.

As used in this chapter, unless the context requires that a term be given a different meaning:

- (a) "Deception" means knowingly deceiving another or causing another to be deceived, by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act or omission that creates, confirms or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.
- (b) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.
- (c) "Deprive" means to do any of the following:
 - (1) Withhold property of another permanently, or for such period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
 - (2) Dispose of property so as to make it unlikely that the owner will recover it;
 - (3) Accept, use or appropriate money, property or services, with purpose not to give proper consideration in return for the money, property or services, and without reasonable justification or excuse for not giving proper consideration.
- (d) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license or interest is unlawful.
- (e) "Services" include labor, personal services, professional services, rental services, public utility services, including wireless service as defined in Ohio R.C. 5507.01(F)(1), common carrier services, and food, drink, transportation, entertainment and cable television services.

- (f) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film or other thing having in or upon it any written, typewritten or printed matter, and any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.
- (g) "Forge" means to fabricate or create, in whole or in part and by any means any spurious writing, or to make, execute, alter, complete, reproduce or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.
- (h) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver or display.
- (i) "Coin machine" means any mechanical or electronic device designed to do both of the following:
 - (1) Receive a coin, bill, or token made for that purpose;
 - (2) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.
- (j) "Slug" means an object that, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.
- (k) "Theft offense" means any of the following:
 - (1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42 to 2913.45, 2913.47, 2913.48, 2913.51, 2915.05, 2915.06, or 2921.41.
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (k)(1) hereof or a violation of Ohio R.C. 2913.41, 2913.81 or 2915.06 as it existed prior to July 1, 1996;
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit or fraud;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (k)(1), (2) or (3) hereof.
- (l) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use or data that is contained within a computer system or computer network.
- (m) "Computer" means an electronic device that performs logical, arithmetic and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program or communication facilities that are connected or related, in a computer system or network to an electronic device of that nature.
- (n) "Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.
- (o) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.
- (p) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.
- (q) "Computer software" means computer programs, procedures and other documentation associated with the operation of a computer system.
- (r) "Data" means a representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system or computer network. For purposes of Section 545.07, "data" has the additional meaning set forth in subsection (a) of that section.
- (s) "Cable television service" means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.
- (t) "Gain access" means to approach, instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.
- (u) "Credit card" includes, but is not limited to, a card, code, device or other means of access to a customer's account for the purpose of obtaining money, property, labor or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine or a cash dispensing machine.
- (v) "Electronic fund transfer" has the same meaning as in 92 Stat. 3728, 15 U.S.C.A. 1693a, as amended.
- (w) "Rented property" means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the duration of possession of the property.
- (x) "Telecommunication" means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence or any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method.
- (y) "Telecommunications device" means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.
- (z) "Telecommunications service" means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.
- (aa) "Counterfeit telecommunications device" means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. "Counterfeit telecommunications device" includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.
- (bb) (1) "Information service" means, subject to subsection (bb)(2) hereof, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing.
- (2) "Information service" does not include any use of a capability of a type described in subsection (bb)(1) hereof for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
- (cc) "Elderly person" means a person who is sixty-five years of age or older.
- (dd) "Disabled adult" means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the

impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this State or the United States that has the function of so classifying persons.

(ee) "Firearm" and "dangerous ordnance" have the same meanings as in Ohio R.C. 2923.11.

(ff) "Motor vehicle" has the same meaning as in Ohio R.C. 4501.01.

(gg) "Dangerous drug" has the same meaning as in Ohio R.C. 4729.01.

(hh) "Drug abuse offense" has the same meaning as in Ohio R.C. 2925.01.

(ii) "Police dog or horse" has the same meaning as in Ohio R.C. 2921.321.

(jj) "Anhydrous ammonia" is a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described in this subsection. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately eighty-two per cent nitrogen to eighteen per cent hydrogen.

(kk) "Assistance dog" has the same meaning as in Ohio R.C. 955.011.

(ll) "Active duty service member" means any member of the armed forces of the United States performing active duty under Title 10 of the United States Code.

(ORC 2913.01)

545.02 DETERMINING PROPERTY VALUE IN THEFT OFFENSE.

(a) If more than one item of property or service is involved in a theft offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property or services involved in the offense.

(b) (1) When a series of offenses under Ohio R.C. 2913.02, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Ohio R.C. 2913.02, 2913.03, or 2913.04, 2913.21(B)(1) or (2) or 2913.43 or 2913.31 involving a victim who is an elderly person or disabled adult, is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. When a series of offenses under Ohio R.C. 2913.02, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Ohio R.C. 2913.02 or 2913.43 involving a victim who is an active duty service member or spouse of an active duty service member is committed by the offender in the offender's same employment, capacity or relationship to another, all of those offenses shall be tried as a single offense. The value of the property or services involved in the series of offenses for the purpose of determining the value is the aggregate value of all property and services involved in all offenses in the series.

(2) If an offender commits a series of offenses under Ohio R.C. 2913.02 that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Ohio R.C. 2913.02, 2913.03, or 2913.04, 2913.21(B)(1) or (2) or 2913.43 or 2913.31, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Ohio R.C. 2913.02 or 2913.43, whether committed against one victim or more than one victim, involving a victim who is an active duty service member or spouse of an active duty service member pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property and services involved in all of the offenses in the course of conduct.

(3) In prosecuting a single offense under subsection (b)(1) or (2), it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses in the offender's same employment, capacity, or relationship to another as described in subsection (b)(1) of this section or that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in subsection (b)(2) of this section. While it is not necessary to separately allege and prove each offense in the series in order to prosecute a single offense under subsection (b)(1) or (2) hereof, it remains necessary in prosecuting them as a single offense to prove the aggregate value of the property or services in order to meet the requisite statutory offense level sought by the prosecution.

(c) The following criteria shall be used in determining the value of property or services involved in a theft offense:

(1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that has intrinsic worth to its owner and that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, is the amount that would compensate the owner for its loss.

(2) The value of personal effects and household goods, and of materials, supplies, equipment and fixtures used in the profession, business, trade, occupation or avocation of its owner, which property is not covered under subsection (c)(1) hereof, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing the property with new property of like kind and quality.

(3) The value of any real or personal property that is not covered under subsections (c)(1) or (2) hereof, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration that a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.

(d) Without limitation on the evidence that may be used to establish the value of property or services involved in a theft offense:

(1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima-facie evidence of its value.

(2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense, is prima-facie evidence of the value of the security or commodity.

(3) When the property involved is livestock, poultry or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of the livestock, poultry or products.

(4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of the instrument.

(5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima-facie evidence of the value of the instrument.

(6) When the property involved is a ticket of admission, ticket for transportation, coupon, token or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services that may be received by the instrument, is prima-facie evidence of the value of the instrument.

(7) When the services involved are gas, electricity, water, telephone, transportation, shipping or other services for which the rate is established

by law, the duly established rate is prima-facie evidence of the value of the services.

- (8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima-facie evidence of the value of the services.

(ORC 2913.61)

545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, the provisions of Ohio R.C. 2913.02 or 2913.51 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; Ord. 22-244. Passed 8-2-22.)

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 TAMPERING WITH AND THEFT OF UTILITIES.

(a) No person shall knowingly, without the utility's consent, with intent to violate subsection (b) hereof:

- (1) Tamper with a gas, electric, steam or water meter, conduit or attachment of a utility;
- (2) Reconnect a gas, electric, steam or water meter, conduit or attachment of a utility that has been disconnected by the utility.

In a prosecution under subsection (a)(1) hereof, proof that a meter, conduit or attachment of a utility has been tampered with is prima-facie evidence that the person who is obligated to pay for the service rendered through the meter, conduit or attachment, and who is in possession or control of the meter, conduit or attachment at the time the tampering occurred, has caused the tampering with intent to violate subsection (b) hereof.

In a prosecution under subsection (a)(2) hereof, proof that a meter, conduit or attachment disconnected by a utility has been reconnected without the consent of the utility is prima-facie evidence that the person in possession or control of the meter, conduit or attachment at the time of the reconnection has reconnected the meter, conduit or attachment with intent to violate subsection (b) hereof.

As used in this section, "utility" means any electric light company, gas company, natural gas company, pipe-line company, waterworks company or heating or cooling company, as defined in Ohio R.C. 4905.03(A)(4), (5), (6), (7), (8) or (9), its lessees, trustees or receivers, or any similar utility owned or operated by a political subdivision.

As used in this section, to "tamper" means to interfere with, damage or bypass a utility meter, conduit or attachment with the intent to impede the correct registration of a meter or the proper functions of a conduit or attachment so as to reduce the amount of utility service that is registered on such meter.

(b) No person shall knowingly consume any gas, electricity, steam or water that has not been correctly registered because a meter, conduit or attachment of a utility has been tampered with, or knowingly use service that has been discontinued by a utility and reconnected without the utility's consent.

(c) Such utility shall notify its customers, on an annual basis, of the consequences of tampering with or bypassing a meter.

(d) Whoever violates subsection (a) hereof is guilty of tampering with utility equipment, a misdemeanor of the first degree, provided the cost of the gas, electricity, steam or water stolen, plus the cost of repair or replacement of the meters, conduits or attachments damaged in violation of subsection (a)(1) or (2) hereof is less than one thousand dollars (\$1,000) and provided the offender has not previously been convicted of a violation of subsection (a) hereof. Whoever violates subsection (a) hereof shall make restitution to the utility for the cost of repair or replacement of the meters, conduits or attachments damaged and for the value of the gas, electricity, steam or water consumed.

(e) Whoever violates subsection (b) hereof is guilty of theft of utility service, a misdemeanor of the first degree, provided the value of the gas, electricity, steam or water is less than one thousand dollars (\$1,000) and provided the offender has not previously been convicted of a violation of subsection (b) hereof. Whoever violates subsection (b) hereof shall make restitution to the utility for the value of the gas, electricity, steam or water consumed in violation of that subsection.

545.06 MISREPRESENTATIONS IN EYEGLASS ADVERTISEMENTS.

(a) No person, partnership, corporation or any agent or employee therein, engaged in or connected with the sale of eyeglasses, ophthalmic lenses, eyeglass frames and mountings, shall include in any advertisement by newspaper, radio, display or otherwise, any statement, or in any manner misrepresent any such frames, mountings or other material or prices for the same or services or credit terms.

(b) No person, partnership, corporation or agent or employee therein engaged in or connected with the sale of eyeglasses, ophthalmic lenses, eyeglass frames and mountings, shall include in any advertisement by newspaper, radio, display or otherwise, any statement advertising the price of lenses, or of complete eyeglasses, including lenses, either with or without professional services or credit terms, installment payments or price plans; or the price of any frames or mountings, unless in conjunction therewith the words, "without lenses" appear in such manner to be clearly discernible, or read in such manner as to be clearly understood.

(Ord. 4217. Passed 11-9-42.)

(c) Whoever violates this section is guilty of a misdemeanor of the second degree.

545.07 VEHICLE TRESPASS.

(a) 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.

(b) Whoever violates subsection (a) hereof is guilty of vehicle trespass, a minor misdemeanor.

545.08 FORGERY OF IDENTIFICATION CARDS.

(a) No person shall knowingly do either of the following:

- (1) Forge an identification card;
- (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.
- (3) As used in this section, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card" or other similar words appear on the card.

(b) Whoever violates subsection (a) hereof is guilty of forging identification cards or selling or distributing forged identification cards, a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or Ohio R.C. 2913.31 (B), forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars (\$250.00).

(ORC 2913.31)

545.09 IDENTITY FRAUD.

(EDITOR'S NOTE: Former Section 545.09 has been deleted from the Codified Ordinances. Ohio R.C. 2913.49, from which Section 545.09 was derived, has been reclassified from a misdemeanor to a felony offense.)

545.99 PENALTY.

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

CHAPTER 549

Weapons and Explosives

549.01 Definitions.

549.02 Discharging firearms.

549.03 Throwing or shooting missiles.

549.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Permit to sell fireworks at wholesale - see Ohio R.C. 3743.321

License or permit to possess dangerous ordnance - see Ohio R.C. 2923.18

Hunting prohibited - see GEN. OFF. 505.11

Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)

549.01 DEFINITIONS.

As used in this chapter:

- (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.
- (b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.
 - (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.
- (c) "Handgun" means any of the following:
 - (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
 - (2) Any combination of parts from which a firearm of a type described in subsection (c)(1) of this section can be assembled.
- (d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.
- (e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.
- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (g) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:
 - (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pectretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
 - (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
 - (5) Any firearm muffler or suppressor;
 - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.
- (l) "Dangerous ordnance" does not include any of the following:
 - (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
 - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;
 - (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
 - (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (l)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
 - (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.
 - (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that Act.
 - (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.

- (n) (1) "Concealed handgun license" or "license to carry a concealed handgun" means, subject to subsection (n)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.
- (2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.1213, a license to carry a concealed handgun issued under Ohio R.C. 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Ohio R.C. 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.
- (o) "Valid concealed handgun license" or "valid license to carry a concealed handgun" means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.
- (p) "Misdemeanor punishable by imprisonment for a term exceeding one year" does not include any of the following:
 - (1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;
 - (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.
- (q) "Alien registration number" means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien's permanent resident card and may also be commonly referred to as the "USCIS number" or the "alien number".
- (r) "Active duty" has the same meaning as defined in 10 U.S.C. 101.
(ORC 2923.11)
(Ord. 17-289. Passed 12-5-17.)

549.02 DISCHARGING FIREARMS.

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

549.03 THROWING OR SHOOTING MISSILES.

- (a) No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction nor when otherwise lawfully authorized.
- (b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

549.99 PENALTY.

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

CHAPTER 553

Railroads

- 553.01 Obstructing streets by railroad companies.**
- 553.011 Obstructing streets by abandoning the locomotive.**
- 553.02 Climbing upon railroad cars.**
- 553.03 Duties of locomotive engineer.**
- 553.04 Speed limit for trains or locomotives.**
- 553.05 Recovery of penalties by civil action.**
- 553.06 Trains must have sufficient motive power before attempting to cross street.**
- 553.07 Obstructing fire division prohibited.**
- 553.08 Running switches across streets prohibited.**
- 553.09 Railroad vandalism.**
- 553.10 Grade crossing device vandalism.**
- 553.99 Penalty.**

CROSS REFERENCES

See sectional histories for similar State law
 Lighting railroads - see Ohio R.C. 723.33 et seq.
 Power to regulate train speed - see Ohio R.C. 723.48
 Vehicular homicide - see Ohio R.C. 2903.07
 Criminal mischief - see GEN. OFF. 541.03

553.01 OBSTRUCTING STREETS BY RAILROAD COMPANIES.

- (a) (1) No railroad company shall obstruct or permit or cause to be obstructed a public street, road or highway by permitting a railroad car, locomotive or other obstruction to remain upon or across it for longer than five minutes to the hindrance or inconvenience of

travelers or a person passing along or upon such street, road or highway.

- (2) At the end of each five minute period of obstruction of a public street, road or highway, each railroad company shall cause such railroad car, locomotive or other obstruction to be removed for sufficient time, not less than three minutes, to allow the passage of persons and vehicles waiting to cross.
- (3) This section does not apply to obstruction of a public street, road or highway by a continuously moving through train or caused by circumstances wholly beyond the control of the railroad company, but does apply to other obstructions, including without limitation those caused by stopped trains and trains engaged in switching, loading or unloading operations.
- (4) If a railroad car, locomotive, or other obstruction is obstructing a public street, road, or highway in violation of subsection (a)(1) hereof and the violation occurs in the unincorporated area of one or more counties, or in one or more municipal corporations, the officers and employees of each affected county or municipal corporation may charge the railroad company with only one violation of the law arising from the same facts and circumstances and the same act.
- (5) Upon the filing of an affidavit or complaint for violation of this subsection (a)(1) hereof, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred.

(ORC 5589.21)

- (b) For purposes of this section, "railroad company" includes the officers, employees and agents of such company.
- (c) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be fined one thousand dollars (\$1,000).

553.011 OBSTRUCTING STREETS BY ABANDONING THE LOCOMOTIVE.

(a) No railroad company shall obstruct, or permit or cause to be obstructed, a public street, road, or highway, by permitting any part of a train whose crew has abandoned the locomotive to remain across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon the street, road, or highway, unless the safety of the train crew requires them to abandon the locomotive.

(b) Upon the filing of an affidavit or complaint for violation of this section, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred. (ORC 5589.211)

(c) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be fined five thousand dollars (\$5,000). (ORC 5589.99)

553.02 CLIMBING UPON RAILROAD CARS.

(a) No person shall climb, jump, step or stand upon or cling or attach himself to a locomotive, engine or car upon the track of a railroad, unless in compliance with law or by permission under the rules and regulations of the corporation managing such railroad. (ORC 4999.02)

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

553.03 DUTIES OF LOCOMOTIVE ENGINEER.

(a) No person in charge of a locomotive shall fail to bring the locomotive to a full stop at least 200 feet before arriving at a crossing with another track, or proceed through the crossing before signaled to do so or before the way is clear.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If violation of this section causes physical harm to any person, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4999.04)

(Ord. 14-288. Passed 11-12-14.)

553.04 SPEED LIMIT FOR TRAINS OR LOCOMOTIVES.

No railroad company or any engineer or conductor thereof shall run any locomotive or railroad car within the corporate limits of the City at a rate of speed exceeding twenty miles per hour. (Ord. 552. Passed 9-10-07.)

553.05 RECOVERY OF PENALTIES BY CIVIL ACTION.

The City Manager shall, by civil action in behalf of the City, recover against any engineer, conductor or company violating the provisions of Section 553.04, the penalty prescribed by law. (Ord. 552. Passed 9-10-07.)

553.06 TRAINS MUST HAVE SUFFICIENT MOTIVE POWER BEFORE ATTEMPTING TO CROSS STREET.

No conductor, engineer or other person in charge of any car, cars or train of cars shall move or attempt to move the same upon or to cross or attempt to cross any of the streets or other public highways of the City without sufficient motive power attached thereto to readily move and quickly start and stop such car, cars, or trains of cars. (1907 Code Sec. 295)

553.07 OBSTRUCTING FIRE DIVISION PROHIBITED.

No conductor, engineer or other person in charge of any locomotive, car, cars or train of cars shall obstruct for any period of time whatever the free passage of any fire engine or other fire apparatus on its way to extinguish a fire. (1907 Code Sec. 296)

553.08 RUNNING SWITCHES ACROSS STREETS PROHIBITED.

No conductor, engineer or other person in charge of any locomotive, car, cars or train of cars shall make or cause to be made any running switch or switches of any car or cars upon or across any street or other public highway of the City. (1907 Code Sec. 297)

553.09 RAILROAD VANDALISM.

(a) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of, any railroad rail, railroad track, locomotive, engine, railroad car, or other vehicle of a railroad company while such vehicle is on a railroad track.

(b) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.

(c) No person, without privilege to do so, shall disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.

(d) Whoever violates subsection (a) of this section is guilty of railroad vandalism. Whoever violates subsection (b) of this section is guilty of criminal trespass on a locomotive, engine, railroad car or other railroad vehicle. Whoever violates subsection (c) of this section is guilty of interference with the operation of a train.

Except as otherwise provided in this subsection, railroad vandalism; criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree. If the violation of subsection (a), (b) or (c) of this

section causes serious physical harm to property, creates a substantial risk of physical harm to any person, causes physical harm to any person, or serious physical harm to any person, the violation is a felony and shall be prosecuted under appropriate State law.

(e) No person shall knowingly deface, damage, obstruct, remove, or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including any gate, bell, light, crossbuck, stop sign, yield sign, advance warning sign, or advance pavement marking.

(f) Whoever violates subsection (e) of this section is guilty of railroad grade crossing device vandalism. Except as otherwise provided in this division, railroad grade crossing device vandalism is a misdemeanor of the first degree. If the violation of subsection (e) of this section causes serious physical harm to property or creates a substantial risk of physical harm to any person, causes physical harm to any person, or causes serious physical harm to any person, railroad grade crossing device vandalism is a felony to be prosecuted under appropriate state law. (ORC 2909.10, 2909.101; Ord. 22-244. Passed 8-2-22.)

553.10 GRADE CROSSING DEVICE VANDALISM.

(a) No person shall knowingly deface, damage, obstruct, remove or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including any gate, bell, light, crossbuck, stop sign, yield sign, advance warning sign, or advance pavement marking.

(b) Whoever violates this section is guilty of railroad grade crossing device vandalism. Except as otherwise provided in this subsection, railroad grade crossing device vandalism is a misdemeanor of the first degree. If the violation of this section causes serious physical harm to property, creates a substantial risk of physical harm to any person, causes physical harm to any person, or causes serious physical harm to any person, railroad grade crossing device vandalism is a felony and shall be prosecuted under appropriate State law. (ORC 2909.101)

553.99 PENALTY.

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

CHAPTER 557

Park Rules and Regulations

557.01 Definitions.

557.02 Rules and regulations.

557.03 Removal or destruction of park property.

557.04 Deposit of materials.

557.05 Alcoholic beverages.

557.06 Traffic.

557.99 Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R.C. 755.25

Power to regulate vehicle speed in parks - see Ohio R.C. 4511.07(E)

Parking of motor vehicles - see TRAF. Ch. 351

Operation of motor vehicles - see TRAF. Ch. 331 - 341

Property offenses - see GEN. OFF. Ch. 541

557.01 DEFINITIONS.

Whenever the words, terms or expressions herein defined, or pronouns used in their stead, occur in this chapter, they shall have the meanings given below:

(a) "Board" or "the Board" means the Board of Parks and Recreation of the City.

(b) "Director" means the Director of Parks and Recreation.

(c) "Park" or "parks" includes all property owned or held in trust by the City for park purposes.

(d) "Motor vehicle" means the same as defined in Chapter 301 of the Traffic Code.

(e) "Drug of abuse" means the same as defined in Chapter 513 of the General Offenses Code.

(f) "Beer" and "intoxicating liquor" means the same as defined in Chapter 529 of the General Offenses Code.

(g) "Ball Diamond Complex" means Municipal Stadium and the softball diamonds located at Davey Moore Park and Lagonda Fields and the areas immediately adjacent thereto as shown on the drawings on file in the office of the Clerk of the City Commission.

(Ord. 89-455. Passed 8-15-89.)

557.02 RULES AND REGULATIONS.

The following rules and regulations are for the protection, care, and government of its parks and the use thereof by the public and are in addition to rules and regulations adopted by the Board pursuant to Chapter 161.

557.03 REMOVAL OR DESTRUCTION OF PARK PROPERTY.

No person shall remove, destroy, cut, break, injure, mutilate, write upon, or deface in any way any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, equipment, bench, tree, shrub, fern, plant, flower or any other property in any park.
(Ord. 79-191. Passed 5-22-79.)

557.04 DEPOSIT OF MATERIALS.

(a) No person shall deposit or discard in or adjacent to a park any paper, garbage, ashes, refuse or other noxious or waste material, other than in receptacles provided for the disposal of such materials.

(b) No person shall bring into a park any garbage, ashes, refuse or other noxious or waste material and deposit or discard the same in or adjacent to a park.

(c) No person shall, while in or adjacent to a park discharge, throw, drop or cause to flow into park waters any noxious or deleterious substance, either solid or liquid.
(Ord. 79-191. Passed 5-22-79.)

557.05 ALCOHOLIC BEVERAGES.

(a) Except as provided in subsection (e) of this section, no person shall consume or permit the consumption of any kind of beer or intoxicating liquor within park property except as permitted within restaurant facilities located on park property, or as purchased from a concessionaire lawfully operating from within a ball diamond complex and consumed within the complex. Such complexes shall be posted so as to indicate the areas in which the sale or consumption of alcoholic beverages is restricted.

(b) Nothing contained in this section, however, shall be construed as limiting the power of the Board to regulate the conduct of persons playing or otherwise participating in golf, baseball, softball or any other sporting event or activity while on park property.

(c) No person shall possess or use any drug of abuse within park property.

(d) No person shall enter or remain in any park while under the influence of beer or intoxicating liquor or any drug of abuse.

(e) Subsection (a) hereof shall not apply to the sale and consumption of beer or intoxicating liquor, sold by the individual drink, pursuant to a permit issued by the Ohio Department of Liquor Control, and with the prior authorization of the Board of Parks and Recreation.
(Ord. 84-366. Passed 7-31-84.)

557.06 TRAFFIC.

(a) No person shall operate a motor vehicle in any park except on and within the roadways provided for such motor vehicles.

(b) No person shall operate a motor vehicle in any park in such a manner as to endanger the operator or any other person or any property.

(c) No person shall operate a motor vehicle in any park in excess of the posted speed limit.

(d) No person shall park or leave a motor vehicle in an area of any park at a time when such area is not open to the public.

(e) No person shall park a motor vehicle on the grass in any park, or alongside any roadway or other area of any park where signs prohibit parking, except at the direction of a police officer.
(Ord. 79-191. Passed 5-22-79.)

557.99 PENALTY.

(a) Whoever violates any provision of Section 557.06 is guilty of a minor misdemeanor.

(b) Whoever violates any provision of Section 557.03 is guilty of a misdemeanor of the third degree.

(c) Whoever violates any other provision of this chapter where another penalty is not otherwise provided or any rule or regulation adopted by the Board pursuant to Chapter 161 is guilty of a minor misdemeanor for a first offense and of a misdemeanor of the fourth degree for each subsequent violation.

CODIFIED ORDINANCES OF SPRINGFIELD

PART SEVEN--BUSINESS REGULATION CODE

Chap. 701. Landlord-Tenant Rights and Responsibilities.

Chap. 705. Handbill Distribution.

Chap. 707. Sexually Oriented Businesses.

Chap. 739. Salvage Yard Operators.

Chap. 741. Peddlers.

Chap. 749. Public Utilities.

Chap. 765. Taxicabs.

Chap. 769. Used Motor Vehicles and Parts.

Chap. 771. Garage Sales.

Chap. 775. Ice Cream Trucks.

Chap. 776. Food Trucks.

CHAPTER 701

Landlord-Tenant Rights and Responsibilities

701.01 Definitions.

701.02 Landlord obligations.

701.03 Tenant-initiated housing complaints.

701.04 Rental agreement disputes.

701.01 DEFINITIONS

As used in this Section:

- (a) "Tenant" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others;
- (b) "Landlord" means the owner, lessor, or sublessor of residential premises, the agent of the owner, lessor, or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement.

701.02 LANDLORD OBLIGATIONS

Landlords shall furnish to all their tenants information regarding the rights and responsibilities of landlords and tenants under Revised Code Chapter 5321, the Ohio Landlord-Tenant Act, according to the following processes and terms and conditions:

- (a) the landlord shall deliver to the tenant before the tenant begins to occupy the premises either:
 - (1) a printed pamphlet regarding the rights and responsibilities of landlords and tenants under Revised Code Chapter 5321, the Ohio Landlord-Tenant Act, prepared by the City, or
 - (2) a written notice that an electronic copy of the pamphlet may be found at an internet address specified by the Community Development Director.
- (b) Receipt of either the printed pamphlet or the notice with the internet address must be acknowledged by signature of the tenant stating that the tenant has received either the printed pamphlet or the notice with the internet address. A prominent warning shall be featured near the place of affixing signatures that forging of any signature may have criminal penalties.
- (c) The Community Development Director shall make available to landlords at no cost, the pamphlet described in §(a)1 above and a specimen notice described in §(a)(2) above.
- (d) If a landlord fails to produce a copy of a signed receipt described in subsection (b) above upon request by the Community Development Director or the director's designee, the Director or designee shall issue to the landlord a notice of violation.
- (e) A second violation by a landlord in the same twelve month period is a Class B Civil Offense under the terms of Chapter 1324 of these Codified Ordinances.

701.03 TENANT-INITIATED HOUSING COMPLAINTS

When the City receives a complaint from a tenant of Code violations on the premises of the property subject to a rental agreement, the City shall give notice in writing to the landlord, including the nature of the complaint. If a landlord, after receipt of such notice, fails to remedy the condition within a reasonable time considering the severity of the condition and the time necessary to remedy it, the City may proceed with enforcement measures to gain Code compliance.

701.04 RENTAL AGREEMENT DISPUTES

Landlords and tenants shall have such rights and remedies as are provided in Chapter 5321 of the Ohio Revised Code with respect to disputes concerning the rental agreement.

CHAPTER 705

Handbill Distribution

705.01 Bill distribution resulting in littering.

705.02 Bill distributors not to ring doorbells.

705.03 Placing advertising material on vehicles prohibited.

705.99 Penalty.

CROSS REFERENCES

Power to regulate advertising - see Ohio R.C. 715.65

Trespassing - see Ohio R.C. 2911.21

Littering - see GEN. OFF. 521.08

705.01 BILL DISTRIBUTION RESULTING IN LITTERING.

No person distributing handbills or other advertising matter shall throw, cast or deposit, or cause such handbills or other advertising matter to be thrown, cast or deposited in or upon any yard, doorstep, porch, street, alley, lane, or any other public place within the City so that the same becomes littered or scattered.

(Ord. 71-70. Passed 5-4-71.)

705.02 BILL DISTRIBUTORS NOT TO RING DOORBELLS.

No person distributing handbills, circulars or other advertisements, shall ring the doorbell or otherwise call the occupants of any residence to the door for the purpose of receiving such handbill, circular or other advertisement that such person may be distributing.
(Ord. 71-70. Passed 5-4-71.)

705.03 PLACING ADVERTISING MATERIAL ON VEHICLES PROHIBITED.

No person shall place any handbill, circular, card, paper, or other advertising matter in or hang the same upon any part of any motor vehicle or cause the same to be done, while such motor vehicle is in use or standing parked upon the streets of the City. However, this section shall not be construed to prevent the officers or employees of the City from so doing for any Municipal purpose.
(Ord. 71-70. Passed 5-4-71.)

705.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor.

CHAPTER 707

Sexually Oriented Businesses

707.01 Purpose and intent.

707.02 Definitions.

707.03 Operator's license requirements.

707.04 Processing applications for sexually oriented business licenses.

707.05 Expiration and renewal of operator's license.

707.06 Suspension and revocation of operator's license.

707.07 Transfer of operator's license.

707.08 Right of entry.

707.09 Sexually oriented business employee permit.

707.10 Expiration and renewal of sexually oriented business employee permit.

707.11 Suspension or revocation of a sexually oriented business employee and independent contractor's permit.

707.12 Notices.

707.13 Appeal.

707.14 Standards of conduct and operation applicable to adult cabarets.

707.15 Regulations regarding minors and sexually oriented businesses.

707.16 Business operations standards.

707.17 Prohibitions.

707.18 Injunction and other.

NOTE: This chapter in its entirety was adopted with Ordinance No. 19-85 passed March 26, 2019.

707.01 PURPOSE AND INTENT.

(a) It is the intent of this Chapter to regulate sexually oriented businesses, to promote the health, safety, morals and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of sexually oriented businesses within the City, and to regulate their operation, thereby reducing or eliminating the adverse secondary effects from such sexually oriented businesses.

(b) It is not the intent nor effect of this Chapter 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.

(Ord. 19-85. Passed 3-26-19.)

707.02 DEFINITIONS.

As used in this Chapter and in Part Eleven - Zoning Code:

(a) "Adult arcade" means an establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, or other visual representations, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(b) "Adult cabaret" means a nightclub, bar, restaurant, private club, bottle club, juice bar or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

(1) Persons who appear nude or semi-nude or in a state of nudity or semi-nudity;

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(3) Films, motion pictures, video cassettes, digital video discs, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

(c) "Adult motel" means a motel, hotel or similar commercial establishment which offers public accommodation, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, digital video discs, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio, television, internet or social media.

(d) "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, digital video discs, slides or similar photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

(e) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or semi-nudity or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities which is not customarily open to the general public during such features because it excludes minors by reason of age.

(f) "Applicant" means any person who signs an application for a license to operate a sexually oriented business under Section 707.03.

(g) "Conviction" or "convicted" means a finding of guilt by a court of law, but shall not include convictions overturned on appeal prior to the date of application under this Chapter.

(h) "Employee" means a person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business, or a person who receives any form of remuneration, tips of any kind or gratuities from the operator or customers of said business.

(i) "Entertainer" means any person who provides sexually oriented adult entertainment in an adult cabaret or sexual encounter establishment whether or not an employee of the operator and whether or not a fee is charged or accepted for such entertainment.

(j) "Escort" means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately appear in the state of nudity or semi-nudity for another person.

(k) "Escort agency" means a person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(l) "Establishment" means and includes any of the following:

(1) The opening or commencement of any sexually oriented business as a new business;

(2) The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this Chapter;

(3) The addition of any of the sexually oriented businesses defined in this Chapter to any other existing sexually oriented business; or

(4) The relocation of any such sexually oriented business.

(m) "Independent contractor" means a person who contracts with a sexually oriented business establishment to provide services on behalf of the sexually oriented business to the patrons of such business, whether or not the individual receives any remuneration, gratuity or tips of any kind, or pays the owner or operator for the right to perform or entertain in the sexually oriented business. The intention of this paragraph is to exclude those persons who are not employees and who are not reasonably expected to have contact with customers or patrons of the sexually oriented business, including, but not limited to, persons on the licensed premises performing repair or maintenance services or delivering goods to the licensed premises.

(n) "License holder" means a person or entity in whose name a license to operate a sexually oriented business has been issued.

(o) "Licensed premises" means any premises on which a business that holds a license issued under this Chapter is located.

(p) "Manager" means any person who participates directly in the day-to-day management of the sexually oriented business.

(q) "Massage parlor" means any place where, for any form of consideration massage, or any other treatment or manipulation of the human body which occurs as a part of or in connection with specified sexual activities is offered, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her specified anatomical areas.

(r) "Nude, nudity or state of nudity" means a live person exhibiting: (a) the anus, male genitals, female genitals, or the areola or nipple of the female breast; or (b) a state of dress which fails to opaquely and fully cover the anus, male or female genitals, pubic region or areola or nipple of the female breast.

(s) "Operate or cause to be operated" means to cause to function or to put or keep in operation.

(t) "Operator" means and includes any persons on the licensed premises of a sexually oriented business who are authorized to exercise overall operational control of the business or who cause to function or put or keep in operation the business. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner or license holder of the business.

(u) "Owner" includes any person or entity listed as an owner on the application for a license to operate a sexually oriented business and the manager, operator or person in charge of the business.

(v) "Physical contact" means deliberately touching another person or another person's clothing.

(w) "Regularly features" or "regularly shown" means, with respect to an adult theatre or adult cabaret, that as a consistent course of conduct, the business displays films or performances containing the depiction or description of specified sexual activities or specified anatomical areas.

(x) "Semi-nude model studio" means any place where a person regularly appears in a state of nudity or semi-nudity or displays specified anatomical areas for money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons.

(y) "Semi-nude, semi-nudity or a state of semi-nudity" means a state of dress in which opaque clothing covers no more than the genitals, pubic region and areolas of the female breast, as well as portions of the body covered by supporting straps or devices.

(z) "Sex Store" means a retail business offering goods for sale or rent and that meet any of the following tests:

(1) More than ten percent (10%) of the stock in trade or more than ten percent (10%) of the gross public floor area of the business consists of "sexually- oriented novelties or toys";

(2) It offers for sale items from any two (2) of the following categories: "adult media," "sexually-oriented novelties or toys," lingerie, or apparel or other items marketed or presented in a context to suggest their use for sadomasochistic practices, and the combination of such items constitutes more than ten percent (10%) of the stock in trade of the business or occupies more than ten percent (10%) of the gross public floor area of the business; or

(3) Which advertises or holds itself out in any forum as a sexually oriented business by use of such terms as "sex toys," "marital aids," "X-rated," "XXX," "adult," "sex," "nude," or otherwise advertises or holds itself out as a sexually oriented business.

(4) "Sex store" shall not include any establishment which, as a substantial portion of its business, offers for sale or rental to persons employed in the medical, legal or education professions anatomical models, including representations of human genital organs or female breasts, or other models, displays, and exhibits produced and marketed primarily for use in the practice of medicine or law or for use by an educational institution.

(aa) "Sexual encounter establishment" means a business or commercial establishment, that as one of its principal business purposes, offers for any form of consideration: (a) a place where two or more persons may congregate, associate or consort for the purpose of specified sexual activities or the exposure of specified anatomical areas; or (b) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity. A "sexual encounter establishment" does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Ohio engages in medically approved and recognized therapy.

(bb) "Sexually oriented adult entertainment" means a live performance at an adult cabaret.

(cc) "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty shop, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor, sexual encounter establishment, sex store, escort agency or semi-nude model studio, as the terms are defined in this Chapter.

(dd) "Simulate" means to assume the mere appearance of something, without the reality; to imitate or pretend.

(ee) "Specified anatomical areas," means and includes any of the following:

(1) Less than completely and opaquely covered human genitals, pubic region, anus, or areolas or nipple of female breasts; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(ff) "Specified criminal act," means sexual crimes against children, sexual abuse, rape or the following crimes connected with another sexually oriented business: distribution of material harmful to minors, prostitution or tax violations.

(gg) "Specified sexual activities," means and includes any of the following:

- (1) The fondling or other intentional touching of human genitals, pubic region, anus, or female breast;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- (3) Masturbation, actual or simulated;
- (4) Human genitals in a state of sexual stimulation, arousal or tumescence; or
- (5) Excretory functions as part of or in connection with any of the activities set forth in divisions (1) through (4) of this definition.
- (hh) "Transfer of ownership or control," shall mean any of the following:
 - (1) The sale, lease or sublease of the business;
 - (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
 - (3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the sexually oriented business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
- (ii) "Viewing room" means the room, booth or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video or other video reproduction.

(Ord. 19-85. Passed 3-26-19.)

707.03 OPERATOR'S LICENSE REQUIREMENTS.

(a) Any person who wishes to operate a sexually oriented business within the City must make application for a license under this Section. A person operating a sexually oriented business prior to the effective date of this ordinance must apply for such a license within sixty (60) days of the effective date.

(b) An application for a license must be made on a form provided by the City. An individual who wishes to operate a sexually oriented business shall sign the application for a license. An entity that wishes to operate a sexually oriented business shall file an application for a license signed by an authorized representative of the entity.

(c) The completed application shall contain the following information and shall be accompanied by the documents indicated:

- (1) If the applicant is:
 - A. An individual, the individual shall state his or her legal name and any aliases;
 - B. A partnership, the applicant shall state the partnership's complete name, provide a copy of the legal document establishing the organization, the name and address of the statutory agent or other agent authorized to accept service of process, and the legal name and any aliases of each general partner;
 - C. A corporation, the applicant shall state the corporation's complete name, provide a copy of the legal document establishing the organization all trade names used by the corporation and the name and address of the statutory agent;
 - D. A limited liability company or limited liability partnership, the applicant shall state the name of the limited liability company or limited liability partnership, provide a copy of the legal document establishing the organization, the name and address of the agent for service of process, and the legal name and all trade names used by the limited liability company or limited liability partnership.
- (2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, the applicant must state the sexually oriented business's fictitious name and evidence that the fictitious name has been registered with the Ohio Secretary of State.
- (3) A sworn statement as to whether the applicant, or any officer, director, member or general partner of the applicant has, within the five- year period immediately preceding the date of the application, been convicted of a specified criminal act, and, if so, the name of the pertinent applicant or manager, the specified criminal act involved, the date of the conviction and the place of conviction.
- (4) A sworn statement as to whether the applicant, or any officer, director, member or general partner of the applicant has had a previous license under this Chapter or other similar sexually oriented business regulations from another city, county, township or state denied, suspended or revoked within a five-year period immediately preceding the date of the application, including the name of the pertinent applicant or officer, director, member or general partner of the applicant, the name and location of the sexually oriented business for which the license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, reason for the same and length of suspension.
- (5) A sworn statement as to whether the applicant or any officer, director, member or general partner of the applicant holds any other permits and/or licenses under this Chapter or other similar sexually oriented business from another city, county, township or state and, if so, the name of the pertinent applicant, officer, director, member or general partner and the names and locations of such other licensed businesses.
- (6) The type of sexually oriented business for which the applicant is filing a license application.
- (7) The proposed location of the sexually oriented business, including a legal description of the licensed premises, and street address.
- (8) Written proof of date of birth of any individual applicant.
- (9) A sketch or diagram showing the configuration of the licensed premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus one foot.
- (10) Written authorization for the completion of a criminal background check for each owner, operator, manager, officer, director, member or general partner of the applicant.
- (11) A list of the names of all employees and independent contractors require to hold a permit under Section 707.09(a) to be employed upon the opening of the business.
- (12) The application shall be sworn to be true and complete.

(d) In the event that the City Manager determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, or that information within the application is inaccurate, the City Manager shall promptly notify the applicant of such fact and allow the applicant ten days to properly complete or correct the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.

(e) The applicant shall pay a non-refundable application fee of three hundred dollars (\$300.00) at the time of filing an application pursuant to this Chapter to defray the administrative expenses associated with processing the application, including, but not limited to, any reasonable investigations associated therewith.

(f) The fact that a person possesses other types of State or City permits and/or licenses does not exempt that person from the requirement of obtaining a sexually oriented business license or qualify that person for a sexually oriented business license.

(g) Names and residential addresses gathered pursuant to the above provisions constitute protected private information. As such and in accordance with , Déjà Vu of Nashville, Inc. v. Metropolitan Government of Nashville, 274 F.3d 377 (Sixth Circuit, 2001), they are exempt from Ohio's Public

Records Act.

(Ord. 19-85. Passed 3-26-19.)

707.04 PROCESSING APPLICATIONS FOR SEXUALLY ORIENTED BUSINESS LICENSES.

(a) The City Manager is responsible for granting, denying, revoking, renewing and suspending sexually oriented business operator's licenses. The City Manager may delegate these responsibilities to another person or office by entry in the City Manager's Journal.

(b) In the event that the City Manager determines or learns at any time that the applicant has improperly completed the application for a proposed sexually oriented business, or that information within the application is inaccurate, the City Manager shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete or correct the application. The time period for granting or denying a license shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.

(c) The City Manager may delegate the duties assigned to the City Manager under this Chapter by an entry in the City Manager's Journal.

(d) Upon receipt of an application properly filed with the City and upon payment of the application fee, the City Manager shall promptly evaluate the application in accordance with this Chapter.

(e) The City Manager shall grant the application unless:

- (1) Any applicant, or any officer, director, member or general partner of the applicant is under 18 years of age;
- (2) Any applicant or any officer, director, member or general partner of the applicant is overdue on his or her payment to the City of taxes, fees, fines or penalties assessed against him or her or imposed upon him or her in relation to a sexually oriented business;
- (3) Any applicant or any officer, director, member or general partner of the applicant has failed to comply with Section 707.03;
- (4) Granting of the application would violate a court order;
- (5) An applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient;
- (6) Any applicant or any officer, director, member or general partner of the applicant has a license under this Chapter which has been suspended more than three times or revoked during the five-year period preceding the application; or
 - A. Any applicant or any officer, director, member or general partner of the applicant has been convicted of a specified criminal act for which less than five years have elapsed since the date of conviction, the date of completion of probation, or the date of release from confinement, for the specified criminal acts.
 - B. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.
- (7) The location of the proposed sexually oriented business fails to satisfy the criteria set forth in the applicable provisions of Part Eleven - Zoning Code, unless the sexually oriented business was lawfully operating in its present location on the effective date of this ordinance.
- (8) The application fee has not been paid.

(f) If the City Manager fails to act with respect to a properly filed application within ten (10) days of its submission, the application shall be deemed granted.

(g) If the City Manager denies the application, the City Manager shall promptly notify the applicant of the denial in writing and state the reasons(s) for the denial.

(h) If granted, the license shall state on its face the name of the person or persons to whom it is granted, the expiration date, the type of sexually oriented business approved and the address of the sexually oriented business. The license shall be posted in a conspicuous interior location at or near the entrance to the sexually oriented business so that it can be read easily at any time by a reasonable person.

(Ord. 19-85. Passed 3-26-19.)

707.05 EXPIRATION AND RENEWAL OF OPERATOR'S LICENSE.

(a) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 707.03 and paying the renewal fee.

(b) The annual license renewal fee for a sexually oriented business license is one hundred dollars (\$100.00). A license shall not be issued until the annual license renewal fee is paid. The annual license renewal fee shall be due each year for which the application for a renewal of the license for the business is received.

(c) The City Manager shall grant the renewal application unless one of the conditions in 707.04(e) above applies.

(Ord. 19-85. Passed 3-26-19.)

707.06 SUSPENSION AND REVOCATION OF OPERATOR'S LICENSE.

(a) The City Manager may suspend an operator's license issued under this Chapter upon finding any of the following:

- (1) The operator or any officer, director, member or general partner or manager of the operator:
 - A. Violated any section of this Chapter; or
 - B. Has been under the influence of alcoholic beverages or controlled substances while working in or on the sexually oriented business premises; or
 - C. Tolerated or allowed illegal gambling by any person on the sexually oriented business premises; or
 - D. Engaged in the transfer of a license contrary to Section 707.07(a)(b)(c); or
 - E. Operated the sexually oriented business in violation of the hours of operation in Section 707.16(a)(3)(4); or
 - F. Employed a person who does not have a valid permit as required in Section 707.09.

(b) A suspension shall be for a period of no less than thirty (30) days nor more than ninety (90) days.

- (c) The City Manager shall revoke an operator's license issued under this Chapter upon finding any of the following:
- (1) An Operator's License has been granted based upon false information; or
 - (2) An operator or manager knowingly allowed possession, use or sale of controlled substances in or on the premises; or
 - (3) An operator or manager knowingly allowed prostitution on the licensed premises; or
 - (4) An operator or manager knowingly operated the sexually oriented business during a period of time when the license was suspended; or
 - (5) A License Holder or any officer, director, member or general partner of the License Holder has been convicted of a specified criminal act for which the time period required in Section 707.04(6)(a) has not elapsed; or
 - (6) On three or more occasions within a thirty-six (36) month period, the City Manager has suspended the License Holder's license under this Chapter; or
 - (7) On two or more occasions within a thirty-six (36) month period, a person has been convicted of a specified criminal act on the licensed premise. The fact that a conviction is being appealed shall have no effect on the revocation of the license; or
 - (8) A License Holder is convicted of tax violations for any taxes or fees related to a sexually oriented business; or
 - (9) A License Holder or a manager has knowingly allowed any sexual activity, as defined in either Ohio R.C. 2907.01, or in Section 707.02(gg) above to occur on the licensed premises; or
 - (10) A license holder has failed to comply with Section 707.08 on three or more occasions within a twelve (12) month period.

(d) The revocation of an Operator's License is permanent. The holder of an Operator's License that has been revoked shall not be issued a sexually oriented business Operator's License for any other location in the City during the four (4) year period beginning with the effective date of the revocation.

(e) Appeal. The holder of an operator's license that has been suspended or revoked may appeal as provided in Section 707.13.

(Ord. 19-85. Passed 3-26-19.)

707.07 TRANSFER OF OPERATOR'S LICENSE.

(a) No person shall operate a sexually oriented business under the authority of an Operator's License at any place other than the address designated in the license.

(b) No license holder shall transfer a license to another person or another sexually oriented business unless and until the proposed transferee has been issued an Operator's License under this Chapter.

(c) No license may be transferred if the City Manager determines that the Operator's License to be transferred is subject to suspension or revocation.

(d) Any attempt to transfer a license either directly or indirectly in violation of this section is hereby declared void and the license shall be deemed revoked.

(Ord. 19-85. Passed 3-26-19.)

707.08 RIGHT OF ENTRY.

By applying for or receiving a license under this Chapter all owners and operators of a sexually oriented business grant to the City and its agents and employees a right of entry to the licensed premises during hours in which it is open for business and during such additional hours as are reasonable in order to allow them to assure continuing compliance with the regulations of this Chapter.

(Ord. 19-85. Passed 3-26-19.)

707.09 SEXUALLY ORIENTED BUSINESS EMPLOYEE PERMIT.

(a) All applicants for a sexually oriented business employee permit shall submit an application on a form to be provided by the City Manager containing the following information:

- (1) The individual's name and a personal or business address where mail may be delivered.
- (2) Written proof of date of birth showing that the individual is at least 18 years of age.
- (3) A statement as to whether the applicant has had a similar license, permit, or authorization to do business denied, revoked or suspended in the two years immediately preceding the application. In the event of any such denial, revocation or suspension, the individual shall state the date, the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation or suspension and the length of the suspension. A copy of any order of denial, revocation or suspension shall be attached to the application if applicable.
- (4) A statement as to whether the individual has been convicted of a specified criminal act as defined in Section 707.02(ff) within five years including the date, place, nature of each conviction, and the court in which the conviction occurred.
- (5) Two identical passport-quality photographs of the individual, approximately two inches in size, taken within the preceding year, for use on the permit and application.

(b) Each applicant for such a permit shall pay a permit fee of twenty-five dollars (\$25.00).

(c) The City Manager shall issue a permit unless:

- (1) The application is incomplete or inaccurate in any material respect.
- (2) The applicant is under 18 years of age.
- (3) The applicant has been convicted of a specified criminal act as defined in Section 707.02(ff).
- (4) The applicant has had a sexually oriented business employee and independent contractor's permit revoked by the City within two (2) years of the date of the current application or suspended three or more times within three (3) years of the date of the current application.
- (5) The applicant has had a similar license, permit, or authorization to do business issued by another jurisdiction denied, revoked or suspended in the two (2) years immediately preceding the application.

(d) If the City Manager fails to act with respect to a properly filed application within ten (10) days of its submission, the application shall be deemed granted.

(e) Names and residential addresses gathered pursuant to the above provisions constitute protected private information. As such and in accordance with , *Déjà Vu of Nashville, Inc. v. Metropolitan Government of Nashville*, 274 F.3d 377 (Sixth Circuit, 2001), they are exempt from Ohio's Public Records Act.

(Ord. 19-85. Passed 3-26-19.)

707.10 EXPIRATION AND RENEWAL OF SEXUALLY ORIENTED BUSINESS EMPLOYEE PERMIT.

(a) Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 707.09 and paying the renewal fee.

(b) The annual permit renewal fee for a sexually oriented business employee and independent contractor permit is twenty-five dollars (\$25.00). A permit shall not be issued until the annual permit renewal fee is paid. The annual permit renewal fee shall be due each year for which the application for a renewal of the permit for the business is received.

(c) The City Manager shall grant the renewal application unless one of the conditions in Section 707.09(c) above applies.

(Ord. 19-85. Passed 3-26-19.)

707.11 SUSPENSION OR REVOCATION OF A SEXUALLY ORIENTED BUSINESS EMPLOYEE AND INDEPENDENT CONTRATOR'S PERMIT.

(a) The City Manager may suspend a sexually oriented business employee and independent contractor's permit upon finding any of the following:

(1) The permit holder's original or any renewal permit application contained a material misstatement; or
(2) The permit holder was under the influence of alcoholic beverages or controlled substances while working in or on the sexually oriented business premises; or

(3) The permit holder participated in illegal gambling by any person on the sexually oriented business premises; or

(4) The permit holder participated in operating the sexually oriented business in violation of the hours of operation in Section 707.16.

(b) A suspension shall be for a period of no less than thirty (30) days nor more than ninety (90) days.

(c) The City Manager may revoke a sexually oriented business employee and independent contractor's permit upon finding any of the following:

(1) The permit holder participated in the possession, use or sale of controlled substances on the premises,

(2) The permit holder participated in prostitution on the licensed premises,

(3) An operator or manager knowingly operated the sexually oriented business during a period of time when the permit was suspended,

(4) The permit holder was been convicted of a specified criminal act during the term of the permit,

(5) On three or more occasions within a thirty-six (36) month period, the City Manager has suspended the holder's permit under this Chapter,

(6) The permit holder has allowed or attempted to allow another person to use the holder's permit,

(7) The permit holder has participated in any sexual activity, as defined in either Ohio R.C. 2907.01, or in Section 707.02(gg) above on the licensed premises,

(8) A permit holder has violated any provision of Section 707.16 on three (3) or more occasions within a twelve (12) month period.

(d) The revocation of a sexually oriented business employee and independent contractor's permit is permanent.

(e) Appeal. The holder of a sexually oriented business employee permit that has been suspended or revoked may appeal as provided in Section 707.13.

(Ord. 19-85. Passed 3-26-19.)

707.12 NOTICES.

Any notices required pursuant to this Chapter not otherwise specified herein shall be sufficient if served by certified mail, return receipt requested, or by personal delivery to the applicants and permit holders affected at the business or residential address listed on the application and addressed to the business or applicant. If the permit is issued to an entity, service of notice as provided above to the service agent listed on the application shall be sufficient.

(Ord. 19-85. Passed 3-26-19.)

707.13 APPEAL.

(a) If the City Manager issues a denial, suspension, or revocation of a license or permit or application for a license or a permit under this Chapter, the City Manager shall notify the applicant, permit holder or license holder in writing of the denial, suspension or revocation of the permit or application, including the grounds therefor, within three business days of such decision. The notification shall be directed as provided in Section 707.04.

(b) When a decision to deny, suspend or revoke a permit has been appealed and that decision becomes final, the applicant or license holder whose application for a permit has been denied or whose permit has been suspended or revoked shall have the right to appeal such action to a court of competent jurisdiction pursuant to the Ohio R.C. 2506.

(Ord. 19-85. Passed 3-26-19.)

707.14 STANDARDS OF CONDUCT AND OPERATION APPLICABLE TO ADULT CABARETS.

(a) A person who operates or causes to be operated an adult cabaret regardless of whether or not a license has been issued to the business under this Chapter shall comply with the following requirements:

(1) No entertainer shall be permitted to have any physical contact with any other entertainer, employee or customer on the premises during any performance.

(2) No customer at an adult cabaret shall be permitted to have any physical contact with any entertainer or employee appearing in a state of semi-nudity during a performance.

(3) The portion of the adult cabaret in which sexually oriented adult entertainment is performed shall be on a stage or platform at least eighteen (18) inches above the immediate floor level and that is separated from all patron seating areas by at least six (6) feet.

(4) A sign in lettering at least three-fourths (¾) inch high shall be conspicuously displayed in the public area of the business stating the following:

THIS ADULT CABARET IS REGULATED BY THE CITY OF SPRINGFIELD, OHIO. CUSTOMERS ARE NOT PERMITTED TO ENGAGE IN PHYSICAL CONTACT WITH ENTERTAINERS. DURING THE COURSE OF A PERFORMANCE, ENTERTAINERS ARE NOT PERMITTED TO ENGAGE IN PHYSICAL CONTACT WITH ANY OTHER ENTERTAINER, EMPLOYEE OR CUSTOMER DURING A PERFORMANCE. AT ALL TIMES DURING A PERFORMANCE, THE ENTERTAINER MUST MAINTAIN AT LEAST A SIX (6) FOOT BUFFER ZONE FROM ALL CUSTOMERS.

(Ord. 19-85. Passed 3-26-19.)

707.15 REGULATIONS REGARDING MINORS AND SEXUALLY ORIENTED BUSINESSES.

(a) No person who operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for the business, shall authorize, suffer or allow:

(1) Admittance of a person under 18 years of age to the business premises.

(2) A person under 18 years of age to remain at the business premises.

(3) A person under 18 years of age to purchase goods or services at the business premises.

(4) A person who is under 18 years of age to work at the business premises as an employee, contractor, subcontractor or employee of a contractor or subcontractor.

(b) It shall be the duty of the license holder to obtain such documentation as is necessary to assure that this section is not violated.

(Ord. 19-85. Passed 3-26-19.)

707.16 BUSINESS OPERATIONS STANDARDS

(a) No person who operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for the business, shall authorize, suffer or allow:

(1) Any portion of the interior premises to be visible from outside the premises nor allow any activity conducted on the premises to be visible from any location outside of the building in which the sexually oriented business is conducted.

(2) Any employee, independent contractor or other person in a state of nudity or semi-nudity to be visible from outside of the building in which the sexually oriented business is conducted.

(3) A business operating under a liquor permit issued by the State of Ohio to remain open or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service beyond the hours of operation authorized by the liquor permit.

(4) A business not operating under a liquor permit issued by the State of Ohio to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service or solicit a service, before 8:00 a.m. or after 12:00 midnight.

(b) A person who operates or causes to be operated a sexually oriented business, regardless of whether or not a permit has been issued for the business, shall furnish to the City Manager, the name of each person working as an employee or independent contractor at the business premises prior to such person beginning work.

(Ord. 19-85. Passed 3-26-19.)

707.17 PROHIBITIONS.

(a) No person shall operate more than one license of a sexually oriented business at any one licensed premises.

(b) No person shall cause or permit the establishment or operation of any sexually oriented businesses, as defined under this Chapter, within the City, on any premises contrary to the applicable provisions of Part Eleven of these codified ordinances -Zoning Code.

(c) No person shall establish or operate a sexually oriented business except as authorized by a license issued under in this Chapter.

(d) No person shall employ another person as a sexually oriented business employee or independent contractor who is not authorized to work or perform services pursuant to this Chapter.

(e) No person who does not hold a permit issued under Section 707.09 above shall work as a sexually oriented business employee or independent contractor.

(f) No employee of an adult cabaret shall have physical contact with any other entertainer, employee, independent contractor or customer on the premises during any performance.

(g) No person shall engage in any specified sexual activities while on the premises of a sexually oriented business.

(h) No owner or operator of a sexually oriented business shall violate Section 707.15, Regulation Regarding Minors and Sexually Oriented Businesses.

(i) No owner or operator of a sexually oriented business shall violate Section 707.16, Business Operations Standards.

(j) No person shall make any false statement with regard to any license or permit required by this Chapter 707.

(k) A violation of Section 707.17(a), (b), (c), (d), (e), (f), (g), (h), (i) or (j) above is a misdemeanor of the first degree.

(Ord. 19-85. Passed 3-26-19.)

707.18 INJUNCTION AND OTHER REMEDIES

(a) The operation of a sexually oriented business other than as authorized by a license issued under this Chapter is a public nuisance. The Law Director is authorized to seek injunctive or other relief to abate such a nuisance. If any injunctive relief must be sought, reasonable attorneys' fees and related costs and expenses shall be assessed at the discretion of the court against the sexually oriented business, its owners and operators.

(b) All remedies and penalties provided for in this section shall be cumulative and independently available to the City and the City shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law.

(Ord. 19-85. Passed 3-26-19.)

CHAPTER 739

Salvage Yard Operators

739.01 Definitions.

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CROSS REFERENCES

Power to regulate secondhand dealers--see Ohio R.C. 715.61

Dealing with minors prohibited; hours regulated--see Ohio R.C. 4737.03

State licensing and required fencing--see Ohio R.C. 4737.05 et seq.

Used motor vehicles and parts--see BUS. REG. Ch. 769

739.01 DEFINITIONS.

For the purpose of Chapter 739, the following words and phrases shall have the following meanings ascribed to them respectively.

- (a) "Business premises" or "premises" means the area of a salvage yard as described in a salvage yard operator's license or application for license as provided in Chapter 739.
- (b) "Salvage" means scrap iron, steel, brass, copper, tin, lead, or other base metals; used building materials; used plumbing, heating, ventilation, air conditioning and electrical fixtures; old cordage, ropes, rags, fibers, or fabrics; old rubber and used tires; old bottles or other glass; bones, wastepaper and other waste or discarded material which might be prepared to be used again in some form; used auto parts; wrecked, ruined or partially dismantled motor vehicles and motor vehicles, no longer used as such, to be used for scrap metal or stripping of parts. "Salvage" shall include those materials commonly or customarily referred to as "junk". "Salvage" shall not include materials or objects accumulated by a person as by-products, waste, or scraps (excepting therefrom parts of machines and vehicles) from the operation of his own business and which are stored indoors or in an enclosed container; materials or objects held and used by a manufacturer as an integral part of his own manufacturing processes; used articles made of precious metal, used jewelry; or used furniture and household appliances in operating condition stored indoors for resale. "Salvage" shall not include garbage or rubbish.
- (c) "Salvage yard" means a yard, lot, or place, covered or uncovered, outdoors or in an enclosed building when the salvage contained in the enclosed building covers more than two hundred square feet of floor space in the enclosed building, containing salvage, upon which occurs one or more acts of buying, keeping, storing, dismantling, selling, recycling, exchanging, or offering for sale any such salvage, in whole units or by parts, for a business or commercial purpose, or for personal use, and including the processing of iron, steel, nonferrous metals, or wastepaper for sale to be used in manufacturing, whether or not the proceeds from such actor acts or such sale are to be used for charity.
- (d) "Salvage yard operator" means a person who operates a salvage yard.
- (e) The terms "garbage" and "rubbish" shall have the same meaning given to those terms in Chapter 919.
- (f) The term "combustible salvage material" means readily ignitable and free burning fibers, such as cotton, sisal, henequen, ixtle, jute, hemp, tow, coca fiber, okum, bailed paper, kapok, hay, straw, spanish moss, excelsior and synthetic fibers; those substances which have a flash point of above 80⁰ Fahrenheit to and including 150⁰ Fahrenheit, as determined by the Tagliabue open cup tester.
- (g) The term "hazardous substance" means a substance or mixture of substances which:
 - (1) Is Toxic;
 - (2) Is corrosive;
 - (3) Is an irritant;
 - (4) Is a strong sensitizer;
 - (5) Is radioactive and has a capacity to produce personal injury or illness to man through ingestion, inhalation or absorption through any body surface; or Generates pressure through decomposition, heat, or other means, if such substances or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(Ord. 88-318. Passed 5-31-88.)

739.02 LICENSE REQUIRED.

No person shall act as a salvage yard operator whether personally, by agents or employees, or singly along with some other business or enterprise, without first having obtained a license therefor from the Community Development Department or while such license is under suspension or revocation as provided in Section 739.12.

(Ord. 94-368. Passed 10-11-94.)

739.03 SEPARATE LICENSE FOR EACH SALVAGE YARD.

A salvage yard operator who operates more than one salvage yard within the City shall be required to have a separate license for each salvage yard.

(Ord. 88-318. Passed 5-31-88.)

739.04 SALVAGE YARD OPERATOR LICENSING BOARD.

A Salvage Yard Operator Licensing Board, hereinafter referred to as the Licensing Board, consisting of the City Manager, Community Development Director, Health Commissioner, Chief of the Police Division and the Chief of the Fire Division, or their duly authorized representatives, is created with the City Manager, or his duly authorized representative, as Chairman. Except where otherwise provided, a majority of the members of the Licensing Board shall constitute a quorum. The Licensing Board shall appoint a secretary for itself from among the employees of the City, adopt its own procedural rules, and keep a record of its proceedings and transactions.

(Ord. 94-368. Passed 10-11-94.)

739.05 ENFORCEMENT.

It is made the duty of the Licensing Board to enforce, or aid in the enforcement of the provisions of Chapter 739, and for this purpose any member of the Board, or his duly authorized representative, shall have the right and is empowered to enter upon any premises on which any business subject to the provisions of these sections is located, or is about to be located, and inspect the same at any reasonable time. The Licensing Board is further empowered to issue orders granting, suspending, or revoking any license provided for in accordance with the provisions of these sections.

(Ord. 88-318. Passed 5-31-88.)

739.06 APPLICATION FOR LICENSE; CONTENTS.

(a) An applicant for a salvage yard operator's license shall be supplied an application blank by the Community Development Director which shall be completed by the applicant and filed with the Chairman of the Licensing Board together with the required fee. The application shall be signed by the applicant, if an individual, by all partners, if a partnership, and by the president or chief officer, if a corporation or other organization. The application shall be sworn to by each of its signers before a notary public or other officer authorized by law to administer oaths.

(b) All salvage yard operator applications shall contain the following information:

- (1) A. The legal name and any trade names of applicant,
B. Whether the applicant is a sole proprietorship, general partnership, limited partnership, corporation, association, trust or other type of entity,
C. The applicant's business street address and mailing address,
D. The applicant's City income tax identification number and the applicant's social security number or federal employer identification number,
E. The applicant's vendor license number and issue date,
F. The applicant's business telephone number,
G. A description of applicant's business activities, including applicant's hours of operation, and
H. The name, residence street address, residence telephone number, social security number, date of birth, residence addresses for the past five years and the name and location of each business affiliate in the salvage business during the past five years of applicant if the applicant is a sole proprietorship or of applicant's manager if the applicant is managed by anyone other than a sole proprietor.
- (2) For each officer of an applicant corporation, for each general partner of an applicant partnership, for each member of an applicant association and for each trustee of an applicant trust:
A. The name, social security number and date of birth,
B. The residence street address and residence telephone number,
C. The individuals residence addresses for the past five years and the name and location of each business affiliate in the salvage business during the past five years,
D. The relationship of such person to applicant.
- (3) With respect to the applicant and to each person specified in subsection (b)(2) hereof a statement as to whether such person has been previously convicted of any felony, any theft offense, any violations of Ohio R.C. Chapters 4737 or 4738, or Chapter 739 of the City's Codified Ordinances and as to whether any indictments are pending against such person.
- (4) Regarding the premises to be used as a salvage yard:
A. The permanent parcel number(s),
B. The area of the premises in acres or square feet,
C. The name, address and telephone number of each holder(s) of a freehold estate in the premises and all lessees and land contract vendees along with a description of each such person's interest in the premises,
D. A description of each existing structure on the premises and a description of the current and intended use of each such structure.
E. A description of combustible salvage material and hazardous substances intended to be kept on the premises and the anticipated length of time individual items of such materials would be kept on the premises.
- (5) A plot plan, drawn to scale, showing the location of existing and proposed fences together with a description of their construction, the location of all buildings on the business premises, together with a description of the type of construction of such buildings and their uses, and showing adjoining streets, roads, and property lines, watercourses, fire lanes, points of ingress and egress and storage locations for flammable materials, hazardous materials and explosive materials.

(Ord. 88-318. Passed 5-31-88.)

739.07 INVESTIGATION; APPROVAL AND ISSUANCE OF SALVAGE YARD OPERATOR'S LICENSE.

(a) Upon receipt of an application for a salvage yard operator's license as provided for herein, the Chairman of the Licensing Board shall furnish a copy of the application to each of the other members of the Board. The proposed or existing premises and equipment with which the salvage yard is

being or is to be operated shall be examined by the other members of the Board or their designees.

(b) The Chief of the Police Division shall cause an investigation to be made to determine whether any of the persons listed in the application have on two or more occasions been convicted of a violation of Chapter 739, violations of Ohio R.C. Chapters 4737 or 4738, or other crime related to the business of salvage yard operator, within a period of five years preceding the filing of such application, and the Chief of the Police Division shall recommend that the license be issued only if the Chief of the Police Division finds that there have been fewer than two such convictions during the five year period.

(c) The Community Development Director shall recommend that the license be issued only if he finds that the land on which the business is located and any existing or proposed building or equipment which the salvage yard is being or is to be operated with, conform to the requirements of Chapter 739, the Building Code, and the Zoning Code.

(d) The Health Commissioner shall recommend that the license be issued only if he finds that the existing or proposed premises and equipment conform to the requirements of Chapter 739 and all applicable health laws and health ordinances which the Health Commissioner has jurisdiction to enforce. The Health Commissioner may qualify a recommendation that a salvage yard license be issued by requesting that the salvage yard license be made subject to conditions inserted in the license that the licensee maintain compliance with a plan adopted by both the Health Commissioner and the licensee to achieve the licensee's compliance with such health laws and health ordinances as the Health Commissioner enforces and which the licensee is not in full compliance with.

(Ord. 98-311. Passed 9-8-98.)

(e) The Chief of the Fire Division shall recommend that the license be issued only if he finds that the existing or proposed premises and equipment conform to the requirements of Chapter 739 and all applicable fire prevention laws and fire prevention ordinances of the City.

(f) No salvage yard operator's license shall be issued unless all members of the Licensing Board recommend that the license be issued. If any member of the Board recommends that a license not be issued, the Chairman shall immediately notify all of the members of the Board and shall also notify the applicant, in writing, of such disapproval and the grounds therefor, and simultaneously therewith the Chairman shall set the matter for a hearing before the Licensing Board on the question of whether or not the license should be issued. The Chairman shall give notice in writing of the date, time, and place of such hearing to the members of the Licensing Board and to the applicant, and such hearing shall be held within forty-five days after the filing of the application. At the conclusion of the hearing, the members of the Board shall vote on whether the Board shall recommend that a license be issued.

(g) If all of the members of the Licensing Board recommend that a license be issued, or if after the hearing described in subsection (f) hereof, a majority of the members of the Board recommend that a license be issued, the Chairman shall so notify the Department of Development within thirty days after the filing of the application, and request the Community Development Department to issue a salvage yard operator's license to the applicant if he finds:

- (1) That the applicant has obtained a Certificate of Occupancy to the effect that the salvage yard will not be in violation of the Fire Code, Building Code and the Zoning Code; and
 - (2) That the applicant has paid the fees, if any are due, provided for in the Building and Zoning Codes and in this chapter.
- (Ord. 94-368. Passed 10-11-94.)

(h) The Chairman shall not request that a salvage yard operator's license be issued to the applicant if he finds:

- (1) That the applicant has knowingly attempted to obtain his license through any fraud or misstatement; or
- (2) That the business or activity is no longer being operated or carried on.

(i) The license as issued shall bear the following language on its face: "IMPORTANT. This license applies only to the premises indicated herein and authorizes the licensee to operate a salvage yard in a lawful place and manner only; it is not a substitute for, nor is it in lieu of, any Certificate of Occupancy, building permit, or any other certificate or permit that is now or may hereafter be required by law or ordinance, and it does not relieve the licensee of the responsibility to have all such required permits or certificates at all times and comply with all laws and ordinances affecting the above described business."

(j) The license as issued may have included thereon, in writing, such conditions as the Health Commissioner recommended in providing his qualified recommendation that a salvage license be issued to the applicant.

(Ord. 98-311. Passed 9-8-98.)

(k) The Community Development Department shall keep a record of all applications filed and all licenses issued in accordance with this section.

(Ord. 94-368. Passed 10-11-94.)

739.08 PERIOD OF LICENSE.

(a) All applications for a license to be issued under the provisions of Section 739.07, shall be filed with the Chairman of the Licensing Board not less than sixty days prior to the date the applicant desires the license to become effective.

(b) Any license issued hereunder shall be effective as of the date of its issuance and shall expire December 31, next following the issuance of the license.

(Ord. 88-318. Passed 5-31-88.)

739.09 LICENSE FEES.

The annual fees to be paid for the salvage yard operator's license issued under Chapter 739, shall be as follows:

- (a) One hundred dollars (\$100.00) for the first acre, plus fifty dollars (\$50.00) for each additional acre or part thereof of salvage yard space.
- (b) Of the fees stated in subsection (a) hereof, the sum of fifty dollars (\$50.00) will be treated as an "application fee" and shall be paid by the applicant at the time the application for a license is filed with the Chairman of the Licensing Board. This "application fee" will be used by the City to defray the costs of investigation and processing the application and is not refundable. The balance of the fees stated in subsection (a) hereof shall be paid at the time a license is issued to the applicant.
- (c) If the license is issued, or is to become effective on or after July 1, in any given year for the remainder of that year, the license fee shall be

one-half of the above stated fees, but in all cases the "application fee" shall remain as set forth herein and shall not be abated or proportionately reduced.

(Ord. 88-318. Passed 5-31-88.)

739.10 LICENSE NOT TRANSFERABLE.

No license issued under Chapter 739 shall be transferred or assigned or used by any person other than the one to whom it was issued, and no salvage yard operator's license shall be used for any premises other than those described in the application upon which it was issued.

(Ord. 88-318. Passed 5-31-88.)

739.11 GENERAL OPERATING REQUIREMENTS.

- (a) The following general operating requirements shall apply to all salvage yards and salvage yard operators:
- (1) The license issued pursuant to Section 739.07 shall be plainly displayed on the business premises at all times;
 - (2) Any space or land area not described in the license shall not be used in the licensed business;
 - (3) Should any place on the premises become a breeding place for mosquitoes, the salvage yard operator shall have the place sprayed with an insecticide so as to eliminate the mosquito nuisance;
 - (4) No garbage or rubbish shall be kept or permitted to accumulate and remain on the premises in violation of Chapter 919;
 - (5) No salvage shall be allowed to rest upon or protrude into any public right-of-way, fire lane, or become scattered or blown off the business premises;
 - (6) Combustible salvage material, including tires, shall be placed or stored at least fifteen feet from a required outside fence and any building;
 - (7) No salvage shall be placed, stored or offered for sale outside of any required fence;
 - (8) A fire lane eighteen feet in width shall be maintained from the main entrance throughout an outside salvage yard, so that no point of the salvage yard shall be more than 200 feet from a fire lane. No salvage shall be deposited within thirty inches of a required fence.
 - (9) Every salvage yard, together with the things kept therein, shall be maintained so as to be free from vermin, rats, fire hazards, public nuisances and all other conditions harmful to the public health, safety or welfare;
 - (10) Required fences and gates shall be maintained so as to prevent dilapidation, rusting, rotting, leaning, or other deterioration;
 - (11) Gasoline shall be removed from any engines or vehicles, qualifying as salvage, on the premises;
 - (12) No salvage shall be burned on the premises except in a manner approved by law;
 - (13) The area on the premises where salvage is kept (other than indoors) which has a boundary line which is common to that of any public road, street or highway or which is adjacent to any improved premises occupied or utilized for other than industrial uses or purposes, shall be obscured from the ordinary view of any person passing upon any such public road, street or highway and of any person upon any such adjacent premises with a non-transparent wall or fence of uniform material and uniform height with a minimum height of eight feet measured from ground level and a maximum height of ten feet measured from ground level. No advertisement shall be permitted on the wall or fence other than the name of the person under whose name the license has been issued and the nature of the business conducted herein; provided, however that all such signage shall conform to City ordinances governing signage. Entrances and exits shall not be wider than thirty feet and shall be equipped with a nontransparent gate or gates made of sturdy material;
 - (14) The licensee shall permit inspection of the business premises by any member or representative of the City at any reasonable time;
 - (15) Each purchase or receipt of salvage shall be recorded in legible English in a prenumbered register kept on the licensed premises or such other format as is approved by the Chief of Police. The register shall contain all of the following:
 - A. The name and address of the seller,
 - B. An identification number taken from an identification card issued by a governmental agency to the seller, such as a driver's license, or a photocopy of such a card,
 - C. A description of the salvage acquired,
 - D. The vehicle identification number of any motor vehicle, or motor vehicle part(s) being received as salvage bearing a vehicle identification number,
 - E. The date and time of the transaction, and
 - F. The license number of the seller's vehicle when reasonably obtainable.

The register shall be kept current through the end of the previous business day. The register shall be available for inspection at the licensed premises by a member or representative of the Licensing Board for a period of at least one year from the date of purchase or receipt. Each business day, each salvage yard operator shall make a copy of the register, complete through the end of the prior business day, available to the Chief of Police. In lieu of making a copy of the register available to the Chief of Police, a salvage yard operator may electronically transmit the information described above to the Police Division in such format as the Chief of Police may approve. A salvage yard operator is not required to record a purchase of salvage which includes only beverage cans and bottles.

(Ord. 07-41. Passed 2-15-07.)

- (16) The salvage yard shall be operated in such a manner that all loading, unloading, and working of the salvage piles, and the equipment involved therein, shall be done entirely within the confines of the licensed premises as shown on the plot plan described in Section 739.06(b)(5);
- (17) A sign constructed of durable material and announcing a telephone number where a responsible representative of the salvage yard operator can be reached after business hours shall be posted in a conspicuous place on the primary entrance to the premises.

(b) The Community Development Director, with the assistance of the director of such other department or departments as may be appropriate, shall cause such inspections to be made as necessary to insure compliance with the general operating requirements herein provided.

(Ord. 94-368. Passed 10-11-94.)

739.12 SUSPENSION AND REVOCATION OF LICENSE.

(a) The license of a salvage yard operator may be suspended for a period of time specified by the Licensing Board or revoked by the Licensing Board for failure to comply with the provisions of Chapter 739 or on the basis that the Health Commissioner has certified to the Licensing Board the licensee is not complying with the conditions included in his license pursuant to subsection 739.07(j). However, such suspension or revocation shall not take place until the Chairman of the Licensing Board shall have first notified the salvage yard operator, calling specific attention to the infraction of Chapter 739 and/or that the Health Commissioner has certified to the Licensing Board the licensee is not complying with the conditions included in his license pursuant to subsection 739.07(j) and affording a minimum of fifteen days to correct such infractions, except in the case of an

emergency order as hereinafter provided. Such notice shall:

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, referring to the subsections violated, and order remedial action which, if taken, will effect compliance with the provisions of such subsection and/or a statement that the Health Commissioner has certified to the Licensing Board that the licensee is not complying with the conditions included in his license pursuant to subsection 739.07(j);
- (3) Specify a reasonable time for compliance, except in the case of an emergency order as hereinafter provided;
- (4) Advise the salvage yard operator of the procedure for appeal;
- (5) Be served upon the salvage yard operator. Such notice and order shall be deemed to be properly served upon such salvage yard operator if a copy thereof is sent by certified or registered mail to such salvage yard operator at the address on file with the Community Development Department or as stated in the salvage yard operator's application and a copy of the notice is posted in a conspicuous place in or on the premises.

(Ord. 98-311. Passed 9-8-98.)

(b) Whenever the Chairman of the Licensing Board finds that an emergency exists which requires immediate action to protect the health and safety of the public or the health and safety of the employees of a salvage yard operator, he may, after having made a good faith effort to give the salvage yard operator at least one hour advance notice of his intended action issue an order reciting the existence of the emergency and suspend forthwith the license of a salvage yard operator. Notwithstanding any other provision hereof, any such order or order shall be effective immediately and complied within the time and manner prescribed in the emergency order.

(Ord. 88-318. Passed 5-31-88.)

739.13 HEARINGS.

(a) Any person aggrieved by a notice, order or both of the Licensing Board which has been issued as provided in Section 739.12 may request and shall be granted a hearing on the matter before the Licensing Board. However, such person shall file with the Community Development Department a written request for such hearing and set forth the name and address and telephone number of the operator and a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Licensing Board. The written request shall be filed within ten days after the date of the notice and order of the Licensing Board. Upon receipt of such a request, the Chairman of the Licensing Board shall set a time and place for a hearing before the Licensing Board and shall give the operator written notice thereof. The hearing shall be commenced within a reasonable time after a request has been filed. At such hearing, the salvage yard operator shall be given an opportunity to be heard and to show cause why any item appearing on such notice and order should be modified or withdrawn. The failure of the salvage yard operator or his representative to appear and state his case at such hearing shall have the same effect as if request was not filed.

(Ord. 94-368. Passed 10-11-94.)

(b) After a hearing, the Licensing Board may sustain, modify or withdraw any item appearing on the notice and order by majority vote, depending upon its findings as to whether the provisions of Chapter 739 have been complied with, and the salvage yard operator shall be notified in writing of such findings. The decision of the Licensing Board shall be issued within forty-five days of the conclusion of the hearing.

(c) The proceedings at such hearings, including the findings and decision of the Licensing Board, and reasons therefor, shall be summarized and reduced to writing and entered as a matter of public record in the office of the Community Development Director. Such record shall also include a copy of every notice and order issued in connection with the matter.

(Ord. 94-368. Passed 10-11-94.)

739.14 FORMER SALVAGE YARDS.

(a) The Chairman of the Licensing Board shall issue an order to any owner of a salvage yard, which is not licensed pursuant to this chapter, to obtain a Salvage Yard Operator's License.

(b) Every owner of a salvage yard who receives an order from the Chairman of the Licensing Board, pursuant to this section, and fails to obtain or is ineligible to obtain a Salvage Operator's License shall, within 150 days of receiving the order remove all salvage from his salvage yard which may become a harbor for vermin or rats, may constitute a fire hazard or other public nuisance or may contribute to any other condition harmful to the public health, safety or welfare. All ground within the former salvage yard shall be leveled so as to prevent water from collecting in such a manner as to afford a breeding place for mosquitoes.

(Ord. 88-318. Passed 5-31-88.)

739.15 INJUNCTION.

In addition to other remedies which the City may have to enforce this chapter, the City may also seek a court injunction against continued violation of this chapter and any order issued pursuant thereto.

(Ord. 88-318. Passed 5-31-88.)

739.99 PENALTY.

Except as otherwise provided, whoever violates any provision of this chapter, or any rule, regulation or order issued thereunder, shall be guilty of a misdemeanor of the third degree, punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not exceeding sixty days, or both such fine and imprisonment.

(Ord. 88-318. Passed 5-31-88.)

CHAPTER 741

Peddlers

741.01 License required.

741.02 Application information.

741.03 Investigation; license issuance and record.

741.04 Posting and exhibition of license.

- 741.05 Fees.**
- 741.06 Loud noises and speaking devices.**
- 741.07 Duty of police to enforce.**
- 741.08 Revocation of license; hearing.**
- 741.09 Expiration of license.**
- 741.10 Exceptions and license renewal.**
- 741.11 Exemptions.**
- 741.99 Penalty.**

CROSS REFERENCES

Power to inspect food products--see Ohio R.C. 715.46
 Power to regulate--see Ohio R.C. 715.61 et seq.
 Home solicitation sales--see Ohio R.C. 1345.21 et seq.
 Charitable solicitations--see Ohio R.C. Ch. 1716
 Trespassing--see Ohio R.C. 2911.21
 Frozen desserts--see Ohio R.C. 3717.51 et seq.
 Littering--see GEN. OFF. 521.08
 Advertising by handbills--see BUS. REG. Ch. 705

741.01 LICENSE REQUIRED.

No person shall sell, offer for sale, barter or exchange any goods, wares or merchandise or secure or attempt to secure, orders or contracts for the furnishing of goods or services, or advertising goods, wares, or merchandise by distributing samples thereof or premiums either upon the streets, alleys, or public grounds of the City, or from door to door or place to place within the City without having obtained a license therefor in compliance with the provisions of this chapter.

(Ord. 05-173. Passed 6-28-05.)

741.02 APPLICATION INFORMATION.

Applicants for a license under this chapter, whether a person, firm or corporation, shall file with the Chief of Police a written sworn application signed by the applicant if an individual, by all partners if a partnership and by the president if a corporation. The application shall show the following:

- (a) The name or names of the person or persons having the management or supervision of the applicant's business and of each person who will be engaged in such business within the City during the time that it is proposed that it will be carried on in the City; the local address or addresses of such person or persons while engaged in such business; the permanent address or addresses of such person or persons; the capacity in which such person or persons will act (whether as proprietor, agent or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and, if a corporation, under the laws of what state the same is incorporated;
- (b) The fingerprints and photograph of the person or persons having the management or supervision of the applicant's business and of each person who will be engaged in such business within the City;
- (c) The place or places in the City where it is proposed to carry on the applicant's business, and the length of time during which it is proposed that such business shall be conducted;
- (d) The place or places, other than the permanent place of business of the applicant where the applicant within the six months next preceding the date of such application conducted any such business, stating the nature thereof and giving the post office and street address of any building or office in which such business was conducted;
- (e) Whether or not the person or persons having the management or supervision of the applicant's business, or any person who will be engaged in such business within the City have been convicted of a crime, misdemeanor or the violation of any municipal ordinance, the nature of such offense and the punishment assessed therefor;
- (f) Credentials from the person, firm or corporation for which the applicant proposes to do business, authorizing the applicant to act as such representative; and
- (g) Such other reasonable information as to the identity or character of the person or persons having the management or supervision of the applicant's business or the method or plan of doing such business as the Chief of Police may deem proper to fulfill the purpose of this chapter in the protection of the public good.

(Ord. 05-173. Passed 6-28-05.)

741.03 INVESTIGATION; LICENSE ISSUANCE AND RECORD.

(a) Upon receipt of such application, the Chief of Police shall cause an investigation of such person's or persons' business responsibility or moral character to be made as he deems necessary to the protection of the public good. If, as a result of such investigation, the applicant's character and business responsibility are found to be unsatisfactory, the application shall be denied. If, as a result of the investigation, the character and business reputation do not appear to be unsatisfactory, the Chief of Police shall so certify in writing, and a license shall be issued by the Chief of Police.

(b) The Chief of Police shall keep a full record in his office of all licenses issued. Such record shall contain the number of the license, the date the same is issued, the nature of the business authorized to be carried on, the amount of the license fee paid, the expiration date of such license, the place where the business may be carried on under such license, and the name or names of the person or persons authorized to carry on the same.

(c) Licenses issued under this Chapter are not transferable.

(Ord. 05-173. Passed 6-28-05.)

741.04 POSTING AND EXHIBITION OF LICENSE.

The license issued under this chapter shall be posted conspicuously in the place of business if any is named therein. In the event that an applicant for a license shall desire to do business in more than one place within the City, separate licenses may be issued for each place of business, and shall be posted conspicuously in each place of business. Each person engaged in such business, conduct or activity, shall obtain a separate copy of such license and, while engaged in such business, conduct or activity, shall carry such license with him and shall exhibit the same upon request of any person.

(Ord. 05-173. Passed 6-28-05.)

741.05 FEES.

Licensees under this chapter shall pay a fee of twenty-five dollars (\$25.00). An additional fee of five dollars (\$5.00) shall be charged for each additional copy of any such license.
(Ord. 05-173. Passed 6-28-05.)

741.06 LOUD NOISES AND SPEAKING DEVICES.

No licensee under this chapter, nor anyone in his behalf shall shout, make any outcry, blow a horn, ring a bell or use any other sound device including any loud speaking radio or amplifying system, for the purpose of attracting attention to any goods, wares, merchandise or services which such licensee proposes to sell or furnish, upon any of the streets, alleys, parks or other public places of the City, or upon any private premises in the City where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard upon the streets, avenues, alleys, parks or other public places.
(Ord. 05-173. Passed 6-28-05.)

741.07 DUTY OF POLICE TO ENFORCE.

The police officers of the City shall examine all places of business and persons in their respective territories subject to the provisions of this chapter, to determine if this chapter has been complied with and to enforce the provisions of this chapter against any person found to be violating the same.
(Ord. 05-173. Passed 6-28-05.)

741.08 REVOCATION OF LICENSE; HEARING.

(a) The permits and licenses issued pursuant to this chapter may be revoked by the Chief of Police after notice and hearing for any of the following causes:

- (1) Any fraud, misrepresentation or false statement contained in the application for license;
- (2) Any fraud, misrepresentation or false statement made in connection with the selling of goods, wares or merchandise, or the furnishing of services;
- (3) Any violation of this chapter;
- (4) Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude; or
- (5) Conducting the business licensed under this chapter in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(b) Notice of a hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the licensee, at his last known address, at least five days prior to the date set for the hearing.

(Ord. 05-173. Passed 6-28-05.)

741.09 EXPIRATION OF LICENSE.

All licenses issued under the provisions of this chapter shall expire ninety days after the date of issuance thereof unless a prior date is fixed therein.
(Ord. 05-173. Passed 6-28-05.)

741.10 EXCEPTIONS AND LICENSE RENEWAL.

No renewal of any license required by this chapter shall be required so long as the licensee shall remain continuously engaged in business within the City, following the expiration of any such license previously obtained. However, cessation or discontinuance of such business in the City for a continuous period of more than thirty days shall necessitate the renewal of any such license and the payment of the prescribed fee therefor prior to the reinstitution of such business.

(Ord. 05-173. Passed 6-28-05.)

741.11 EXEMPTIONS.

The requirements of this chapter shall not apply to any of the following:

- (a) Any owner of any product of his own raising or the manufacturer of any article manufactured by him or the agent of any such owner or manufacturer;
- (b) Any charitable, benevolent or educational organization or corporation, or the agent or employee thereof engaged only in temporary or occasional projects for the obtaining of funds for use in furtherance of such charitable, benevolent or educational purposes;
- (c) Any person, firm or corporation who engages in the business or activity described in Section 741.01 only at the invitation or request of the persons with whom such business is transacted.

(Ord. 05-173. Passed 6-28-05.)

741.99 PENALTY.

Whoever violates any of the provisions of this chapter shall be guilty of a misdemeanor of the fourth degree.
(Ord. 05-173. Passed 6-28-05.)

CHAPTER 743

Pawnbrokers

743.01 Definitions.

743.02 Obligation of pawnbrokers.

743.03 Exception.

743.04 Compliance.

743.99 Penalty.

743.01 DEFINITIONS.

(a) "Pawnbroker" means any person engaged in the business of lending money on deposit or pledges of personal property, other than securities, printed evidence of indebtedness, titles, deeds, or bills of sale, at a total charge, rate of interest, or discount or other remuneration in excess of eight percent per annum, and includes any person engaged in the business of purchasing personal property from another person with an agreement that the personal property will be made available to that other person for repurchase within an agreed-to time period and for an amount greater than the price originally paid to that other person for the purchase of the personal property.

(b) "Transaction" as used in this chapter means the acceptance of merchandise as security for a loan, for resale, or on consignment.

743.02 OBLIGATION OF PAWNBROKERS.

Every pawnbroker doing business in The City of Springfield, Ohio, shall:

- (a) have and maintain a secure internet connection, and
- (b) provide to the Chief of Police or his designee an electronic record of each transaction. The electronic records shall:
 - (1) be submitted through an electronic reporting service furnished by the City at no cost to the pawnbroker.
 - (2) include a photograph of all merchandise accepted for pawn, purchased for resale, or consignment, and such other data as is called for by the electronic reporting service.
 - (3) be submitted as soon as practicable after the completion of the transaction, but in no case later than the close of business on the day of the transaction.

743.03 EXCEPTION.

In the event the electronic reporting system malfunctions or is otherwise not operational, the pawnbroker shall, at all times during such malfunction or non-operation, keep written records of any and all transactions that would have otherwise been entered in the electronic reporting system and shall submit such records to the Chief of Police or his designee within twenty-four hours of such transaction during the non-operational period. The written records shall contain all information required on the electronic reporting system.

743.04 COMPLIANCE.

Compliance with the obligations set out in this chapter fulfills the obligation to provide daily reports set out in Ohio Revised Code Section 4727.09.

743.99 PENALTY.

Any pawnbroker or any managing agent of a pawnbroker entity who fails or refuses to fulfill the obligations set forth in this chapter is guilty of a first degree misdemeanor.

CHAPTER 749

Public Utilities

749.01 Meter reader's badge required.

749.02 Use of electric lamp or flashlight only.

749.03 Pole and wire requirements.

749.04 Removal of poles if conditions not complied with.

CROSS REFERENCES

Power to regulate electricity equipment--see Ohio R.C. 715.27

City consent for electrical fixtures and lines on public property--see Ohio R.C.

715.27, 4933.13, 4933.16

City consent for telephone fixtures and lines of public property--see Ohio R.C.

4931.20, 4931.23

Gas, electric and water companies--see Ohio R.C. Ch. 4933

City consent for water fixtures on public property--see Ohio R.C. 4933.01

City consent for gas fixtures on public property--see Ohio R.C. 4933.01, 4933.03

Tampering with water hydrants, pipes or meters; unauthorized connections--see Ohio

R.C. 4933.22

749.01 METER READER'S BADGE REQUIRED.

All persons engaged in the business of reading or inspecting water, gas or electric meters shall wear a badge or other insignia which shall indicate thereon the authority of the person to read or inspect such meters.

(Ord. 1504. Passed 7-11-21.)

749.02 USE OF ELECTRIC LAMP OR FLASHLIGHT ONLY.

No person employed by or representing any person or corporation owning or operating any system of gas works and pipes for the purpose of supplying gas, natural or artificial, to the residents of the City shall use any light during the inspection or reading of any meter used in connection with the business of the person or corporation, other than an electric lamp or flashlight.

(Ord. 1504. Passed 7-11-21.)

749.03 POLE AND WIRE REQUIREMENTS.

No person, company, or association shall in constructing, extending, or erecting any line or telegraph erect any pole or poles unless the same shall be at least forty-five feet in length and the wires placed upon such poles so as to be at least thirty feet from the surface of the ground, and unless the poles are of cedar or chestnut timber, or the equivalent thereto in strength and durability, and reasonably straight, dressed and painted at least to a

height of forty feet, or the entire length of the poles aboveground. All work done in erecting, extending or constructing such lines shall be done under the direction of the Director of Public Service.
(1907 Code Sec. 351)

749.04 REMOVAL OF POLES IF CONDITIONS NOT COMPLIED WITH.

Every person or company or association to whom the City Commission shall grant the right or privilege of erecting, constructing or extending any telegraph line or of erecting any telegraph poles for the purpose of constructing, extending or erecting any line of telegraph through, over or across the streets or alleys of the City, who shall fail to comply with the provisions of this chapter shall forfeit all right and privilege so as aforesaid granted, and the privilege so granted shall be null and void. The Commission may order such person, company or association to remove from the streets and alleys the telegraph poles, and cause the telegraph line to be removed within such time as the Commission may by resolution or ordinance prescribe.
(1907 Code Sec. 353)

CHAPTER 765

Taxicabs

CHAPTER REPEALED

PASSED FEBRUARY 16, 2016

CHAPTER 769

Used Motor Vehicles and Parts

- 769.01 Information; sign and book.**
- 769.02 Tag.**
- 769.03 Report to Police Chief.**
- 769.04 Concealing or destroying identity of vehicle prohibited.**
- 769.05 Minor or apprentice.**
- 769.99 Penalty.**

CROSS REFERENCES

Power to regulate secondhand dealers—see Ohio R.C. 715.61
Receiving stolen property—see Ohio R.C. 2961.03
Secondhand dealers—see Ohio R.C. Ch. 4737
Record of transactions required—see Ohio R.C. 4737.01, 4737.04
Dealing with minors prohibited; hours regulated—see Ohio R.C. 4737.03
Salvage yard operators—see BUS. REG. Ch. 739

769.01 INFORMATION; SIGN AND BOOK.

Each and every person, firm, or corporation purchasing, selling, exchanging, or receiving used or secondhand motor vehicles, parts, or accessories thereof shall post in a conspicuous place in his place of business a sign having his name and occupation legibly inscribed thereon, and keep a separate book, open to inspection to members of the police force or other persons, in which book shall be written the name and description of the motor vehicle or part thereof purchased, sold, or exchanged, the factory number of the machine or part, the number of the engine, the name, description, and residence of the person from whom purchased and received and the day and hour when such purchase or exchange was made. Each entry shall be numbered consecutively, commencing with number one.
(Ord. 1943. Passed 7-14-24.)

769.02 TAG.

Such articles so purchased or exchanged as provided in Section 769.01 shall be retained by the purchaser thereof for a least three days before disposing of them, in an accessible place in the building where such articles are purchased or received. A tag shall be attached to such motor vehicle, or part thereof, in some visible and convenient place, with the number written thereon corresponding to the entry number in the book.
(Ord. 1943. Passed 7-14-24.)

769.03 REPORT TO POLICE CHIEF.

Each and every person, firm, or corporation purchasing, selling, exchanging, or receiving used or secondhand motor vehicles, parts or accessories thereof shall prepare and deliver to the Police Chief on or before 12:00 noon of the next day following, a legible and correct copy from such book entries, showing the description of the motor vehicle or part thereof purchased, sold, or exchanged, the factory number of the machine and engine, the name, description, and place of residence of the person from whom purchased or exchanged.
(Ord. 1943. Passed 7-14-24.)

769.04 CONCEALING OR DESTROYING IDENTITY OF VEHICLE PROHIBITED.

No serial number or any other distinguishing identification mark upon any motor vehicle, engine, or part thereof, by the manufacturer or owner, shall be removed, defaced, covered, or destroyed for the purpose of concealing or destroying the identity of the motor vehicle or part thereof.
(Ord. 1943. Passed 7-14-24.)

769.05 MINOR OR APPRENTICE.

No person shall purchase or receive, buy, sell, barter, or exchange any of the property mentioned in the preceding sections, of a minor or apprentice

knowing or having reason to believe him to be such.
(Ord. 1943. Passed 7-14-24.)

769.99 PENALTY.

Any person, firm, partnership, or corporation who violates any clause or provision of this chapter, or who assists in such violation or noncompliance, shall be guilty of a misdemeanor of the fourth degree. Each and every day's continued violation of this chapter, or any provision thereof, shall constitute a separate and distinct offense.

CHAPTER 771

Garage Sales

- 771.01 Definitions.**
- 771.02 Property permitted to be sold.**
- 771.03 Repealed by Ord. 00-428, effective 1-2-01.**
- 771.04 Repealed by Ord. 00-428, effective 1-2-01.**
- 771.05 Repealed by Ord. 00-428, effective 1-2-01.**
- 771.06 Repealed by Ord. 00-428, effective 1-2-01.**
- 771.07 Limits on sales.**
- 771.08 Repealed by Ord. 00-428, effective 1-2-01.**
- 771.09 Repealed by Ord. 00-428, effective 1-2-01.**
- 771.10 Repealed by Ord. 00-428, effective 1-2-01.**
- 771.11 Signs.**
- 771.12 Inspection; closure, authority of Business Licensing Officer.**
- 771.13 Repealed by Ord. 00-428, effective 1-2-01.**
- 771.14 Persons exempted.**
- 771.15 Separate violations.**
- 771.16 Violation citation tags.**
- 771.99 Penalty.**

CROSS REFERENCES

Power to regulate transient dealers - see Ohio R. C. 715.64
Littering - see GEN. OFF. 521.08
Handbill distribution - see BUS. REG. Ch. 705

771.01 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number; and words in the singular number, the plural number. The word "shall" is always mandatory and not merely directory.

- (a) "Garage sale" means and includes all general sales, open to the public conducted from or on any premises used for residential purposes, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition shall not include a situation where no more than one (1) vehicle, for which a state certificate of title or other form of state registration has been issued to a resident of such premises, is held out for sale and all advertisement of such sale specifically names the vehicle to be sold.

(Ord. 90-608. Passed 11-13-90.)

- (b) "Personal property" means property which is owned, utilized, and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

(Ord. 85-294. Passed 5-28-85.)

771.02 PROPERTY PERMITTED TO BE SOLD.

No individual shall sell or offer for sale, under authority granted by this chapter, property other than personal property.
(Ord. 82-191. Passed 5-4-82.)

771.03 REPEALED BY ORD. 00-428, EFFECTIVE 1-2-01.

771.04 REPEALED BY ORD. 00-428, EFFECTIVE 1-2-01.

771.05 REPEALED BY ORD. 00-428, EFFECTIVE 1-2-01.

771.06 REPEALED BY ORD. 00-428, EFFECTIVE 1-2-01.

771.07 LIMITS ON SALES.

Such garage sales shall be limited in time to the hours between 8:00 a.m. and 6:00 p.m. for three consecutive days. No more than two such sales may be conducted at any individual residence and/or family household during any calendar year.
(Ord. 00-428, effective 1-2-01.)

771.08 REPEALED BY ORD. 00-428, EFFECTIVE 1-2-01.

771.09 REPEALED BY ORD. 00-428, EFFECTIVE 1-2-01.

771.10 REPEALED BY ORD. 00-428, EFFECTIVE 1-2-01.

771.11 SIGNS.

No more than two signs of not more than four square feet each shall be displayed advertising a garage sale. Such signs shall not be displayed anywhere other than the premises where such sale shall be held, shall be displayed only on the day or days of such sale and the two days immediately preceding thereof, and shall be removed by 6:00 p.m. on the last day of such sale.

771.12 INSPECTION; CLOSURE, AUTHORITY OF BUSINESS LICENSING OFFICER.

Upon inspection, any garage sale found to be operating in violation of this chapter or any other applicable law or ordinance may be closed by the Business Licensing Officer or other public official responsible for the enforcement of such law or ordinance.
(Ord. 82-191. Passed 5-4-82.)

771.13 REPEALED BY ORD. 00-428, EFFECTIVE 1-2-01.

771.14 PERSONS EXEMPTED.

The provisions of this chapter shall not apply to or affect the following:

- (a) Persons selling goods pursuant to an order to process of a court of competent jurisdiction.
- (b) Persons acting in accordance with their powers and duties as public officials.

771.15 SEPARATE VIOLATIONS.

Every sale of an article and every day a sale is conducted in violation of this chapter shall constitute a separate offense.
(Ord. 82-191. Passed 5-4-82.)

771.16 VIOLATION CITATION TAGS.

The Community Development Director is authorized and directed to provide inspectors with citation tags which may be used for the purpose of giving due notice and summons to the person responsible for violations of the provisions of this chapter.

- (a) Such citation tag shall be put in writing on an appropriate form, describe the offense charged, refer to the sections of the chapter violated, order the defendant to appear at a stated time and place, and it shall be made on oath before any person authorized by law to administer oaths.
- (b) The citation tag shall be served on such person in person. However, this citation shall be deemed to be properly served upon the person if a copy thereof is sent by registered or certified mail to his last known mailing address, residence, or place of business, or a copy is posed in a conspicuous place in or on the dwelling where the garage sale is held. If a registered or certified mail envelope is returned with an endorsement showing that service was refused, the notice may be served by ordinary mail to his last known mailing address, residence, or place of business. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing. If the registered or certified mail envelope is returned with an endorsement showing that service was unclaimed, the notice may be served by ordinary mail to his last known mailing address, residence, or place of business. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery.
- (c) The citation tag shall inform the defendant that, in lieu of appearing at the time and place stated, he may, within that stated time, appear personally at the office of the Clerk of Municipal Court and on signing a plea of guilty and a waiver of trial, pay a stated fine and stated costs, if any. The citation shall inform the defendant that he may be arrested if he fails to appear either at the Clerk's office or at the time and place stated in the citation.
- (d) When the defendant fails to appear within the stated time, a warrant may be issued for the arrest of that person.
- (e) When a defendant appears, but does not sign a guilty plea and waiver of trial, the court shall proceed in accordance with Rule 5 of the Ohio Rules of Criminal Procedure.
- (f) The citation tag as herein provided shall be sufficient notice, summons, and legal service thereof for the purpose specified thereon, provided that the use of such tags shall not prohibit the issuance of either additional citation tags in the event such violation is continued or repeated.

(Ord. 90-626. Passed 11-27-90.)

771.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor. Any violation shall constitute a separate offense on each successive day continued.
(Ord. 90-626. Passed 11-27-90.)

CHAPTER 775

Ice Cream Trucks

775.01 Purpose.

775.02 Definitions.

775.03 Registration of Driver or Operator.

775.04 Restrictions and Requirements.

775.99 Penalty.

NOTE: This chapter was repealed and replaced in its entirety by Ord. 20-28 passed February 11, 2020.

CROSS REFERENCES

Power to regulate peddlers - see Ohio R.C. 715.61 et seq.
Power to regulate transient dealers - see Ohio R.C. 715.64
Frozen desserts - see Ohio R.C. 3717.51 et seq.
Displaying vehicles for sale on roadway - see TRAF. 351.06
Loudspeakers - see GEN. OFF. 509.09
Peddlers - see BUS. REG. Ch. 741

775.01 PURPOSE.

The City of Springfield, City Commission finds that vehicles in which ice cream, confections and other frozen dessert products are carried for purposes of retail sale on the public streets pose special dangers to the public health, safety and welfare of children and residents in the City of Springfield, Ohio. It is the purpose and intent of the City of Springfield, in enacting this article, to provide responsible companies and individuals who engage in operation of ice cream trucks with clear and concise regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.

775.02 DEFINITIONS.

As used in this Chapter:

- (a) "Ice Cream Truck" means any vehicle or motor vehicle, as that term is defined in the Ohio Revised Code Chapter 4511.01, which is equipped or primarily used for retail sales on any public street, alley or highway within the City of Springfield of ice cream, ice milk, popsicles, sherbets, frozen yogurt, frozen dessert products and confections of any kind. The inventory of these vehicles is not necessarily limited to ice cream, confections or frozen dessert products.
- (b) "Frozen Dessert Product" includes ice cream, ice milk, popsicles, frozen yogurt, confections, and chilled desserts of any kind.
- (c) "Person" means any person, firm, partnership, association, corporation, and stockholder and includes, but is not limited to, owners, operations drivers, lessors and lessees of ice cream trucks.
- (d) "Vend or Vending" means offering frozen dessert products of any kind for sale from a motor vehicle on a street, alley, highway or public place within the City of Springfield and includes the movement or standing of an ice cream truck for the purpose of searching for, obtaining or soliciting retail sales of frozen dessert products.
- (e) "Ice cream vendor" means any person, as defined in this article, who:
 - (1) Conducts or permits or causes the operation of ice cream trucks;
 - (2) Owns, operates, controls, manages or leases ice cream trucks; or
 - (3) Contracts with persons to drive and vend from ice cream trucks.
- (f) "Operator" means any person who drives, operates or vends from an ice cream truck and shall include the driver and assistant on each ice cream truck.
- (g) "Registration Certificate" means a certificate issued by the chief of police for the City of Springfield subject to the requirements of Section 775.03.

775.03 REGISTRATION REQUIREMENTS.

- (a) No person shall drive or operate any vehicle within the City for the purpose of selling, or offering for sale, from such vehicle, frozen dessert product, without having a current certificate of registration obtained, upon application, from the office of the Chief of Police.
- (b) Such certificate of registration shall be effective for a period of one year from the date of its issuance, and shall be issued upon payment of a registration fee of twenty-five dollars (\$25.00) and the filing of a written application setting forth the following information:
 - (1) Applicant's name, residence, and business address, social security number, and driver's license number.
 - (2) A description of the nature of the products to be sold by the applicant.
 - (3) A description of any vehicle to be operated by applicant in the course of such selling, or offering for sale, including, if a motor vehicle, the make, model, year, and manufacturer's serial number.
- (c) Any person having a current peddler's license issued pursuant to Chapter 741 is hereby exempted from the requirements of this section.

775.04 RESTRICTIONS AND REQUIREMENTS.

- (a) No person or operator shall stop an ice cream truck for the purpose of selling or offering for sale any frozen dessert products, or to sell or offer for sale such products at such ice cream truck while stopped, or to use any loudspeaker, bell, or other device giving an audible signal to advertise frozen dessert products, on any street or public right-of-way abutting any real estate which is then used as part of the school grounds of any public or private grade or junior high school between the hours of 7:00 a.m. and 4:00 p.m., on days when such school is in session.
- (b) No person or operator of any ice cream truck shall use more than one loudspeaker, bell, or other device, and such loudspeaker, bell, or other device shall not have the capability or capacity to emit a signal louder than eighty decibels at full volume measured at any distance from such device for the purpose of advertising to the general public the product, or presence of the ice cream truck.
- (c) No person or operator of any ice cream truck from and at which frozen dessert products are being sold shall use any loudspeaker, bell, or other device giving an audible signal to advertise such products or the presence of the vehicle while the ice cream truck is in motion.
- (d) No person or operator of any ice cream truck shall stop such ice cream truck for the purpose of selling or offering for sale frozen dessert products without having the following equipment mounted on the ice cream truck and in operation during the period of selling frozen dessert products:
 - (1) There shall be two warning lights. Each warning light shall be double-faced, yellow in color, and not less than six inches in diameter. One light shall be mounted on the roof near the left center of the roof line, and the other light shall be mounted on the roof near the right center of the roof line.
 - (2) When operating, the lights shall flash and be clearly visible from both the front and rear at a distance of at least 300 feet.
 - (3) The lights shall be operated when the motor vehicle is stopped for the purpose of selling or offering for sale any food products and at no other time.

- (4) There shall be two warning signs. Each warning sign shall carry the legend "CHILDREN" on the top line and "PROCEED WITH CAUTION" on the bottom line in five-inch, black, block letters on a yellow background.
- (5) The signs shall be a minimum of fifty inches in width and twenty inches in height. One sign shall be located on the front end of the vehicle, and the other located on the rear end of the vehicle.
- (6) The signs shall not extend more than two feet above nor two feet below the top roof line of the vehicle.
- (7) The signs shall be located transversely so as not to obstruct the two warning lights.
- (8) The signs shall form a complete warning unit with the two warning lights that can be clearly visible by motorists who approach such vehicle from the front and rear.

(e) No motorist, when approaching a ice cream truck from any direction at a time when such ice cream truck has the yellow warning lights operating, shall fail to proceed with caution to pass such ice cream truck.

(f) No person shall sell or offer for sale any frozen dessert products from an ice cream truck unless that ice cream truck is legally parked, or shall sell or offer for sale from other than the curbside of the legally parked ice cream truck.

(g) No person shall engage in selling or offering for sale frozen desserts from and at an ice cream truck between 9:00 p.m. and 9:00 a.m.

775.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the fourth degree.

CHAPTER 776

Food Trucks

776.01 Purpose.

776.02 Definitions.

776.03 Registration Requirements.

776.04 General Requirements.

776.05 Product for Sale.

776.06 Exemptions.

775.99 Penalty.

NOTE: This chapter was enacted by Ord. No. 20-29 passed February 11, 2020.

776.01 PURPOSE.

The Springfield City Commission finds that vehicles in which the production and distribution of food for retail sale on the public streets pose special dangers to the public health, safety and welfare of the residents in the City of Springfield, Ohio. It is the purpose and intent of the City of Springfield, in enacting this article, to provide responsible companies and individuals who engage in the operation of food trucks with clear and concise regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.

776.02 DEFINITIONS.

As used in this Chapter:

- (a) "Food" means raw, cooked or processed edible substance, beverage or ingredient intended for use or for sale in whole or part for human consumption.
- (b) "Mobile Food Service License and Mobile Food Establishment License" means the official document issued by the Clark County Combined Health District or any other Health District in the State of Ohio possessing the appropriate licensing authority with allows the operation of a food truck in Clark County.
- (c) "Food Truck" means a vehicle or vehicle and trailer propelled by an engine which has been specifically designated or used for mobile food vending.
- (d) "Vend or Vending" means offering for sale food of any kind for sale from a food truck on a street, alley, highway or public place within the City of Springfield.

776.03 REGISTRATION REQUIREMENTS.

(a) No person shall offer for sale any food from any food truck within the City of Springfield without a current and valid Mobile Food Service or Mobile Food Establishment License issued by the Clark County Combined Health District or other health departments in the State of Ohio possessing the appropriate licensing authority.

(b) A Mobile Food Service or Mobile Food Establishment License must be clearly and conspicuously displayed on the food truck during all times of operation for inspection by the Clark County Combined Health District and City of Springfield officials.

(c) All food trucks shall be subject to inspections during operation by the Community Development Department for compliance with local and state code and regulations.

(d) All food trucks must display their Mobile Food License or Mobile Food Establishment license plainly in the view of the public.

776.04 GENERAL REQUIREMENTS.

- (a) All food trucks operating in the City of Springfield must keep the surrounding area immediately adjacent to the food truck clean and must dispose of all waste generation from the operation.
- (b) No food trucks may discharge waste water, sewage, or grease into the city storm water or sewage drainage system.
- (c) No food truck shall utilize loud speakers or other noise-making devices in such way to create a nuisance, or in violation of the City's Ordinances.
- (d) No food truck shall operate within 75 feet of a brick and mortar restaurant located in the City of Springfield.

776.05 PRODUCTS FOR SALE.

Food trucks shall only offer food for sale.

776.06 EXEMPTIONS.

- (a) This Chapter shall not apply during sanctioned special events occurring in the City of Springfield pursuant to a valid event permit.
- (b) This Chapter does not apply to invitations on private property extended by the owner or authorized representative of that property.

776.99 PENALTY.

Whoever violates any provision of this chapter is subject to a Class A Civil Fine.

CODIFIED ORDINANCES OF SPRINGFIELD

PART NINE—STREETS, UTILITIES, AND PUBLIC SERVICES CODE

TITLE ONE - Streets and Sidewalk Areas

- Chap. 901. Improvements and Excavations.
- Chap. 902. Right-of-Way Use Management.
- Chap. 903. Sidewalks, Curbs and Gutters.
- Chap. 905. Vacation or Narrowing of Streets.
- Chap. 907. Trees.
- Chap. 909. Weeds.
- Chap. 910. Building Numbering.

TITLE THREE - Municipal Utilities

- Chap. 911. Water Rates and Regulations.
- Chap. 913. Cross Connection Control and Water Quality Protection.
- Chap. 915. Sewer Connections.
- Chap. 916. Use of Public Sewers.
- Chap. 917. Sewerage Charges.
- Chap. 918. Stormwater Utility Charges.
- Chap. 919. Sanitary Services.
- Chap. 921. Private Solid Waste Collectors.
- Chap. 922. Residential Solid Waste Collectors.
- Chap. 923. Demolition Dumps.
- Chap. 925. Collection and Disposal of Storm Waters.
- Chap. 927. Utilities Serving New Condominium Developments.
- Chap. 929. Wellhead and Well Field Protection Regulations.

TITLE FOUR - Engineering Regulations

- Chap. 931. Public Infrastructure Improvements.

TITLE FIVE - Other Public Services

- Chap. 955. Fire Protection Outside City Limits.
- Chap. 959. Springfield-Beckley Municipal Airport.

TITLE SIX - Stormwater Regulations

- Chap. 961. Regulations.
- Chap. 963. Administration.

**CODIFIED ORDINANCES OF SPRINGFIELD
PART NINE—STREETS, UTILITIES, AND PUBLIC SERVICES CODE**

TITLE ONE—Streets and Sidewalk Areas

- Chap. 901. Improvements and Excavations.
- Chap. 902. Right-of-Way Use Management.
- Chap. 903. Sidewalks, Curbs and Gutters.
- Chap. 905. Vacation or Narrowing of Streets.
- Chap. 907. Trees.
- Chap. 909. Weeds.
- Chap. 910. Building Numbering.

CHAPTER 901

Excavations in the Right-of-Way

- 901.01 Definitions.**
- 901.02 Application for permit.**
- 901.03 Conditions for issuance of permit.**
- 901.04 Proceeding with the work.**
- 901.05 Funds received.**
- 901.99 Penalty.**

CROSS REFERENCES

Improvements, contracts—see CHTR. Sec. 41 to 46
Power to establish and care for streets—see Ohio R.C. 715.19, 717.01, 723.01
Openings by municipality—see Ohio R.C. 723.02
Surface treatment—see Ohio R.C. 723.23, 723.31
Excavation liability—see Ohio R.C. 723.49 et seq.
Digging, excavating and piling earth on streets—see Ohio R.C. 5589.10

901.01 DEFINITIONS.

- (a) As used in this Chapter 901, “right-of-way” includes all streets, roads, alleys, sidewalks, tree lawns, or other rights-of-way dedicated for public use within the City of Springfield.
- (b) As used in this Chapter 901, “excavation” includes digging, boring, and any act that disturbs surface or subsurface conditions. Installing cable, wire, or other material into an existing conduit is not “excavation.” Placing or replacing a pole or guy wires associated with a pole is not excavation.
- (c) As used in this Chapter 901, “Engineer” means the Service Director or designee as set forth in Chapter 141.
(Ord. No. 19-289. Passed 12-10-19.)

901.02 APPLICATION FOR PERMIT.

- (a) Except for persons employed by or under contract with the City of Springfield and persons issued a permit under Chapter 903 of these Codified Ordinances, no person shall make any opening or excavation in any right-of-way or remove any pavement from any right-of-way unless that person has applied for and been issued a permit by the City Manager or his duly authorized agent.
- (b) When an excavation or opening in any right-of-way must be made immediately due to an emergency, including an interruption in the provision of utility services, the application for the permit must be made as soon as is practicable.
- (c) The application shall be signed by the person who is to do such work, and shall set forth the location, kind, and extent of any excavation, and the name and address of the person for whose benefit the same is to be done. The application shall state the means and methods by which the excavation will be restored. The application shall state when the work will be performed and when the restoration will be completed. The application shall also describe how pedestrian and vehicular traffic will be controlled during the excavation and restoration work.
- (d) By signing the application, the applicant agrees to:
 - (1) pay the fees imposed by this Chapter 901,
 - (2) perform the work described in the permit in accordance with the permit,
 - (3) indemnify and save the City harmless from any claim, loss, or damage arising in any way out of such work, or which may result, directly or indirectly, to persons or property by reason of any such improvement, or by reason of the same not being properly guarded or protected by lights, barriers, or otherwise, so as to prevent injury to users of the right-of-way, and
 - (4) repair or replace any work that, in the reasonable opinion of the Engineer, has been shown to be deficient.(Ord. No. 17-193. Passed 8-15-17.)

901.03 CONDITIONS FOR ISSUANCE OF PERMIT.

- (a) No permit under this Chapter shall be issued until the applicant has paid a permit fee and a restoration deposit to the City.
 - (1) The permit fee shall be a minimum of \$100 for the first 400 lineal feet of excavation. If an excavation exceeds 400 lineal feet, an additional fee of \$100 is payable for each additional increment of up to 400 lineal feet. The maximum permit fee is \$1,000.
 - (2) The restoration deposit shall be in a sum of money sufficient to restore the street or alley as nearly as is reasonably possible to a condition as good or better as existed prior to the opening or excavation of the street or alley. The City Manager shall from time to time prepare and place on file in his office and in the office of the Service Department, schedules of the estimated costs relating to

surface restoration related to permitted excavations or disturbances. The deposit required shall be based upon such schedules, provided that the City Manager may in any instance make special estimates for work or materials or costs not covered by his general schedules.

(3) Public Utilities, as defined in Section 902.02(p), shall not be required to pay a restoration deposit.

(b) The Applicant must be licensed pursuant to Chapter 902, 915, 1327, or 1367 of the Codified Ordinances of the City of Springfield.

(c) If the Engineer determines that means, methods, and timing described in the application are appropriate, that the required fees are paid, the deposit made, and that the applicant is not in default of any of its obligations under this Chapter or Chapter 903, the Engineer shall issue a permit to the applicant to proceed with such work.

(Ord. No. 19-289. Passed 12-10-19.)

901.04 PROCEEDING WITH THE WORK.

Upon issuance of a permit, the applicant shall proceed diligently with the work until completed. No excavation in a street or alley or other right-of-way shall remain open longer than is reasonably required for such purpose. Each applicant shall keep any opening or excavation at all times properly barricaded and guarded and maintain each traffic control device in place during any time that the excavation remains open, and shall save and protect the City from any or all claims, losses, or damages resulting, directly or indirectly, to persons or property from the opening or excavation in any street or alley or other right-of-way of the City. Each applicant shall, after the backfilling of any such opening or excavation in any such unpaved street or alley, cause the same to be maintained free from hillocks or depressions so that the street or alley or other right-of-way shall be free from defects as a result of such opening or excavation and shall be safe for travel and use by the public, until such time as the backfilling is settled and compacted and all restoration work under the permit shall have been completed. In the event of an applicant's failure to complete the restoration work as set forth in the permit, the City shall cause the work to be done and all the costs and expenses thereof charged to such applicants. The costs will be charged against the restoration deposit. If the deposit is insufficient, the City may pursue collection of the deficiency by all lawful means. If, after having deducted all restoration costs, a balance remains on deposit, that balance shall be refunded to the applicant.

(Ord. No. 17-193. Passed 8-15-17.)

901.05 FUNDS RECEIVED.

All money received under the provisions of this chapter shall be deposited with the Director of Finance and shall be placed in the General Fund.

(Ord. No. 17-193. Passed 8-15-17.)

901.99 PENALTY.

Whoever makes any opening, or excavation in any street or alley, or removes any pavement therefrom, without first having complied with the provisions of this chapter, is guilty of a misdemeanor of the third degree.

(Ord. No. 17-193. Passed 8-15-17.)

Chapter 902

Right-of-Way Use Management

This chapter was updated by Ordinance No. 19-289 effective December 24, 2019

902.01 Purpose and scope of chapter.

902.02 Definitions.

902.03 Types of permits, grant of license and privilege.

902.04 Application procedure, terms and conditions.

902.041 Public utility and telecommunications permit amendment application procedure.

902.05 Criteria for granting permits.

902.06 Obligations of permittees, conditions of permits.

902.07 Permit fees and auditing.

902.08 Notice of right-of-way work and joint planning.

902.09 Use of permittee facilities by the City.

902.10 Indemnification.

902.11 Removal of facilities.

902.12 Remedies and revocations.

902.13 Reservation of rights.

902.14 Right-of-way vacation.

902.15 Temporary movement of facilities.

902.16 Foreclosure and receivership.

902.17 Repair of sewer laterals in right-of-way.

902.90 Nonenforcement and waivers by the City.

902.91 Controlling law.

902.92 Late response to emergency need for on-site underground facility location.

902.93 Captions.

902.99 Penalties.

902.01 PURPOSE AND SCOPE OF CHAPTER.

(a) The purpose of this Chapter is to provide requirements for the use or occupation of any and all right of way and public property in the City, the issuance of permits to persons for such use or occupancy and to set forth the policies of the City related thereto.

(b) This Chapter does not take the place of any franchise, license, or permit which may be additionally required by law. Each Permittee shall obtain any and all such additional franchises, licenses or permits necessary to the operations and conduct of its business.

(c) No person shall use occupy, own or operate facilities in, under or over any right-of-way within the City or on property owned by the City, unless such person first obtains a Permit conforming to the requirements set forth in this Chapter; provided, however, that permits shall not be required for *de minimis* uses.

(d) The policy of the City with regard to right-of-way is hereby declared to be:

- (1) To promote public safety and protect public property;
- (2) To promote the utilization of right-of-way for the public health, safety and welfare and to promote economic development in the City;
- (3) To promote the availability of a wide range of public utility, telecommunication and other services, including the rapid deployment of new technologies and innovative services to the City's citizens and taxpayers at reasonable rates;
- (4) To promote cooperation among the City, Franchisees, and Permittees in the occupation of right-of-way and work therein in order to minimize public inconvenience during work in the right-of-way, to facilitate the delivery of quality services and products by Franchisees and Permittees to the public, to avoid uneconomic, unneeded and unsightly duplication of facilities and to manage the use of space within the right-of-way to provide for the addition of municipal and public utility infrastructure to meet the future needs of the public;
- (5) To ensure adequate public compensation for the private use of the right-of-way and the regulation thereof; and
- (6) To promote and require reasonable accommodation of all uses of right-of-way and to establish the following priority of use of right-of-way, when all requested usage of right-of-way by Permittees cannot be accommodated:
 - A. Use by the City shall have first priority;
 - B. Use by another governmental entity, with City concurrence, or other uses required by law shall have second priority;
 - C. Use by public utilities Permittees shall have third priority;
 - D. Use by telecommunications provider Permittees which are not public utilities, but which provide services to the public shall have fourth priority; and,
 - E. Special Permittees shall have fifth priority;

provided, however, that the Service Director may reasonably require Permittees to cooperate to accommodate use by other Permittees and Franchisees and provided further that the City Manager may alter this priority when the City Manager determines that such alteration is necessary to protect the public health, safety and/or welfare.

(e) It is neither the intent nor the policy of the City to engage in any discriminatory acts violative of the federal Telecommunications Act of 1996.

(f) Nothing in this Chapter should be construed to apply the provisions of this Chapter to facilities owned or operated by the City or any of its operations or to sewer laterals and waterlines located in the rights-of-way which are connected to the City's water or sewer facilities with the City's permission.

(g) Unless otherwise specifically stated in a Permit, all Permits granted hereunder shall be nonexclusive.

902.02 DEFINITIONS.

For purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as defined in this Section 902.02. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- (a) "Applicant" means any Person applying for a Permit hereunder.
- (b) "Approved" means approval by the City pursuant to this Chapter or any Regulations adopted hereunder.
- (c) "Best Efforts" means the best reasonable efforts under the circumstances, taking into consideration, among other appropriate matters, safety, expedition, available technology and human resources and cost.
- (d) "Chapter" or "this Chapter" means this Chapter 902 of the Codified Ordinances of the City, as amended from time to time and any Regulations adopted hereunder.
- (e) "City" means The City of Springfield, Ohio, or, as appropriate in the case of specific provisions of this Chapter, any board, bureau, authority, agency, commission, department of, or any other entity of or acting on behalf of The City of Springfield, Ohio or any officer, official, employee, representative or agent thereof the designee of any of the foregoing, or any successor thereto.
- (f) "Commission" means the City Commission of the City.
- (g) "De Minimis Uses" shall mean use of right-of-way for mailboxes, decorative purposes, curb cuts, driveways, irrigation systems and pipes, laterals or lines connecting a property with the distribution/accumulation mains, pipes or lines of a Public Utility.
- (h) "Distribution/accumulation" mains, pipes or lines means Public Utility mains, pipes or lines used to distribute services or product to or to collect sewerage or communications from multiple properties served by the Public Utility.
- (i) "Force Majeure" means strikes, acts of God, acts of public enemies, riots, epidemics, landslides, lightning, earthquakes, fires, tornadoes, storms, floods, civil disturbances, explosions, orders of any kind of a government of the United States of America or of the State of Ohio or any of their departments, of their agencies or of their political subdivisions, partial or entire failure of utilities or any other cause or event not reasonably within the control of the disabled party, but only to the extent the disabled party notifies the other party as soon as practicable regarding such Force Majeure and then for only so long as and to the extent that the Force Majeure prevents compliance or causes non-compliance with the provisions hereof.
- (j) "Franchise" means the nonexclusive right granted by the City Commission pursuant to the Constitution and laws of Ohio, of the United States and pursuant to Article XI of the City's Charter to construct and operate a public utility in the right-of-way and public grounds of the City.
- (k) "Permit" means the nonexclusive grant of a license and privilege to use or occupy all or a portion of City's right-of-way granted pursuant to this Chapter.
- (l) "Permittee" means any person issued a Permit pursuant to this Chapter to use or occupy all or a portion of the right-of-way in accordance with the provisions of this Chapter and said Permit.
- (m) "Person" means any natural person or any association, firm, partnership, limited liability company, trust, joint venture, corporation or other legally recognized entity, whether for-profit or not-for-profit.
- (n) "Public Property" means any real property owned by the City, other than a right-of-way as defined in the first sentence of Subsection 902.02(r).
- (o) "Public Utility" means any entity which provides essential products or services to the public with the characteristic of service to, or readiness to serve, an indefinite public which has a legal right to demand and receive the entity's products or services and which conducts its operations in such a manner as to be a matter of public concern [See, *A & B Refuse Disposal, Inc. v. Board of Ravenna Township Trustees* (1992), 64 Ohio State 3d 385].
- (p) "Regulation" means any rule adopted by and pursuant to the authority of this Chapter.
- (q) "Right-of-way" means the surface of and the space above and below any public street, public road, public highway, public freeway, public

- lane, public path, public way, public alley, public court, public sidewalk, public boulevard, public parkway, public drive or any public easement or right-of-way now or hereafter held by the City. Right-of-way shall also include Public Property.
- (r) "Service Director" means the City of Springfield Service Director or designee.
- (s) "Telecommunications" means the technology of communication by electronic transmission of impulses, transmission of impulses by light energy or transmission by electromagnetic wave.

902.03 TYPES OF PERMITS, GRANT OF LICENSE AND PRIVILEGE.

- (a) The following types of Permits are available:
- (1) Public Utility Permit. A Permit granted to public utilities who desire and are granted authority to utilize right-of-way to provide public utility products and/or services.
 - (2) Telecommunication Permit. A Permit granted to persons who are granted authority to utilize right-of-way to provide telecommunications services to the public which are not public utility services.
 - (3) Special Permit. A Permit granted to persons for a specific, limited use of the right-of-way or a specific portion thereof; other than a public utility use or other than to provide telecommunications services to the public.

The applicant for a Permit shall bear the burden of proving its qualification as a Public Utility, Telecommunications Service Provider or a Special Permittee.

(b) All Permits shall specify the use or uses for which such Permits are granted and contain such other non-discriminatory terms and conditions as the Service Director determines are necessary to accomplish the City policy objectives set forth in Subsection 902.01(d), such terms and conditions as are set forth in this Chapter and such terms and conditions as are negotiated and agreed to by the City and the Permittee to provide for the public health, safety or welfare. Permittees are granted the license and privilege to occupy the right-of-way as specified by and limited in their Permit granted pursuant to this Chapter.

(c) Permits and the license and privileges of Permittees granted thereunder are neither assignable nor otherwise transferable without the express, written approval of the City.

902.04 APPLICATION PROCEDURE, TERMS, AND CONDITIONS.

(a) Applicants for Public Utility Permits, or renewals thereof, shall file an application therefor in such form as the City Manager may require along with an application fee of One Thousand Dollars (\$1,000.00). The applicant shall provide along with its application such documentary evidence as is necessary to show that the applicant meets the definition of a public utility. The applicant shall provide such additional information as the City Manager may require to explain, clarify, supplement or verify information and representations contained in the application. The City Manager shall determine if the application is in order and, if so, shall determine whether or not, in accordance with the criteria set forth in Section 902.05, the applicant should be granted a Permit hereunder. The City Manager shall make a final determination as to whether or not such Permit should be granted and, if so, upon what terms and conditions are necessary to accomplish the purposes of this Chapter.

(b) Applicants for Telecommunications Permits, or renewals thereof, shall file an application therefor in such form as the City Manager may require along with an application fee of One Thousand Dollars (\$1,000.00). The applicant shall provide such additional information as the City Manager may require to explain, clarify, supplement or verify information and representations contained in the application. The City Manager shall determine if the application is in order and, if so, shall determine whether or not, in accordance with the criteria set forth in Section 902.05, the applicant should be granted a Permit hereunder. The City Manager shall make a final determination as to whether or not such Permit should be granted and, if so, upon what terms and conditions are necessary to accomplish the purposes of this Chapter.

(c) Applicants for Special Permits, or renewals thereof, shall file an application therefor in such form as the City Manager requires along with an application fee of One Hundred Dollars (\$100.00). The applicant shall provide such additional information as the Service Director may require to explain, clarify, supplement or verify information and representations contained in the application. The Service Director shall determine if the application is in order and, if so, and if the Service Director also finds in accordance with the criteria set forth in Section 902.05, that the application should be granted, the Service Director shall grant or renew such a Permit. The terms and conditions of such Permit shall be determined by the Service Director but, in no event, shall the duration of such Permit exceed 10 years.

(d) Permits for *de minimis* uses are not required, with the stipulations that such uses:

- (1) exist and continue at the sufferance of the City;
- (2) may not jeopardize or adversely affect the public health, safety or welfare;
- (3) may not interfere with the municipality's own uses of the rights of way;
- (4) must be modified, moved or removed, upon notice, when the City determines in its sole judgment that such action is necessary; provided further, that in an emergency, or upon failure of the responsible party to respond in a timely fashion, the City may do or contract to do whatever it requires and recover the costs of same as such costs are recoverable by law.

(e) Any Applicant may appeal the failure of the Service Director to grant a Permit. In order to perfect such appeal, the Applicant shall file an appeal to the City Manager within ten (10) days of the Service Director's determination or after thirty (30) days but within one sixty (60) days of the filing of the application if the Service Director has taken no action. The City Manager shall then review the matter and render a final determination, in writing and with appropriate findings of fact, after serving upon the applicant at least twenty (20) days advance written notice of the Permittee's opportunity for a hearing before the City Manager and granting the applicant an opportunity to be heard in person or in writing, as the applicant may chose. Except to the extent otherwise appealable by law, the City Manager's decision shall be final.

902.041 PUBLIC UTILITY AND TELECOMMUNICATIONS PERMIT AMENDMENT APPLICATION PROCEDURE.

A holder of a Public Utility Permit or a Telecommunications Permit may make application to amend such permit to add new infrastructure. Applicants for amendments of Public Utility or Telecommunications Permits shall file an application therefor in such form as the City Manager may require along with an application fee of Three Hundred Dollars (\$300.00); provided, that if the applicant is submitting its application for a permit amendment simultaneously with its annual application to renew its permit, the Three Hundred Dollar fee is waived. The applicant shall provide such information as the City Manager may require to explain, clarify, supplement or verify information and representations contained in the permit amendment application. The City Manager shall determine if the permit amendment application is in order and, if so, shall determine whether or not, in accordance with the criteria set forth in Section 902.05, the applicant should be granted a permit amendment hereunder. The City Manager shall

make a final determination as to whether or not such permit amendment should be granted and, if so, upon what terms and conditions are necessary to accomplish the purposes of this Chapter.
(Ord. 05-142. Passed 05-24-05.)

902.05 CRITERIA FOR GRANTING PERMITS.

Public Utility Permits, Telecommunications Permits and Special Permits shall be granted to Persons based upon a determination that the following criteria are met:

- (a) That the granting of the Permit will contribute to the public health, safety or welfare in the City;
- (b) That the granting of the Permit will be consistent with the policy of the City as set forth in this Chapter;
- (c) That the applicant has and will continue to have meet the liability insurance requirements of this Chapter;
- (d) That the applicant is in full compliance with the provisions of this Chapter and with Chapter 195 of the Codified Ordinances; and
- (e) That the applicant is a proper person to hold the Permit and will fulfill all its obligations hereunder.

902.06 OBLIGATIONS OF PERMITTEES, CONDITIONS OF PERMITS.

(a) In addition to the other requirements set forth in this Chapter and set forth specifically in the Permit granted, each Public Utility Permittee, each Telecommunications Permittee and each Special Permittee shall:

- (1) Use its Best Efforts to cooperate with other Franchisees, Permittees and with the City for the best, most efficient, least offensive (with respect to aesthetics) and least obtrusive use of right-of-way, consistent with safety, and to minimize traffic disruptions and hazards, street cuts and other disruptions to use of the right-of-way;
- (2) Participate in joint planning and advance notification of right-of-way work, excepting such work performed in emergencies;
- (3) Cooperate with other non-Residential Permittees and Franchisees in utilization of, construction in and occupancy of private rights of way only to the extent the same is not inconsistent with the grant thereof or with applicable law;
- (4) In the event the Service Director determines that a Permittee must remove or rearrange the Permittee's facilities as necessary so as not to interfere with higher priority uses, as established in Subsection 902.01(d)(6) [by way of example and not by way of limitation, the operation, construction, repair or modification of any street, sidewalk, City water or sewer utility infrastructure or other governmental uses], or if additional or subsequent City or other public uses of right-of-way are inconsistent or incompatible with then current uses of Permittees or for any other reasonable cause, the Service Director shall so advise the Permittee in writing and invite the Permittee to comment on the Service Director's determination within five (5) days of such notification. Upon the written direction of the Service Director served on the Permittee, and at no cost to the City, the Permittee shall promptly remove or rearrange the Permittee's facilities as necessary so as not to interfere with higher priority uses, as established in Subsection 902.01(d)(6), or if additional or subsequent City or other public uses of right-of-way are inconsistent or incompatible with then current uses of Permittees or for any other reasonable cause as determined by the Service Director.
- (5) Provide maps and other information in such form and at such times as the Service Director may require. It shall not be unreasonable for the Service Director to require a Permittee to provide maps and other information which has been previously prepared by or for the Permittee, or the Permittee's predecessor, and which is in the possession of or subject to the control of the Permittee. Said maps and information shall locate, describe and identify all structures and facilities of such Permittee in, over and/or under the right-of-way;
- (6) Perform all work, construction, maintenance or removal of structures and facilities within the right-of-way in accordance with recognized good engineering and construction practices, with accepted industry standards, with all applicable laws, regulations and safety codes [including, but not limited to the National Electrical Safety Code published by the National Bureau of Standards and the National Electrical Code published by the National Fire Protection Association] and in accordance with Best Efforts to repair and replace any street, curb or other portion of the right-of-way, or of facilities or structures located therein to a condition materially equivalent to its condition prior to such work, and to do so in a manner which minimizes inconvenience to the public, the City and other Permittees; all in accordance with this Chapter and with all applicable Regulations;
- (7) Register with all appropriate underground reporting services and, upon being informed by an authorized representative of the City that there is an emergency need to have a qualified representative of the Permittee at a site to locate underground facilities, have a qualified representative at the identified emergency need site within two hours after the City's representative informs the Permittee of the emergency need; and
- (8) Unless otherwise set forth in its Permit, no Permittee shall enter into any leases or other arrangements for use of physical space in or on Permittee's facilities located within the right-of-way without prior notification to the City, such notice to include an accurate description of the use(s) to be made of the facilities. Upon the City's request, the Permittee shall make the document(s) used to memorialize such leases and other arrangements available for inspection by the City's personnel at the office of the Permittee nearest Springfield, Ohio.

(b) Construction and Technical Standards.

- (1) Upon grant of the Permit and in order to construct, operate and maintain a public utility or a telecommunications system to serve the public in the City, the Permittee may enter into contracts with any public utility companies or any other owner or lessee of any poles or underground areas located within or without the City; obtain right-of-way permits from appropriate City, State, County and Federal officials necessary to cross or otherwise use highways or roads under their respective jurisdictions; obtain permission from the Federal Aviation Administration to erect and maintain antennas; and obtain whatever other permits a municipal, County, State or Federal agency may require.
- (2) In those areas of the City where telephone and electric services are provided by underground facilities, all new facilities shall be placed underground. In all other areas the Permittee, upon written request of the City served upon the Permittee, shall use its Best Efforts to place its facilities underground. However, the term facilities as used in the preceding sentence shall not include equipment which is customarily placed on or above the ground in conjunction with underground transmission facilities (e.g. splice and terminal pedestals, equipment cabinets and transformers). Where not otherwise required to be placed underground by this Chapter, the Permittee's system shall be located underground at the request of the adjacent property owner; provided, the placement of such system shall be consistent with the Permittee's construction and operating standards and provided that the excess cost over the above grade location shall be borne by the property owner making the request. All cable to be installed under the roadway shall be installed in conduit. In no circumstance shall a new pole or poles be located in any right-of-way of the City where such pole or poles are not replacing an existing pole or poles; without first obtaining the written approval of the Service Director.
- (3) The Permittee shall construct, install, operate and maintain its system in a manner consistent with all applicable laws as well as with such published standards as are recommended by the Federal Communications Commission, whether or not those published standards have the force of law; unless the Permittee demonstrates to the satisfaction of the Service Director that such published, recommended standard is impractical and will not contribute to the public health, safety or welfare.
- (4) The Permittee shall comply with the City's permitting process prior to commencing any work in the right-of-way, except for emergencies

and otherwise as provided in this Chapter. No work in the right-of-way shall be commenced until such time as any and all required permits have been issued by the City.

- (5) Each contractor employed by a Permittee for the construction, installation, operation, maintenance, and repair of system equipment shall be properly licensed. The Permittee's facilities shall be so located as to cause minimum interference with the proper use of right-of-way by the traveling public and shall be so located so as not to cause a public nuisance.
- (6) The City does not guarantee the accuracy of the City's maps showing the horizontal or vertical location of existing substructures in the right-of-way. When a Permittee discovers a substructure not properly located on the City's map of the relevant area, the Permittee shall immediately notify the Service Director and cooperate with the Service Director's efforts to correct and revise the City's map.
- (7) Construction, installation, operation, and maintenance of the Permittee's facilities located in the right-of-way shall be performed in a safe, orderly and workmanlike manner, in accordance with recognized good engineering and construction practices, with accepted industry standards, with all applicable laws, regulations and safety codes (including, but not limited to the National Electrical Safety Code published by the National Bureau of Standards and the National Electrical Code published by the National Fire Protection Association) and in accordance with the Permittee's then current maintenance practices. When consistent with the standards specified in Subsections 902.06(a)(6) and (b)(3), all new or replacement linear or strand-like facilities (by way of example and not by way of limitation, cables, optic fibers and wires) shall be installed, where possible, parallel with existing electric and telephone lines and new or replacement multiple linear or strand-like facility configurations shall be arranged parallel and bundled.
- (8) The Permittee shall at all times operate its facilities located within the City so as to comply with recognized good engineering practices, with accepted industry standards and with all applicable laws, regulations and safety codes (including, but not limited to the National Electrical Safety Code published by the National Bureau of Standards and the National Electrical Code published by the National Fire Protection Association).
- (9) In any event, the Permittee's facilities shall not endanger or interfere with the safety of persons or property in the Permit area or other areas where the Permittee may have facilities located.

(c) Right-of-Way Work Permit Required. All Permittees shall obtain a right-of-way Work Permit from the Service Director prior to the beginning of any work in the right-of-way; however, prior City approval shall not be required for emergency repairs or for routine maintenance which does not require excavation in the public right-of-way or complete blockage of traffic using the right-of-way or entry on to Public Property other than right-of-way. The term "routine maintenance" as used in this subdivision means:

- (1) inspection of facilities,
- (2) groundline treatment of poles,
- (3) switching,
- (4) repairing damaged or failed equipment,
- (5) installing new service extensions
- (6) tree trimming, and
- (7) relamping of street lights,
- (8) cathodic protection maintenance,
- (9) resetting a pole in the general area of its original location.

The Permittee and its contractors shall restore the right-of-way and Public Property, when disturbed by the Permittee or its contractor, as required by the Service Director. A Permittee shall be liable to the City for any and all damage done by its contractors to the right-of-way or to Public Property or to sewer laterals located within the right-of-way. Such right-of-way Work Permit shall be issued in writing and shall contain such conditions that may be required by the Service Director for the protection of the public health, safety, welfare and preservation of Public Property and right-of-way and to accomplish the City's policy objectives as set forth in this Chapter. The Permittee, and its contractors shall endeavor to complete, in a timely manner, restoration of the right-of-way and Public Property and all workmanship and materials used by the Permittee and its contractors for such restoration shall be subject to the inspection and approval of the Service Director and shall be warranted for a period of one (1) year from the date of completion for any failure due to workmanship or quality of materials.

902.07 PERMIT FEES AND AUDITING.

(a) Public Utility Permittees and Telecommunication Permittees shall pay an annual fee determined as follows:

- (1) Permittees utilizing equal to or greater than thirty (30) linear miles of right-of-way shall pay a fee of Three Thousand Dollars (\$3,000.00) per year.
- (2) Permittees utilizing less than thirty (30) linear miles of right-of-way shall pay a fee of One Thousand Dollars (\$1,000.00) per year.

Such fee shall be paid in advance for each year, prior to January 31. The fee for partial year permits shall be prorated at one fifty second (1/52) of the annual fee for each week or portion thereof remaining in the permit year.

(b) Except as otherwise provided in division (d) of this Section 902.07, Special Permittees shall pay an annual fee of Ten Cents (\$.10) per linear foot of right-of-way used or occupied. Such fee shall be paid in advance for each year prior to January 31. The fee for partial year permits shall be prorated at one fifty second (1/52) of the annual fee for each week or portion thereof remaining in the permit year.

(c) In addition to the annual fees set forth in 902.07(a) and (b), Permittees shall pay a right-of-way Work Permit processing fee in the amount of Twenty-Five Dollars (\$25.00); unless the work requires a permit issued pursuant to Section 901.08 of the Codified Ordinances and the permittee pays the fee imposed under Subsection 901.08(a), in which case the fee imposed under this Subsection 902.07(c) is waived. Said fees are payable at the time the notice set forth in Section 902.08 hereof is filed. Fees for work done without a Section 902.08 prior notice shall be made within seven (7) business days of the initiation of such work.

(d) Special Permittees obtaining permits to install monitoring wells in right-of-way shall pay a one time fee of Five Hundred Dollars (\$500) per well at the time the Special Permit is issued and, thereafter, an annual fee of Fifty Dollars (\$50) per well included in the Special Permit. The annual fee for Special Permits to maintain monitoring wells in the right-of-way shall be paid in advance for each year prior to January 31. The said one time fee is in addition to fees imposed in Section 902.04 of this Chapter 902.

(Ord. 05-142. Passed 05-24-05.)

902.08 NOTICE OF RIGHT OF WAY WORK AND JOINT PLANNING.

(a) All applicants for right-of-way Work Permits required under Section 902.06 of this Chapter shall file a written notice with the Service Director at least seven (7) days before working in or on the right-of-way, except in the case of emergency. In addition to such other information as the Service Director shall require, the notice shall:

- (1) Identify the right-of-way affected;

- (2) Contain a description of any facilities to be installed, constructed or maintained;
- (3) State whether or not any right-of-way will be excavated;
- (4) State to what extent any right-of-way will need to be restricted, blocked or temporarily closed;
- (5) Provide an estimate of the amount of time needed to complete such work;
- (6) Provide a description and timetable of any restorative measures planned to close any street excavation or to remedy any damage done to the right-of-way in performing such work;
- (7) Contain a certification that other affected or potentially affected Permittees or Franchisees have been notified of the proposed work; and
- (8) Contain a certification that all Springfield consumers of any public utility products or services which will be adversely affected by such work have been or will be notified in advance of any disruption in delivery of the public utility products and services to such consumers.

(b) Permittees may, under emergency or other exigent circumstances, work in the right-of-way so long as the Permittees notify the Service Director in advance of the work to be performed, via voice mail delivered to a telephone number which shall be published by the Service Director, and as long as the Permittees use Best Efforts to provide the City with the notice required by Subsection 902.08(a) at the earliest possible time.

902.09 USE OF PERMITTEE FACILITIES BY THE CITY.

The City shall have the right to install and maintain communications facilities solely for the City's municipal activities, free of charge, upon any poles and within any underground pipes and conduits or other facilities of any Public Utility Permittee, Telecommunication Permittee or Special Permittee, unless:

- (a) such installation and maintenance unreasonably and materially interferes with existing and future operations of the Permittee, or
- (b) that such installation and maintenance would be unduly burdensome to such Permittee.

Each Permittee shall cooperate with the City in the planning and design of its facilities so as to accommodate the City's municipal needs. The City's right to use and occupancy of a Permittee's poles or conduit shall be subject to any and all reasonable terms and conditions the Permittee requires of other third party users of its poles and conduit necessary to prevent electromagnetic interference with the Permittee's use of its facilities or necessary to protect human safety. The City shall pay the Permittee the reasonable cost to make the Permittee's poles or conduit ready for the City's use and occupancy. The said reasonable cost shall not exceed the cost which the Permittee charges to similarly situated occupants for similar occupancies. Nothing herein shall be construed to require a Permittee to construct poles or conduit where none exist.

902.10 INDEMNIFICATION.

(a) To the fullest extent permitted by law, each Permittee shall, at its sole cost and expense, fully indemnify, defend and hold harmless the City, its City Commissioners, employees, boards and commissions, agents and contractors from and against any and all lawsuits, claims (including without limitation worker's compensation claims against the City or others), causes of action, liability, awards and judgments for injury or damages (including but not limited to expenses for reasonable legal fees and fees of experts retained by the City in connection therewith):

- (1) To persons or property, in any way arising out of or through the acts or omissions of Permittee, its contractors, agents or employees attributable to the occupation by the Permittee of the right-of-way,
- (2) Arising out of any claim for invasion of the right of privacy, for defamation of any person or legal entity or the violation or infringement of any copyright, trademark, trade name, service mark or patent or any other right of any person or other legal entity by the Permittee,
- (3) Arising out of the Permittee's failure to comply with the provisions of any federal, state, or local law or regulation applicable to the Permittee;

unless, the City's negligence or willful misconduct is the sole and proximate cause of such injury or damage.

(b) The foregoing indemnification is conditioned upon the City:

- (1) Giving Permittee prompt notice of any claim or the commencement of any action, suit or proceeding for which indemnification is sought;
- (2) Affording the Permittee the opportunity to participate in and fully control any compromise, settlement, or other resolution or disposition of any claim or proceeding subject to indemnification; and
- (3) Fully cooperating in the defense of such claim and making available to the Permittee all pertinent information under the City's control and the release of which is not prohibited by law.

(c) The City shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof and the Permittee shall pay the reasonable fees and expense of such separate counsel if employed with the approval and consent of the Permittee or if representation of both Permittee and the City by the same attorney would be inconsistent with accepted canons of professional ethics.

(d) Each Permittee shall maintain insurance coverages (or self-insurance coverage by Permittees having capitalization in excess of Fifty Million Dollars, as determined by the City Manager) in accordance with the following:

- (1) Commercial General Liability Insurance. Each Permittee shall maintain, and by its acceptance of any Permit granted under this Chapter specifically agrees that it will maintain throughout the term of any such Permit, commercial general liability insurance insuring the Permittee in the minimum of:
 - A. \$1,000,000 per occurrence;
 - B. \$2,000,000 annual aggregate; and
 - C. \$1,000,000 excess general liability per occurrence and annual aggregate.
 Such commercial general liability insurance may be written on an occurrence or claims made bases and must on a comprehensive coverage form, including the following: premises operations, explosion and collapse hazard, underground hazard, products liability, completed operations, contractual coverage, and broad form property damage, bodily injury and personal injury coverage.
- (2) Automobile Liability Insurance. Each Permittee shall maintain, and by its acceptance of any Permit granted under this Chapter specifically agrees that it will maintain throughout the term of such Permit, automobile liability insurance for owned, non-owned, or rented vehicles in the minimum amount of:
 - A. \$1,000,000 per occurrence; and
 - B. \$1,000,000 excess automobile liability per occurrence, for property damage, bodily injury and personal injury coverage.
- (3) Worker's Compensation. Each Permittee shall maintain, and by its acceptance of any Permit granted under this Chapter specifically agrees that it will maintain throughout the term of any such Permit, Worker's Compensation coverage as required by the State of Ohio.

902.11 REMOVAL OF FACILITIES.

- (a) In the event any Permittee intends to discontinue use of any facilities within the right-of-way, such Permittee shall submit a notice to the

Service Director describing the portion of the facilities use of which will be discontinued and the date of discontinuation of use, which date shall not be less than thirty (30) days from the date such notice is submitted to the Service Director. The Permittee may not remove, destroy or permanently disable any such facilities after such notice without the advance, written approval of the Service Director. In the event the Permittee abandons such facilities by failing to remove such facilities within six months after the Permittee has discontinued use of such facilities, the Permittee shall remove, unless prohibited by federal or state law, and/or secure such facilities or shall abandon such facilities in place as directed by the Service Director in written instructions served on the Permittee.

(b) Upon such abandonment, the City may elect to accept title to the abandoned facility. Such acceptance shall be in writing and upon such acceptance full title and ownership of such abandoned facilities shall pass to the City without the need to pay compensation to the Permittee. The Permittee shall, however, continue to be responsible for all taxes on such facilities or other liability associated therewith until the date the same was accepted by the City. The Permittee shall provide to the City such documents conveying all of the Permittee's right, title and interest in such abandoned facilities to the City as the City may require.

902.12 REMEDIES AND REVOCATION.

(a) In case of any failure of Permittee's physical plant necessary to the functioning of Permittee's facilities, located in the right-of-way or located upon Public Property pursuant to the Permittee's Permit, whether due to damage, age, lack of maintenance or any other cause, the City shall notify Permittee who shall, within a reasonable time as stipulated by the City, respond and repair such failed plant. Should the Permittee fail to act as required, or in cases where protection of public safety requires an immediate response, the City may take any required, corrective action and recover the costs of same from the Permittee.

(b) The Service Director shall give the Permittee sixty (60) days prior written notice of City's intent to revoke the Permit under the provisions of this Chapter stating the reasons for such action. If the Permittee cures the stated reason within the sixty (60) day notice period, or if the Permittee initiates efforts satisfactory to the City to remedy the stated violation, the City shall not revoke the Permit. If the Permittee does not cure the stated violation or undertake efforts satisfactory to the City to remedy the stated violation; then, after serving upon the Permittee at least twenty (20) days advance written notice of the Permittee's opportunity for a hearing before the City Manager and granting the Permittee an opportunity to be heard in person or in writing as the Permittee may chose, the City Manager may revoke the Permit.

(c) In the event the Permit is revoked, all facilities located in the right-of-way or located upon Public Property pursuant to the Permit shall be removed from the right-of-way and from Public Property at the sole expense of the Permittee.

902.13 RESERVATION OF RIGHTS.

(a) Nothing in this Chapter shall be construed to prevent the City from constructing, maintaining, repairing or relocating any City utility, communications or other municipal facilities, from grading, paving, maintaining, repairing, relocating or altering any transportation infrastructure (by way of example and not by way of limitation streets, bridges, sidewalks, traffic signals and signs) or constructing, maintaining, relocating or repairing any public work or improvement or planting and maintaining any public tree or other plant material.

(b) Nothing in his Chapter should be construed so as to grant any right or interest in any right-of-way or Public Property other than that explicitly set forth herein or in a Permit.

(c) Nothing in this Chapter should be constructed to limit the ability and discretion of the City Commission to pass legislation or of the City's administration to adopt regulations to protect the public peace, health, safety and welfare.

902.14 RIGHT OF WAY VACATION.

In the event any right-of-way used by a Permittee shall be vacated by the City during the term of any Permit granted pursuant to this Chapter and if the Permittee's facilities located in the vacated right-of-way are no longer in use, the Permittee shall, unless prohibited by federal or state law, at the Permittee's expense forthwith remove its facilities therefrom unless specifically permitted by the City to allow the Permittee's facilities to remain in place and upon the removal thereof restore, repair, or reconstruct the area where such removal has occurred to a condition materially equivalent to that existing before such removal took place. In the event of failure, neglect or refusal of the Permittee, after thirty (30) days written notice by the City to remove the facilities or to repair, restore, reconstruct improve or maintain such vacated area, the City may, if in accordance with applicable law, do such work or cause it to be done, and the cost thereof as found and declared by the City, shall be paid by the Permittee as directed by the City and collection may be made by any available remedy.

902.15 TEMPORARY MOVEMENT OF FACILITIES.

In the event it is necessary temporarily to move or remove any of the Permittee's facilities placed pursuant to this Chapter in order to lawfully move a large object, vehicle, building or other structure over the right-of-way of the City, upon two (2) weeks written notice by the City to the Permittee, the Permittee shall, at the expense of the Person requesting the temporary removal of such facilities, comply with the City's request.

902.16 FORECLOSURE AND RECEIVERSHIP.

(a) Foreclosure. Upon the foreclosure or other judicial sale of the Permittee's facilities located within the right-of-way, the Permittee shall notify the City of such fact and its Permit shall be deemed void and of no further force and effect.

(b) Receivership. The City shall have the right to cancel any Permit granted pursuant to this Chapter subject to any applicable provisions of law, including federal Bankruptcy law, one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of the Permittee whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless:

- (1) Within one hundred and twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this Chapter and the relevant Permit and remedied all defaults thereunder; and
- (2) Such receiver or trustee, within said one hundred and twenty (120) days, shall have executed an agreement, duly approved by the Court having jurisdiction in the premises whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Chapter and the relevant Permit.

902.17 REPAIR OF SEWER LATERALS IN RIGHT OF WAY.

(a) A "qualifying residential property owner" (defined as a property owner who resides within a tax parcel on which is situated one single-family or one-, two-, or three-family residential structure located within the corporate boundaries of the City) who discovers a sewer lateral connecting his property to the City's main sewer line has broken down due to a structural failure in that portion of the sewer lateral located within the City's right-of-way may request that the City repair that portion of their sewer lateral located within the City's right-of-way at no charge to the property owner. Such request for repair of a broken down sewer lateral located within the City's right-of-way shall be made by written application to the City's Service Director on such application form as may be required by the City's Service Director within 30 days of discovering the break and shall be accompanied by a certification issued by a person registered under to this Section verifying that the subject lateral is broken down within the City's right-of-way. Upon receipt of a proper application for repair of a broken down sewer lateral located within the City's right-of-way, the City's Service Director shall commence an investigation to determine whether;

- (1) The applicant is a proper person to request the sewer lateral repair described in this Section by meeting defined criteria as established by the City;
- (2) The sewer lateral is in fact broken down within the City's right-of-way and located with paint or flag and depth measurements included; and
- (3) That the break down in the sewer lateral is not the result of willful damaging by the property owner or a tenant of the property owner as evidenced by a detailed inspection report by a person registered under this section to verify that the subject lateral is broken down within the City's right-of-way.

If the City's Service Director is able to confirm each of the above factors, the City's Service Director shall arrange to have the broken down sewer lateral within the City's right-of-way repaired provided that the repair falls within the defined scope of repairs covered by the City and shall not charge the property owner for such repair. Blockage due to grease, roots or any other obstructions of a sewer lateral which can be remedied by cleaning the sewer lateral does not constitute a breakdown of the sewer lateral. The City makes no warranties, either expressed or implied, regarding the repair of sewer laterals engaged in by the City pursuant to this section. The City's actions in repairing a sewer lateral in no way constitute an acceptance by the City of any liability related to the repairs except as explicitly defined by applicable law. The City's actions in repairing a sewer lateral in no way constitute an acceptance by the City of a dedication of the subject sewer lateral to the City.

(b) Persons requesting that the City repair a sewer lateral pursuant to this Section shall fully cooperate with the City and allow the City or a contractor employed by the City to enter onto the property attached to the subject sewer lateral for purposes of cleaning out the sewer lateral or for the purposes of making repairs to the subject sewer lateral and shall fulfill any additional responsibilities as defined by the City's Service Director. The City shall not be required to commence or complete any work on a sewer lateral when such full cooperation is not forthcoming.

(c) Persons wishing to register with the Service Director that sewer laterals are broken down within the City's right-of-way may file an application on a form to be provided by the Service Director. The applicant must meet qualifications defined by the City including but not limited to relevant experience and absence of conflicts of interest. If the Service Director determines that the applicant has not had a registration granted pursuant to this Section revoked within the previous three (3) years, the Director shall register the applicant. The Service Director may revoke any registration granted under this Section upon determining that the registrant, on at least three occasions during the preceding twelve (12) months, has inaccurately certified that a sewer lateral was broken down within the City's right-of-way or has violated any other terms and conditions of registration.

(Ord. 24-6. Passed 1-2-24.)

902.90 NONENFORCEMENT AND WAIVERS BY THE CITY.

The Permittee shall not be relieved of its obligation to comply with any of the provisions of this Chapter by reason of any failure of the City to enforce prompt compliance. However, the City Manager may, upon a request made in writing establishing hardship and for good cause shown, waive, in writing, any requirements of this Chapter.

902.91 CONTROLLING LAW.

This Chapter shall be construed and enforced in accordance with the Constitution and laws of the State of Ohio.

902.92 LATE RESPONSE TO EMERGENCY NEED FOR ON SITE UNDERGROUND FACILITY LOCATION.

Any Permittee which fails to have a qualified representative at the identified emergency need site within two hours after the City's representative informs the Permittee of the emergency need, as described in Subsection 902.06(a)(7), shall pay to the City a sum equal to Sixty Five Dollars (\$65.00) for each one half hour, or portion thereof, by which the Permittee's qualified representative is late in arriving [i.e. arriving after the two-hour period described in Subsection 902.06(a)(7) has expired] at the identified emergency need site. A Permittee shall pay all late arrival charges within thirty (30) days after receipt of the City's invoice. A Permittee who fails to have a qualified representative on site within four hours after the City's representative informs the Permittee of the emergency need, as described in Subsection 902.06(a)(7), by such inaction authorizes the City to proceed with any excavation the City's personnel deems necessary, at the risk of the Permittee, and by such inaction the Permittee waives any and all right the Permittee may have had to recover from the City any damages which may result from the City's excavation.

902.93 CAPTIONS.

The captions and headings in this Chapter are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Chapter.

902.99 PENALTIES.

(a) In addition to any other penalties set forth in this Chapter and all civil remedies which may be available to the City, including injunction, the following penalties shall apply:

- (1) Any person or Permittee violating Sections 902.01(c) or 902.11(a) or both shall be guilty of a misdemeanor of the fourth degree. Each day such violation continues shall be deemed a separate offense; and
- (2) For failure to comply with any other provision of this Chapter, the penalty shall be a civil forfeiture payable to the City in the amount of \$100 per day for each day of violation.

(b) Any Permittee may be excused for violations of this Chapter or of its Permit for reasons of Force Majeure.

CHAPTER 903

Sidewalks, Curbs, and Gutters

- 903.01 Specifications.
- 903.02 Compliance with State transportation specifications.
- 903.03 Widths prescribed; multiple entranceways.
- 903.04 Location of driveways.
- 903.05 Abandoned driveways.
- 903.06 Dedicated and accepted streets; rules and regulations.
- 903.07 Acceptance.
- 903.08 Application for permit.
- 903.09 Permit.
- 903.10 Permit fees.
- 903.11 Repair of sidewalks required.
- 903.12 Duty to keep sidewalks clean.
- 903.13 Coverings for sidewalk openings.
- 903.14 Support for sidewalk over subspace.
- 903.15 Interfering encroachments in streets or sidewalks.
- 903.16 Form of notice.
- 903.17 Termination of privilege.
- 903.18 Removal of encroachment.
- 903.19 Safety barriers.
- 903.20 Major thoroughfares excepted.
- 903.21 Protection during construction required; liability.
- 903.22 Permanent structures prohibited.
- 903.23 Exceptions.
- 903.99 Penalty.

CROSS REFERENCES

Improvements, contracts - see CHTR. Sec. 41 to 46
 Construction or repair at owner's expense - see Ohio R.C. 729.01 et seq.
 Notice to construct or repair sidewalks - see Ohio R.C. 729.03 et seq.
 Barricades and warning lights, abandoned excavations - see GEN. OFF. 521.03
 Sidewalk obstructions; damage or injury - see GEN. OFF. 521.04

903.01 SPECIFICATIONS.

No curbs or gutters shall be constructed of any material other than plain Class C Portland cement concrete having a 28-day minimum compressive strength of 4,000 lbs. per square inch. Any mixtures introduced into this concrete must be approved by the City Engineer prior to the batching of the concrete. All curb and/or gutter shall received a broom finish.

Sidewalks and driveways shall be constructed of Class C Portland cement concrete having a 28-day minimum compressive strength of 4,000 lbs. per square inch or concrete brick pavers. Any admixture introduced into or on the surface of this concrete shall be approved by the City Engineer prior to the use of the admixture. Any decorative patterns, symbols, or letters tooled into the surface of any sidewalk or driveway shall be approved by the City Engineer in advance of the work.

All curbs, gutters, sidewalks, and driveways shall be constructed pursuant to specifications on file in the office of the City Engineer.
 (Ord. 96-360. Passed 10-29-96.)

903.02 COMPLIANCE WITH STATE TRANSPORTATION SPECIFICATIONS.

The materials, proportions, mixing and consistency of such concrete, not herein described, shall conform to the specifications pertaining to that item as set forth in the latest issue of the State Department of Transportation construction and material specifications.
 (Ord. 62-100. Passed 9-24-62.)

903.03 WIDTHS PRESCRIBED; MULTIPLE ENTRANCEWAYS.

A single driveway shall have a width of not more than thirty-five feet and not less than twelve feet, measured at the outside sidewalk line. Such driveway shall have not less than a two and one-half foot radius on each side.

Multiple driveways shall be permitted where necessary, with the approval of the City Engineer, provided that multiple driveways are subject to the same width requirements as single driveways, and provided that such driveways are separated by a safety island not less than ten feet in length measured on the back of the curb. Where multiple driveways in excess of two per single facility per street are desired, the City Engineer shall designate the spacing of such driveways taking into consideration the location of safety islands and other safety factors.

(Ord. 96-360. Passed 10-29-96.)

903.04 LOCATION OF DRIVEWAYS.

No part of any driveway shall be constructed closer than eight feet from the sidewalk intersection terminus when the inside sidewalk lines meet at a point, and five feet from the sidewalk intersection terminus when the inside sidewalk lines do not meet at a point measured at the inside sidewalk line and at right angles thereto.

"Sidewalk intersection terminus" means:

- (a) The intersection of inside sidewalk lines where they meet at a point; or
- (b) The points of tangency of the inside sidewalk lines to the curvature of such sidewalk lines at intersections.

Driveways serving commercial or industrial properties shall not be constructed nearer than five feet to side property lines measured at the back of the curb, except when reconstructing existing common drives.

When existing driveways are reconstructed or relocated for any reason, and the application of this section would cause a hardship, the City Engineer may allow driveways to be constructed in excess of the specified 35-foot width or closer to the sidewalk intersection terminus, provided the City Engineer maintains the radius to allow for adequate pedestrian and traffic safety.

(Ord. 96-360. Passed 10-29-96.)

903.05 ABANDONED DRIVEWAYS.

When and if any driveway is no longer used for driveway purposes, it shall be considered abandoned and the City reserves and shall have the right to forthwith take the necessary steps to close such driveway, replace the curb and restore the pavement to its original condition. The owner of the property served by such driveway shall be notified by personal service or registered mail of the City's intention to close such driveway. After thirty days from the date of such notice, if the owner has failed to make such replacement or to contact the City Engineer, the City Manager may order the City Engineer to close such driveway, replace such curb and restore such pavement to its original condition. Cost of such work shall be charged against the abutting property and, if not paid, shall be certified to the proper taxing authority for collection in such manner as provided by law as a special assessment.

(Ord. 96-360. Passed 10-29-96.)

903.06 DEDICATED AND ACCEPTED STREETS; RULES AND REGULATIONS.

The City Manager shall have the power, in the case of dedicated and accepted streets, to determine the width of sidewalks and traveled portions of streets, to determine the location of sidewalks with respect to private property lines and to determine the type of curb and gutter to be constructed or repaired.

The City Manager, after giving due consideration to the subdivision regulations, major thoroughfare plan and other pertinent parts of the general plan, is authorized and directed to establish such rules and regulations as may be necessary for the purpose of exercising such power. Such rules and regulations and any order of the City Manager in connection herewith shall have the same force and effect as duly enacted legislation. Any violation of the rules and regulations or any order of the City Manager shall be punishable as provided in Section 903.99.

(Ord. 62-100. Passed 9-24-62.)

903.07 ACCEPTANCE.

No concrete curbs, gutters, sidewalks or driveways shall be accepted or approved by the City which have not been constructed in accordance with the requirements of this chapter.

(Ord. 62-100. Passed 9-24-62.)

903.08 APPLICATION FOR PERMIT.

Except as provided by this chapter, no person shall construct, reconstruct, repair, alter, destroy, or grade any sidewalk, curb, gutter, or driveway within the public right-of-way or construct, reconstruct, repair, or alter any door, grating, or covering for any manhole, coal hole, vault, cellar, or opening of any type of any sidewalk unless that person:

- (a) is either the owner of real estate abutting thereon or is licensed pursuant to Chapter 1327 of these Codified Ordinances and
- (b) has applied for and been issued a permit by the City Engineer under either this Chapter or Chapter 901 of these Codified Ordinances.

The City Engineer may require each person so applying to complete an application furnished by him for that purpose. Such application shall be signed by the person who is to do such work, and shall contain the name and address of the abutting property owner, a specific designation of the property abutting the proposed improvement and a statement of the width and length of the proposed improvement. The application shall provide that all such work shall be done in accordance with the specifications for construction and materials and standard drawings on file in the office of the Director and in a manner that will safely support and protect the public and that will keep the sidewalk, curb, gutter, driveway, or street free from nuisances.

The applicant shall be required to replace any sidewalk to the minimum standards outlined in Section 903.02. If the sidewalk or the drive approach at the permit location exceeds the minimum standards in order to match the existing type, material, or construction of sidewalk or drive approach. The plans for any work proposed to be constructed which vary from the minimum standards shall be submitted to the City Engineer for approval prior to the start of any work. It shall further provide that by so signing, the applicant agrees to indemnify and save the City harmless from any claim, loss, or damage arising in any way out of such work, or which may result, directly or indirectly, to persons or property by reason of any such improvement or by reason of the same not being properly guarded or protected by lights, barriers or otherwise, so as to prevent injury therefrom.

(Ord. 96-360, passed 10-29-96; Ord. 16-332, passed 12-16-16.)

903.09 PERMIT.

A separate and distinct permit shall be required for each improvement and shall be either typed or printed. It shall contain a specific designation of the property abutting the proposed improvement and a statement of the width and length of the proposed improvement. Such permit shall be in possession of the person actually engaged in doing the work, and shall be exhibited for inspection at any time upon demand to any member of the City Engineering Department or member of the Police Division. All such permits shall have printed thereon the general rules and regulations under which the work shall be done, shall be signed by the City Engineer and shall expire thirty days after the date of issue or sooner if so indicated on the permit by the City Engineer.

(Ord. 96-360. Passed 10-29-96.)

903.10 PERMIT FEES.

At any time any permit herein required is issued, the applicant therefor shall pay into the City treasury a fee based upon the following schedule:

- (a) A fee of Twenty Dollars (\$20.00) or Twenty Five Cents per square foot of sidewalk and driveway constructed, whichever ever is the greater.

A fee of Twenty Dollars (\$20.00) or Fifty Cents per lineal foot of curb and gutter constructed, whichever ever is the greater.

For Permits pertaining to both sidewalk or driveway and curb and gutter, a fee of Twenty Dollars (\$20.00) or the sum of Twenty Five Cents per square foot of sidewalk and driveway constructed or Fifty Cents per lineal foot of curb and gutter constructed, whichever ever is the greater.

- (b) When any person, firm, or corporation has commenced work on a project involving the construction of sidewalk, driveway, curb or gutter without first procuring the necessary permit therefor, the City Engineer shall make a thorough investigation to determine whether all work performed prior to the subsequent issuance date of the specified permit conforms to all pertinent Ordinances. The charge for making such investigations prior to the issuance of the necessary permit shall be equal to the amount of the permit fee required multiplied by two and shall be in addition to the cost of the permit, but in no event shall the additional charge for investigation exceed one thousand dollars (\$1,000.00).
- (c) Sidewalks, Curbs, and Gutters. In instances where the applicant desires to repair or initially construct both a sidewalk and curb and gutter there shall be only one charge. This charge shall be made in accordance with the work item having the highest permit fee as set forth in subsections (a) and (b) hereof.
- (d) Sidewalk Vault Covers.

For the repair of doors, grating, covering of manholes, coal holes, vaults and cellars: three dollars (\$3.00);
For the installation or new construction of doors, grating, covering of manholes, coal holes, vaults and cellars: six dollars (\$6.00).
(Ord. 05-253. Passed 10-4-05.)

903.11 REPAIR OF SIDEWALKS REQUIRED.

Every owner of any lot or parcel of land in the City shall keep the sidewalks, curbing, gutters and driveways in the public right of way in front of and abutting upon such lot or parcel of land constantly in good repair and free from nuisances. Any sidewalk, curb, gutter or driveway not constructed or repaired in accordance with the City's specifications for such work shall be taken up and replaced to conform thereto at the expense of the owner of the real estate abutting thereon.

(Ord. 62-100. Passed 9-24-62.)

903.12 DUTY TO KEEP SIDEWALKS CLEAN.

(a) The occupants of each and every building in this City fronting or abutting upon any sidewalk shall clear the sidewalk in front of such tenement or building as the case may be, of snow, ice and filth, by 10:00 a.m. of the day succeeding any such deposit of snow, ice, dirt or filth. The owner of any unimproved or unoccupied lot or parcel of land fronting or abutting upon any sidewalk in this City, except in such parts of the City as the City Manager may by resolution exempt from the provisions of this section, shall in like manner and time, so clear the sidewalks in front of such unimproved or unoccupied lot or parcel of land.

(Ord. 62-100. Passed 9-24-62.)

(b) No owner or occupant of abutting lands shall fail to keep the sidewalks, curbs or gutters in repair and free from snow, ice or any nuisance.
(ORC 723.11)

903.13 COVERINGS FOR SIDEWALK OPENINGS.

No door, grating or covering for any manhole, coal hole, vault, cellar or opening of any type shall be constructed, reconstructed, repaired or altered on any sidewalk unless such door, grating or covering is constructed on a level with such sidewalk, and so that the exposed portion of such covering is not smooth.

Any owner of property maintaining any such covering in or on any sidewalk, which covering is unsafe or dangerous shall, within five days after notice by the City Engineer, cause such covering to be made safe and secure.

(Ord. 96-360. Passed 10-29-96.)

903.14 SUPPORT FOR SIDEWALK OVER SUBSPACE.

No person shall construct, reconstruct, repair or alter any vault, cellar, coal chute or other opening under any sidewalk without a permit from the City Engineer. Such work shall be done to the satisfaction of the City Engineer in a manner that will provide safe support to the sidewalk. Whenever it becomes necessary to repair or construct a sidewalk over any such vault, cellar, coal chute or other opening, the City Engineer may order the owner of such property to provide adequate safe support for such sidewalk. Whenever it becomes necessary to repair or construct a sidewalk over any such vault, cellar, coal chute or other opening, the City Engineer may order the owner of such property to provide adequate safe support for such sidewalk.

(Ord. 96-360. Passed 10-29-96.)

903.15 INTERFERING ENCROACHMENTS IN STREETS OR SIDEWALKS.

Whenever, in connection with the construction, repair or reconstruction of a street or sidewalk improvements, or in connection with the laying of sewers, water pipes or other Municipal utility equipment, it shall become necessary for a property owner to remove, repair or adjust, in whole or in part, a building encroachment or other street privilege to conform to such improvement, the City Manager shall notify the owner of the property to which the encroachment or street privilege is appurtenant to make such removal or change as shall conform to the proposed improvement and comply with the laws of the State and the ordinances of the City.

(Ord. 62-100. Passed 9-24-62.)

903.16 FORM OF NOTICE.

The notice required in Section 903.15 shall be sufficient if served on the owner or his agent personally or by letter addressed to the place of business or last known residence of such owner or agent. If no owner or agent can be found, it shall be sufficient to post a notice on the premises.

(Ord. 62-100. Passed 9-24-62.)

903.17 TERMINATION OF PRIVILEGE.

If any owner shall, for the period of forty-five days or more after the issuing of the notice required by Section 903.15, fail to make the removal or readjustment required by such notice, the City Manager shall be authorized, at any time, to revoke and declare terminated the encroachment or street privilege, as the case may be. Notice of such revocation and termination shall be given in the same manner provided in Section 903.16.

(Ord. 62-100. Passed 9-24-62.)

903.18 REMOVAL OF ENCROACHMENT.

Whenever the use of an encroachment or street privilege in a public street or sidewalk is revoked or terminated in accordance with the foregoing provisions, the City Manager shall be authorized to remove the encroaching construction, in whole or in part and, where necessary, to fill up, wall up, seal or cover over any opening or cavity. The cost of making such removal and performing such auxiliary work shall be assessed against the property owner. Where such removal and auxiliary work are necessary in connection with a sidewalk construction, such work shall be included as part of the sidewalk construction and the cost thereof shall be assessed against the abutting premises.

(Ord. 62-100. Passed 9-24-62.)

903.19 SAFETY BARRIERS.

The owner of any off-street vehicular parking lot or driving area located immediately adjacent to any public sidewalk shall construct and install concrete barriers between the parking lot or driving area and the public sidewalk in order to prevent cars from backing across or traveling over the public sidewalk. The barriers shall be at least six inches above the grade and at least three inches wide. Permanent barriers, other than concrete, may

be constructed provided they are approved by the City Engineer. Barriers shall not be required wherever driveways are located. Barriers shall be located so parked cars do not overhang the sidewalk.
(Ord. 96-360. Passed 10-29-96.)

903.20 MAJOR THOROUGHFARES EXCEPTED.

Whenever application is made for a business, commercial or industrial curb cut on a major thoroughfare as designated on the official Major Thoroughfare Plan of the Clark County-Springfield Regional Planning Commission filed with the County Recorder, such permit shall be granted only where vehicles leaving the public street through such curb cut can turn around on the property of the applicant and re-enter the public street in a forward direction.
(Ord. 63-26. Passed 3-11-63.)

903.21 PROTECTION DURING CONSTRUCTION REQUIRED; LIABILITY.

(a) Where the owner or the lessee of the owner or the agent in charge of any premises within this City contracts for the improvement in any way of the same, or of the sidewalk, pavement, curbs, gutters or streets abutting thereon or adjacent thereto, such owner, lessee or agent shall observe all safety precautions which were designed to prevent nuisances dangerous to persons or property from being caused, permitted or continued. Any owner, lessee or agent who permits the contractor or any subcontractor for the improvements, or any agent or employee of such contractor or subcontractor to cause or continue any such nuisance by noncompliance with safety precautions shall be deemed guilty of a violation thereof.

(b) In every case where the subcontractor, his agent or employee causes or continues any of the nuisances specified herein, the principal contractor shall be equally liable to punishment for such offense with the subcontractor, agent or employee directly causing or continuing such nuisance.
(1969 Code Sec. 903.21)

903.22 PERMANENT STRUCTURES PROHIBITED.

No person shall erect or cause to be erected upon any sidewalk or pavement of the City any stairway, steps or permanent structure of any nature.
(1969 Code Sec. 903.22)

903.23 EXCEPTIONS.

The provisions of this chapter shall not apply to any person in the employ of or under contract with the City and doing work authorized by the City; nor shall they apply to any person to whom a permit has been issued to do work authorized by Chapter 901.
(Ord. 78-214. Passed 6-6-78.)

903.99 PENALTY.

Any person, owner or contractor who violates or fails or refuses to comply with any provision of this chapter is guilty of a minor misdemeanor. Any continuance or renewal of any work after being ordered stopped on account of the failure or refusal to exhibit the permit for inspection, and before such permit is so produced, shall constitute a separate offense.
(Ord. 78-214. Passed 6-6-78.)

CHAPTER 905

Vacation or Narrowing of Streets or Alleys

905.01 Vacation or narrowing of streets or alleys upon petition.

905.02 Streets and alleys - name change. (Repealed)

CROSS REFERENCES

Vacating or narrowing streets - see Ohio R.C. 723.04 et seq.

905.01 VACATION OR NARROWING OF STREETS OR ALLEYS UPON PETITION.

Any person petitioning to have a street, alley, or any portion thereof, vacated or narrowed as provided by law shall do so on forms available from the office of the Clerk of the City Commission and shall submit together therewith the following items:

- (a) A plot plan which indicates the street, alley, or portion thereof to be vacated or narrowed and the adjoining properties and their owners;
- (b) The names and addresses of all property owners within 200 feet of the street, alley, or portion thereof to be vacated or narrowed;
- (c) A written statement setting forth the reasons for requesting such a vacation or narrowing;
- (d) An application fee of \$90.00 if the right-of-way is located in a district zoned RR-1, RS-5, RS-8, RFBH, RM-12, RM-20, RM-44, or RM-44A or an application fee of \$180.00 if the right-of-way is located in any other zoning district; however, petitions filed by the Board of County Commissioners of Clark County, Ohio, shall be exempt from the payment of the application fee.

(Ord. 15-112, Passed 4-28-15; Ord. 04-248, Passed 8-10-04.)

905.02 STREETS AND ALLEYS - NAME CHANGE. (REPEALED)

(EDITOR'S NOTE: Former Section 905.02 was repealed by Ordinance 22-100, passed March 29, 2022.)

CHAPTER 907

Trees

907.01 Definitions.

907.02 City Forester.

- 907.03 Duties and authority.**
- 907.04 Shade Tree Commission.**
- 907.05 Registration license.**
- 907.06 Permits required.**
- 907.07 Protection of trees.**
- 907.08 Dangerous trees and obstructions.**
- 907.09 Repealed by Ord. 91-260, Passed 6-18-91.**
- 907.10 Trimming trees near streetlights.**
- 907.11 Failure of owner to act.**
- 907.12 Appeals.**
- 907.13 Interference with City Forester.**
- 907.14 Memorial Tree Fund.**
- 907.99 Penalty.**

CROSS REFERENCES

Power to regulate shade trees and shrubbery - see Ohio R.C. 715.20
 Assessments for tree planting or maintenance - see Ohio R.C. 727.011
 Injury or destruction of trees and growing products - see GEN. OFF. 541.04

907.01 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein and when not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. "Shall" is mandatory and not merely directory.

- (a) "City" means the City of Springfield, Ohio.
 - (b) "Park Board" means the Board of Parks and Recreation.
 - (c) "City Forester" means the qualified designated official of the City assigned to carry out the execution of the chapter.
 - (d) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind, public or private.
 - (e) "Street or highway" means the entire width of every public way, easement, or right of way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic, and includes alleys.
 - (f) "Park" includes all public parks having individual names.
 - (g) "Public places" includes all other grounds owned by or under the control of the City.
 - (h) "Property line" means the outer edge of a street or highway easement.
 - (i) "Treelawn" means that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway used for vehicular traffic, usually the area between sidewalk and curb.
 - (j) "Public trees" includes all shade and ornamental trees now or hereafter growing on any street or any public place.
 - (k) "Shade or ornamental tree or shrub" means any and all woody vegetation.
 - (l) "Principal thoroughfare" means any street upon which trucks are not prohibited.
 - (m) "Property owner" means the person owning such property as shown by the County Auditor's plat of Clark County, Ohio.
 - (n) "Tree work" means and includes planting, maintenance, protection and removal of trees.
 - (o) "Dripline" means the approximately circular vertical extension to the ground of the outermost branches and leaves of the tree, as an indication of the spread of the root system.
- (Ord. 75-272. Passed 9-23-75.)

907.02 CITY FORESTER.

There shall be a qualified City Forester, who shall be appointed by and serve at the pleasure of the Park Board.
 (Ord. 75-272. Passed 9-23-75.)

907.03 DUTIES AND AUTHORITY.

As an employee of the Park Board, the City Forester shall perform all duties assigned by the Park Board, which duties include:

- (a) Enforce or cause to be enforced the provisions of this chapter.
 - (b) Enforce arboricultural specifications and standards of practice as adopted by the Shade Tree Commission, which shall govern the selection, planting, maintenance, protection and removal of public trees and trees in other public places.
 - (c) Issue a license to any person engaged in tree work within the City who fulfills the licensing requirements of the chapter.
 - (d) Issue orders and permits for the planting, maintenance, protection and removal of trees as defined in Sections 907.06 and 907.08.
 - (e) Investigate complaints from any person concerning the planting, maintenance, protection and removal of any tree.
 - (f) Encourage and foster the planting of trees and other vegetation for the beautification of the City, and disseminate information to the public concerning proper selection and care of trees.
- (Ord. 75-272. Passed 9-23-75.)

907.04 SHADE TREE COMMISSION.

(a) There shall be created a commission to be known as the Shade Tree Commission, comprised of twelve members, who shall serve without pay. Ten members, a majority of whom shall be residents of the City, shall be appointed by the City Commission. The eleventh member shall be the City Forester, who shall be an ex-officio member. The twelfth member shall be an ex-officio member, either the Service Director, the City Engineer or the City Traffic Engineer, as appointed by the City Manager. Only the ten members appointed by the City Commission to the Commission shall be entitled to vote. The ten members appointed by the City Commission shall serve for a three-year term, except that for the initial term, these members shall be appointed respectively: four one-year terms, three two-year terms, and three three-year terms. Vacancies shall be filled for unexpired terms in the same manner as original appointments.
 (Ord. 00-456. Passed 12-19-00.)

(b) The Commission shall elect a chairman who shall serve for a one-year term and not more than two consecutive terms, shall adopt its own procedures, and meet at least quarterly. All official meetings shall be public and all resolutions adopted shall carry at least six affirmative votes. The City Forester shall act as secretary for the Commission. The duties of the Commission shall be as follows:

- (1) To receive complaints from any person concerning the acts or failure to act of any other person within the provisions of the chapter; to

conduct hearings for the purpose of determining the facts; to mediate and to attempt resolution of these complaints.

- (2) To deny, suspend or revoke licenses of any person engaged in tree work, on demonstration of proof satisfactory to the Commission that such action is warranted because of insufficient competence or failure to comply with the provisions of this chapter or other ordinances of the City.
- (3) To give testimony to any court of jurisdiction on request.
- (4) To establish reasonable criteria with the advice of the City Forester for the granting of licenses to persons wishing to engage in tree work.
- (5) To recommend legislation concerning the selection, planting, protection and removal of trees, including emergency legislation to require whatever measures are necessary to control insect and disease infestations that threaten the continued existence of tree species.
- (6) To adopt official reasonable arboricultural specifications and standards of practice, which shall be binding on all persons engaged in tree work.
- (7) To adopt a master Shade Tree Plan, with the advice of the City Forester. Such Plan shall be limited to public trees and other public places and shall provide a reasonable selection of trees suitable for each type of location. It may provide prohibitions against the planting of undesirable tree species.

(c) Nothing in this section shall act to prevent any person from pursuing his claim in a court of jurisdiction before, during or after an investigation by the Commission.

(Ord. 82-571. Passed 12-14-82.)

907.05 REGISTRATION LICENSE.

(a) No person shall solicit for or engage in tree work within the limits of the City without first obtaining from the City Forester a written license. Such licenses shall be granted by the City Forester upon the filing of proper application to be furnished by him, and furnishing satisfactory proof that such applicant is reasonably qualified by experience, training and reputation to engage in such tree work. A fee of fifty dollars (\$50.00) shall be charged for the issuance of such license and each such license shall be for a period of two years.

(b) Every such person, as defined, shall have at least one individual who is licensed to perform tree work within the City. If such licensee ceases to represent such person, then no person shall engage in tree work until another individual is licensed as provided herein. All tree work performed by such person shall be under the supervision or direction of such licensee.

(c) No license shall be valid until the applicant has proof of the following:

- (1) A bond in the amount of two thousand dollars (\$2,000) guaranteeing compliance with this chapter.
- (2) A liability insurance policy with limits of bodily injury, one hundred thousand dollars (\$100,000) per person and three hundred thousand dollars (\$300,000) per accident and property damage of twenty-five thousand dollars (\$25,000). Such policy shall contain an endorsement that ten days notice shall be given the City in the event of cancellation. The bond and policy shall remain in effect during the license period. Noncompliance with this subsection shall be cause for immediate cancellation of any license.

(d) All tree work, performed by such persons having at least one individual who is licensed to perform tree work within the City, or private or public property, shall be performed according to the arboricultural specifications and standards of practice established by the Shade Tree Commission.

(e) Exclusions: The owner or occupant of any premises desiring to do tree work on such premises shall be exempted from these licensing provisions. However, the owner or occupant of any premises desiring to do tree work on public trees shall perform such tree work according to the arboricultural specifications and standards of practice established by the Commission. Employees of the City, when operating in the scope of their employment, shall be exempted from these licensing provisions.

(Ord. 75-272. Passed 9-23-75.)

907.06 PERMITS REQUIRED.

(a) No person shall plant or remove any public tree in the treelawn or other public place without first procuring a permit from the City Forester. The person receiving the permit shall abide by the arboricultural specifications and standards of practice adopted by the Shade Tree Commission.

(b) No person shall excavate any ditches, trenches or do other subsurface work within the dripline of a public tree without first procuring a permit from the City Forester.

(c) No person shall by any type of construction reduce the size of a treelawn without first procuring a permit from the City Forester.

(d) Application for permits shall be made at the office of the City Forester no less than five days in advance of the time the work is to be done. In cases of emergency, the City Forester may waive this requirement. The City Forester shall issue the permit provided that in his judgment the proposed work gives reasonable protection to the public trees under the individual circumstances in the case.

(e) A person who removes or causes to be removed a public tree from the treelawn or other public place may be required as a part of the issuance of a permit to replace such tree at the appropriate planting time next following for the species selected.

(f) Exclusion: The Park Board shall be exempted from these permit provisions. All departments of the City shall be exempt from these permit provisions subject only to the notification procedures of Section 907.07(d).

(Ord. 75-272. Passed 9-23-75.)

907.07 PROTECTION OF TREES.

(a) In the erection, alteration or repair of any building, structure or other work, the owner, his agent or individual contractor shall take all measures necessary to prevent injury to public trees or trees growing in public places.

(b) No person shall deposit, place, store or maintain upon any treelawn or public place any stone, brick, sand, concrete or other materials which may impede the free passage of water, air or nutrients to the roots of any tree growing therein except by written permit of the City Forester.

(c) Unless specifically authorized by the City Forester, no person shall intentionally damage, cut, carve, transplant or remove any public tree;

attach a rope, wire, nails, advertising posters or other contrivances to any public tree; allow any gaseous liquid or solid substance which is harmful to such public trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree.

(d) All employees or agents of the City who plan, approve or execute any construction project that will affect any trees in a treelawn or other public place shall notify the City Forester of such project.
(Ord. 75-272. Passed 9-23-75.)

907.08 DANGEROUS TREES AND OBSTRUCTIONS.

The owner, or his agent, of every lot or parcel of land in the City upon which there exists a dead or dangerous tree shall, within fourteen days of delivery of a written notice of the City Forester cause such tree to be removed or pruned. The notice and written order may be served in person or left at the owner's usual place of residence. Service of the written notice and order may be by the City Forester or his agent. If the person to whom such notice is addressed cannot be found within the City, then such notice may be sent by registered or certified mail to the last known address of such person. If there is no last known address of such person or the mail is returned, a notice and order may be published once in a newspaper of general circulation within the City.

A dangerous tree shall be any tree that, in the opinion of the City Forester, represents a clear and present danger of falling because of its condition, or any tree that has dead, decayed or broken limbs or branches that create a danger or hazard to the life, safety or property of the people of this City.

A dangerous tree shall also include one that obstructs or shades streetlights, obstructs the passage of pedestrians on sidewalks or obstructs the view of any street or alley intersection. The minimum clearance of any overhanging tree branch or portion thereof shall be fifteen and one-half feet above the pavement of any sidewalk, alley, street or principal thoroughfare.

907.09 REPEALED BY ORD. 91-260, PASSED 6-18-91.

907.10 TRIMMING TREES NEAR STREETLIGHTS.

Any owner, occupant or agent of any premises shall trim and keep trimmed all trees growing near any streetlight so that no branches thereof shall be nearer horizontally than six feet to any such light or the post whereon it is placed.
(Ord. 90-626. Passed 11-27-90.)

907.11 FAILURE OF OWNER TO ACT.

If the owner or his agent fails to comply with any order of the City Forester as provided for in this chapter, the City Manager may order the work to be performed by the City Forester and the cost thereof to be charged against the land as a Municipal lien or to be recovered in a suit at law against the owner.
(Ord. 75-272. Passed 9-23-75.)

907.12 APPEALS.

Any person affected by any rule or regulation prepared by the City Forester pursuant to this chapter may request and shall be granted a hearing before the Shade Tree Commission. Such appeal shall be requested in writing and the Commission shall have the power to reverse or affirm, in whole or in part, or modify such rule or regulation when, upon appeal, it clearly appears:

- (a) That the rule or regulation is not consistent with the provisions of this chapter.
 - (b) That by reason of special conditions, undue hardship shall result from a literal application of such rules and regulations.
- (Ord. 75-272. Passed 9-23-75.)

907.13 INTERFERENCE WITH CITY FORESTER.

No person shall hinder, prevent, delay or interfere with the City Forester or any of his designates while engaged in carrying out the execution or enforcement of this chapter; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the City.
(Ord. 75-272. Passed 9-23-75.)

907.14 MEMORIAL TREE FUND

(a) There is hereby established an "802 Memorial Tree Fund." Donations to the City for the purpose of the planting, replacement, maintenance, and care of trees within the City shall be deposited in the 802 Memorial Tree Fund. The City's Finance Director is hereby authorized to accept cash donations on behalf of the City for the aforesaid purposes and shall deposit such donations into the 802 Memorial Tree Fund. Funds appropriated from the City funds designated for capital improvements for the purpose of the planting, replacement, maintenance, and care of trees within the City may be deposited in the 802 Memorial Tree Fund. Funds deposited in the 802 Memorial Tree Fund shall be used to purchase memorial trees, provide materials necessary for planting and on-going maintenance of memorial trees, replacement of memorial trees, and the removal of memorial trees when they become too large, diseased, or otherwise dangerous.

(b) The City Manager shall establish a policy fixing the dollar amount of donations which the City will require to have each memorial tree planted. The donation amount shall be of a sum sufficient to provide for the purchase and planting of the memorial tree and for normal maintenance of the memorial tree for the expected useful life of the species of tree selected by the City Forester.
(Ord. 93-166. Passed 5-25-93.)

907.99 PENALTY.

Whoever violates or fails to comply with any provision of this chapter shall be fined not more than five thousand dollars (\$5,000) or imprisoned not exceeding sixty days, or both.
(Ord. 75-272. Passed 9-23-75.)

Weeds

- 909.01 Weeds declared nuisances; prohibition.**
- 909.02 Removal of weeds by owner or occupant.**
- 909.03 Failure to cut; work by City; collection of expenses without lien.**
- 909.04 Notices.**
- 909.05 Violation citation tags.**
- 909.06 Owner to keep trees trimmed; exceptions.**
- 909.07 Civil penalty for failure to pay.**
- 909.99 Penalty.**

CROSS REFERENCES

Destruction of weeds—see Ohio R.C. 971.33 et seq.
Injury or destruction of trees and growing products—see GEN. OFF. 541.04
Notice to cut noxious weeds—see Ohio R.C. 731.51 et seq.
Noxious weeds—see OAC 901:5-31

909.01 WEEDS DECLARED NUISANCES; PROHIBITION.

(a) “Weeds” being herein defined as all burrs, vines, Russian, Canadian and common thistles, briars, dock, burdock, wild mustard, jimson weed, dog fennel, ragweed, golden rod, sweet clover, wild parsnip, wild carrot or other noxious weeds, growing wild and uncultivated upon any land within the City, which may cause noxious exhalations which may prove offensive or injurious to the health or detrimental to the general welfare of the inhabitants of the City, are hereby determined and declared to be nuisances and are hereby prohibited. “Rank vegetation,” defined as all weeds, grasses, annual plants and vegetation (other than trees or shrubs) which have grown to a length in excess of ten inches from the ground, is hereby determined and declared to be a nuisance, and is hereby prohibited.

(b) No owner, occupant or person having the charge or management of any lot or parcel of land situated within the City shall allow the existence of the nuisance described in subsection (a) hereof to continue.

(c) As used in this Chapter, the term “parcel” shall mean a specified tract of land with a permanent parcel number.

(d) Notwithstanding Section 909.01(a) above, plants maintained in compliance with the provisions of an approved stormwater control plan adopted under the authority of the Codified Ordinance Chapter 918 and Chapter 961 and on file in the City Engineer’s office are excepted from the definitions of weeds and rank vegetation.
(Ord. 13-163, passed 6-25-13.)

909.02 REMOVAL OF WEEDS BY OWNER OR OCCUPANT.

(a) The owner, occupant, or person having the charge or management of any parcel of land less than or equal to four (4) acres in area, situated within the City, whether the same be improved or unimproved, vacant, or occupied, shall cut and destroy or remove, or cause to be cut and destroyed or removed, any weeds and any rank vegetation growing upon any such parcel of land, or between the property line and the center line of any street upon which such parcel abuts and prevent the vegetation described in subsection 909.01(a) from blooming or going to seed. All cutting of such weeds shall be done in such a manner so that the portion of such weeds remaining after cutting shall be of a height not greater than four inches above the level of the ground.

(b) The owner, occupant, or person having the charge or management of any parcel of land greater than four (4) acres in area, situated within the City, whether the same be improved or unimproved, vacant, or occupied, shall cut and destroy or remove, or cause to be cut and destroyed or removed, any weeds and any rank vegetation growing within 100 feet of any public right-of-way, 100 feet of any property line that abuts residential property, or between the property line and the center line of any street upon which such parcel abuts and prevent the vegetation described in subsection 909.01(a) from blooming or going to seed. All cutting of such weeds shall be done in such a manner so that the portion of such weeds remaining after cutting shall be of a height not greater than four inches above the level of the ground.

909.03 FAILURE TO CUT; WORK BY CITY; COLLECTION OF EXPENSES WITHOUT LIEN.

If the owner, occupant, or agent having the charge or management of any lot or parcel of land situated within the City fails to comply with the prohibition stated in Section 909.02, the Code Enforcement Manager shall cause such nuisance conditions, to be cut or destroyed and prevented from blooming or going to seed. He/she shall, with the assistance of the Director of Law, cause the cost of such cutting and destroying to be collected through such legal processes as are available to the City for the collection of such debts. All expenses so incurred, including charges for all services and service of notice, the use of machinery, equipment and labor necessary for cleaning as well as the cutting of such parcel, may be charged against the owner, occupant, or agent having the charge or management of the noncompliant parcel of land upon which the City caused such weeds and rank vegetation to be cut or destroyed.

909.04 NOTICES.

Whenever the Code Enforcement Manager determines that there has been a violation of any provision of this chapter, he/she shall give written notice of such violation to the person responsible therefore and notify such person of their obligation to correct the violation and their continuing obligation to comply with the provisions of this Chapter. The Code Enforcement Manager need not give the owner, occupant, or person having charge or management of any noncompliant parcel of land more than one notice each calendar year. Providing the notice described in this section is not a precondition for the Code Enforcement Manager to enforce the provisions of this Chapter or to abate the nuisance conditions prohibited in Section 909.01(b).

909.05 VIOLATION CITATION TAGS.

The Code Enforcement Manager is authorized and directed to provide inspectors with citation tags which may be used for the purpose of giving due notice and summons to the person responsible for violations of the provisions of this chapter.

(a) Such citation tag shall be put in writing on an appropriate form, describe the offense charged, refer to the section of the chapter violated, order the defendant to appear at a stated time and place, and it shall be made on oath before any person authorized by law to administer

oaths.

- (b) The citation tag shall be served on such person in accordance with the provisions of Section 909.05(d).
- (c) The citation tag shall inform the defendant that, in lieu of appearing at the time and place stated, he may, within that stated time, appear personally at the office of the Clerk of Municipal Court and on signing a plea of guilty and a waiver of trial pay a stated fine and stated costs, if any. The citation shall inform the defendant that he may be arrested if he fails to appear either at the Clerk's office or at the time and place stated in the citation.
- (d) When the defendant fails to appear within the stated time, a warrant may be issued for the arrest of that person.
- (e) When a defendant appears, but does not sign a guilty plea and waiver of trial, the court shall proceed in accordance with Rule 5 of the Ohio Rules of Criminal Procedure.
- (f) The citation tag as herein provided shall be sufficient notice, summons and legal service thereof for the purpose specified thereon, provided that the use of such tags shall not prohibit the issuance of either additional citation tags or a legal notice of violation as provided by Section 909.05, in the event such violation is continued or repeated.

909.06 OWNER TO KEEP TREES TRIMMED; EXCEPTIONS.

(a) The owner, occupant, or person having charge or management of any parcel of land situated within the City and abutting upon any public alley or street, shall trim and keep trimmed all trees growing on such premises, or between the property line and the center of such abutting alley or street, the branches of which trees overhang any part of the pavement or sidewalk of the public alley or street, such trees to be so trimmed and kept trimmed so that the lowermost branches thereof shall be a height of fifteen and one-half feet above the level of that part of the pavement of any sidewalk, alley or street so overhung by such branches. However, the provisions of this section shall not apply to trees so small that the branches thereof do not materially obstruct public travel and which cannot be so trimmed without serious injury thereto.

(b) The notice provisions of Section 909.04, the enforcement mechanisms in Section 909.03, and the violation citation tag provisions in Section 909.05 are fully applicable to enforcement of this Section.

909.07 CIVIL PENALTY FOR FAILURE TO PAY.

In the event any person fails to pay a sum, required to be paid to the City under this Chapter (hereinafter the "principal sum"), within ninety (90) days after the sum becomes due and owing to the City, a civil penalty is imposed on such person equal to thirty-three and thirty-three one-hundredths percent (33.33 %) of the sum of the following two items:

- (a) the unpaid principal sum due and owing to the City under this Chapter,
- (b) court costs incurred in obtaining a judgment against such person for the unpaid principal sum due and owing to the City under this Chapter.

909.99 PENALTY.

Whoever violates any provision of this chapter where another penalty is not otherwise provided is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of any provision of the chapter, a violation of any such provision is a misdemeanor of the fourth degree.

CHAPTER 910

Building Numbering

910.01 Numbering of buildings.

910.02 System of numbering.

910.03 City Manager to assign numbers and notify owners or lessees.

910.04 Authorized exceptions.

910.99 Penalty.

CROSS REFERENCES

Power to number buildings - see Ohio R.C. 715.26

910.01 NUMBERING OF BUILDINGS.

Every owner or lessee of a building on any street in the City shall, within thirty days after receiving from the City Manager notice of the proper number of such building, place the number in a conspicuous place on the front of such building. The figures of such number shall be not less than three inches in length and shall be painted or shall be made of metal, porcelain or other durable material. Such number shall be maintained upon such building at all times and no number other than the one assigned thereto shall be placed or permitted to remain upon any such building. All broken or defaced figures shall be promptly replaced or restored to their proper condition so that they may at all times be distinctly read.

(1969 Code Sec. 103.01)

910.02 SYSTEM OF NUMBERING.

Streets crossing or terminating in Main Street shall be numbered north and south therefrom and streets crossing or terminating in Fountain Avenue shall be numbered east and west therefrom, and streets not connecting with Main Street or Fountain Avenue shall be numbered as though such streets were extended to Main Street or Fountain Avenue. Consecutive odd numbers shall be used upon the south and west sides and consecutive even numbers upon the north and east sides of all streets.

(Ord. 86-180. Passed 3-25-86.)

910.03 CITY MANAGER TO ASSIGN NUMBERS AND NOTIFY OWNERS OR LESSEES.

The City Manager shall assign the proper number to each lot or building within the City in accordance with the provisions of this chapter and with the general plan or map of block numbers now on file in the office of such City Manager, which map is hereby made a part of this chapter and the City Manager shall from time to time cause detailed maps or other suitable records of buildings or lot numbers to be prepared and kept on file in his office. It shall be the duty of the City Manager to notify the owners or lessees of all buildings, upon any of the streets of the City, of the proper numbers of such buildings and to require such numbers to be affixed thereto.

(1969 Code Sec. 103.13)

910.04 AUTHORIZED EXCEPTIONS.

The City Commission may, by ordinance, authorize specific exceptions to the street numbering system described in Sections 910.02 and 910.03. (Ord. 87-468. Passed 8-11-87.)

910.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor.

TITLE THREE - Municipal Utilities

- Chap. 911. Water Rates and Regulations.
- Chap. 913. Cross Connection Control and Water Quality Protection.
- Chap. 915. Sewer Connections.
- Chap. 916. Use of Public Sewers.
- Chap. 917. Sewerage Charges.
- Chap. 918. Stormwater Utility Charges.
- Chap. 919. Sanitary Services.
- Chap. 921. Private Solid Waste Collectors.
- Chap. 922. Residential Solid Waste Collectors.
- Chap. 923. Demolition Dumps.
- Chap. 925. Collection and Disposal of Storm Waters.
- Chap. 927. Utilities Serving New Condominium Developments.
- Chap. 929. Wellhead and Well Field Protection Regulations.

CHAPTER 911

Water Rates and Regulations

(Entire Chapter 911 amended by Ordinance No. 06-242, passed June 27, 2006)

- 911.01 Definitions.**
- 911.02 Service charge rates.**
- 911.03 Unmetered private fire protection.**
- 911.04 Bulk water purchases.**
- 911.05 Rate assessments.**
- 911.06 Special rate arrangements.**
- 911.07 Establishment and use of Water Fund.**
- 911.08 Payment of service charge.**
- 911.09 Failure to pay service charge.**
- 911.10 Fire hydrant use and obstruction.**
- 911.11 Permission required to tap water mains.**
- 911.12 Unlawful to turn on City water when turned off by City.**
- 911.13 Installation of lockable valve box and shutoff valve.**
- 911.14 Water shutoff for non-payment of water; exceptions.**
- 911.15 Late payments.**
- 911.16 Water connection fee on unassessed property.**
- 911.17 Compliance with Chapter 929 requirements.**
- 911.99 Penalty.**

CROSS REFERENCES

Power to provide and regulate water system - see Ohio R.C. 715.08, 717.01, 743.01
Water pollution - see Ohio R.C. 715.08, 743.25
Water works mortgage revenue bonds - see Ohio R.C. 715.09 et seq.
Compulsory water connections - see Ohio R.C. 729.06, 743.23
Weekly deposit of water works money collected - see Ohio R.C. 743.06
Tampering with water hydrants, pipes or meters; unauthorized connections - see Ohio R.C. 4933.22
Fluoridation - see Ohio R.C. 6109.20
Water pollution control - see Ohio R.C. Ch. 6111
Water supply - see OAC 4101:2-51-37
Backflow - see OAC 4102:2-51-38

911.01 DEFINITIONS.

For purposes of this chapter the term:

- (a) "Calendar year" means a twelve calendar month period beginning January 1 and ending December 31.
- (b) "Year" means a period of twelve consecutive calendar months.
- (c) "Month" or "monthly" means a period of approximately thirty days.
- (d) "City" means The City of Springfield, Ohio.
- (e) "Person" means an individual or group or association of individuals; a firm or any member thereof; a corporation or any executive officer, manager, person in charge or employee thereof; and the use of a pronoun specifying the masculine gender includes the feminine and neuter genders.

- (f) "Premises" means, whether private or public, land with the structures thereon, having any water service connection with the City's water service system.
- (g) "Owner" means the legal owner of a freehold estate in real property.
- (h) "JEDD" means the Springfield-Beckley Municipal Airport Joint Economic Development District.
- (i) "Outside the corporate limits" means all territory located beyond the corporate limits of The City of Springfield, Ohio, with the exception of territory located within the JEDD.
- (j) "Residential premises" means single- and two-family dwellings.

911.02 SERVICE CHARGE RATES.

To provide necessary funds for equipment, personnel, and other expenses in connection with the providing of water services by the City, the City Manager is hereby directed to charge, assess, and collect a water service charge from every owner of a premises at the following rates, as applicable, for water supplied to all premises by the City:

- (a) For any premises situated within the corporate limits or within the JEDD, and being supplied with water by the City's water system, the service charge shall be for the quantity of water used thereon or therein as the same is measured by the City water meter there in use.

Monthly Rates Effective January 1, 2025	Monthly Inside City Rate
First 200 cu. ft.	*Minimum Charge
Next 3,800 cu. ft.	\$2.97 per 100 cu. ft.
Next 36,000 cu. ft.	2.67 per 100 cu. ft.
Next 160,000 cu. ft.	2.40 per 100 cu. ft.
All over 200,000 cu. ft.	2.22 per 100 cu. ft.

*Minimum charge is based on the size of the water meter as set forth in subsection (d) hereof and includes the 200 cubic feet.

- (b) For any premises situated outside the corporate limits except (1) premises inside the JEDD, or (2) residential premises located in Springfield Township, and being supplied with water by the City's water system, the service charge shall be for the quantity of water used thereon or therein as the same is measured by the City water meter there in use.

Monthly Rates Effective January 1, 2025	Monthly Outside City Rate
First 200 cu. ft.	*Minimum Charge
Next 3,800 cu. ft.	\$5.20 per 100 cu. ft.
Next 36,000 cu. ft.	4.67 per 100 cu. ft.
Next 160,000 cu. ft.	4.20 per 100 cu. ft.
All over 200,000 cu. ft.	389 per 100 cu. ft.

*Minimum charge is based on the size of the water meter as set forth in subsection (d) hereof and includes the 200 cubic feet.

- (c) For any residential premises situated outside the corporate limits and within the Springfield Township, and being supplied with water by the City's water system, the service charge shall be for the quantity of water used thereon or therein as the same is measured by the City water meter there in use.

Monthly Rates Effective January 1, 2025	Monthly Springfield Township Residential Rate
First 200 cu. ft.	*Minimum Charge
Next 3,800 cu. ft.	\$ 4.46 per 100 cu. ft.
Next 36,000 cu. ft.	4.00 per 100 cu. ft.
Next 160,000 cu. ft.	3.60 per 100 cu. ft.
All over 200,000 cu. ft.	3.33 per 100 cu. ft.

*Minimum charge is based on the size of the water meter as set forth in subsection (d) hereof and includes the 200 cubic feet.

- (d) Minimum Charges: The following minimum charges per month based on the following meter sizes shall be charged for water service. These rates are effective January 1, 2025.

Meter Size In Inches	Premises Inside City Or Inside JEDD	Premises Outside City Except JEDD or Residential Premises Located Within Springfield Township	Residential Premises Both Outside City And Inside Springfield Township
5/8	\$9.82	\$17.21	\$14.74
3/4	11.85	20.76	17.77
1	18.38	32.20	27.57
1-1/2	31.19	54.64	46.79
2	60.46	105.92	90.69
3	113.58	198.99	170.37
4	168.74	295.64	253.11
6	361.01	632.49	541.52
8	940.97	1,678.57	1,411.46
10	1,380.96	2,419.45	2,071.44
12	2,041.00	3,575.82	3,061.50

- (e) For any premises situated within the corporate limits or within the JEDD, and being supplied with water by the City's water system, the service charge shall be for the quantity of water used thereon or therein as the same is measured by the City water meter there in use.

Monthly Rates <u>Effective January 1, 2026</u>	Monthly <u>Inside City Rate</u>
First 200 cu. ft.	*Minimum Charge
Next 3,800 cu. ft.	\$ 3.32 per 100 cu. ft.
Next 36,000 cu. ft.	2.99 per 100 cu. ft.
Next 160,000 cu. ft.	2.68 per 100 cu. ft.
All over 200,000 cu. ft.	2.48 per 100 cu. ft.

*Minimum charge is based on the size of the water meter as set forth in subsection (h) hereof and includes the 200 cubic feet.

- (f) For any premises situated outside the corporate limits except (1) premises inside the JEDD, or (2) residential premises located in Springfield Township, and being supplied with water by the City's water system, the service charge shall be for the quantity of water used thereon or therein as the same is measured by the City water meter there in use.

Monthly Rates <u>Effective January 1, 2026</u>	Monthly <u>Outside City Rate</u>
First 200 cu. ft.	*Minimum Charge
Next 3,800 cu. ft.	\$5.82 per 100 cu. ft.
Next 36,000 cu. ft.	5.23 per 100 cu. ft.
Next 160,000 cu. ft.	4.70 per 100 cu. ft.
All over 200,000 cu. ft.	4.35 per 100 cu. ft.

*Minimum charge is based on the size of the water meter as set forth in subsection (h) hereof and includes the 200 cubic feet.

- (g) For any residential premises situated outside the corporate limits and within the Springfield Township, and being supplied with water by the City's water system, the service charge shall be for the quantity of water used thereon or therein as the same is measured by the City water meter there in use.

Monthly Rates <u>Effective January 1, 2026</u>	Monthly Springfield <u>Township Residential Rate</u>
First 200 cu. ft.	*Minimum Charge
Next 3,800 cu. ft.	\$4.99 per 100 cu. ft.
Next 36,000 cu. ft.	4.48 per 100 cu. ft.
Next 160,000 cu. ft.	4.03 per 100 cu. ft.
All over 200,000 cu. ft.	3.73 per 100 cu. ft.

*Minimum charge is based on the size of the water meter as set forth in subsection (h) hereof and includes the 200 cubic feet.

- (h) Minimum Charges: The following minimum charges per month based on the following meter sizes shall be charged for water service. These rates are effective January 1, 2026.

Meter Size <u>In Inches</u>	Premises Inside City Or <u>Inside JEDD</u>	Premises Outside City Except JEDD or Residential Premises Located Within <u>Springfield Township</u>	Residential Premises Both Outside City And Inside <u>Springfield Township</u>
5/8	\$11.00	\$19.28	\$16.51
3/4	13.27	23.26	19.91
1	20.58	36.06	30.88
1-1/2	34.94	61.20	52.41
2	67.71	118.63	101.57
3	127.21	222.87	190.82
4	188.99	331.11	283.48
6	404.33	708.38	606.50
8	1,053.88	1,846.40	1,580.83
10	1,546.68	2,709.78	2,320.01
12	2,285.92	4,004.92	3,428.88

- (i) Voluntarily accepted additional service charges: The charges pertaining to a property owner's allocated share of total costs to design, construct, and collect costs related to City constructed water utility improvements benefiting the property and which a property owner has voluntarily accepted, in writing, as additional service charges. The voluntarily accepted additional service charges shall be billed to the customer receiving services at the property to which the voluntarily accepted additional service charges apply, regardless of changes in ownership, until paid in full.
- (j) No water service charge shall be imposed upon premises owned or operated by either the City of Springfield or by the Clark County Park District.
- (Ord. 21-215. Passed 7-20-21; Ord. 24-246. Passed 8-27-24.)

911.04 BULK WATER PURCHASES.

Subject to regulations duly adopted by the City Manager, persons may purchase water directly from the water treatment plant upon the payment of a registration fee of sixty dollars (\$60.00) per calendar year, or any portion thereof, plus an additional fee each time water is purchased. Effective January 1, 2025, the rate for the additional fee will be ninety-two cents (\$0.92) for each 100 gallons of water or fraction thereof, each time water is purchased. Effective January 1, 2026, the rate for the additional fee will be one dollar and three cents (\$1.03) for each 100 gallons of water or fraction thereof, each time water is purchased. Bulk water purchases shall be in a minimum of 1,000 gallons.
(Ord. 24-246. Passed 8-27-2024.)

911.05 RATE ASSESSMENTS.

The City Manager shall apply and assess the rates provided herein as they are in effect on the date the City's water meter in use on the premises was read.

911.06 SPECIAL RATE ARRANGEMENT.

The City Manager shall be authorized, but in each case, only after approval by ordinance of the City Commission, to enter into special agreements for water supply and charges therefor and for services pertinent thereto with large consumers outside the corporate limits.

911.07 ESTABLISHMENT AND USE OF WATER FUND.

The funds received from the collection of the service charges authorized by this chapter shall be deposited daily with the Director of Finance and shall be accounted for and be known as the Water Fund and when appropriated by the City Commission, subject to the provisions of any ordinance or indenture of mortgage authorizing issuance of any securing mortgage revenue bonds for the water works system, shall be available for the payment of the costs and expenses of the management, maintenance and repair of the City water system and the water treatment plant, and any surplus in the Fund following such payment shall be used for the payment of the interest on bonds issued and outstanding or which may be issued to provide funds with which to pay the City's portion of the cost of constructing such water system or part thereof and the water treatment works, and to retire such bonds when they mature, and for costs incurred in the enlargement or replacement of the water system and treatment works.

911.08 PAYMENT OF SERVICE CHARGE.

The service charge levied and assessed by this chapter shall be payable to the City in monthly payments in each year, provided, however, that the service charge payable for any premises for water service during the first monthly billing period after such service begins where the amount of water supplied during such period is less than the maximum amount for which the minimum charge is assessed and collected pursuant to such section shall be prorated on a per diem basis according to the following formula:

$$\frac{\text{Amount of water supplied}}{\text{Maximum amount of water supplied under minimum charge}} \times \text{Minimum Charge} = \text{Charge}$$

911.09 FAILURE TO PAY SERVICE CHARGE.

Each service charge levied pursuant to this chapter shall be collected by the Finance Director. For any refusal, failure or neglect in paying these service charges when due, the services shall be terminated without further notice and restored only upon payment of all charges and fees due. The City Manager shall make and enforce such bylaws and regulations as may be deemed necessary for the safe, economical and efficient management and protection of the City water system and the water treatment plant, for the construction and use of house services and connections to the water system and for the regulation, collection, rebating and refunding of such charges.

911.10 FIRE HYDRANT USE AND OBSTRUCTION.

No person, unless duly authorized by the proper authorities, shall make use of the water from any fire hydrant of the City, or open any such hydrants for any purpose whatever, or place any building material or other obstruction so as to interfere with the use of or free access to such hydrant; or willfully injure any cistern or hydrant.

911.11 PERMISSION REQUIRED TO TAP WATER MAINS.

No person shall tap any of the pipes of the City water works until he has first filed his written request therefor with the City Manager and has obtained permission to do so.

911.12 UNLAWFUL TO TURN ON CITY WATER WHEN TURNED OFF BY CITY.

No person, after the City water has been turned off from his premises by order of the City Manager, shall turn such City water on again until the permission of the City Manager has been obtained therefor.

911.13 INSTALLATION OF LOCKABLE VALVE BOX AND SHUTOFF VALVE.

In the event water service has been terminated to a property due to non-payment for water or sewer services provided to the property or due to violation at the property of any other rules and regulations pertaining to receiving the City's water or sewer municipal utility services, and it is subsequently discovered that water or sewer service has been turned back on without the City's authorization on, or the property has been reconnected to the City's water or sewer system without the City's authorization, then the Service Director or Finance Director, at their discretion, may install a valve box with a lockable shutoff valve for the property and the cost to the City of procuring and installing the valve box with a lockable shutoff valve and their appurtenances shall be added to the utility bill for the property and collected in equal installments during a period of up to twelve months in the manner of other water charges.

(Ord. No. 08-289. Passed 9-23-08.)

911.14 WATER SHUTOFF FOR NONPAYMENT OF WATER BILL; EXCEPTIONS.

(a) Payment Required Prior to Water Service Resumption. Where a water bill has not been paid as provided by the rules and regulations of the City Manager and the proper shutoff notice has been delivered, the water shall thereafter be shut off in accordance with these rules and regulations,

and it shall not thereafter be turned on again until all charges due and payable, including advance charges, if any, are fully paid.

(b) Application. This section shall apply whether or not there has been, in the meantime, a change of ownership or possession of the premises supplied, except as provided in subsections (c) and (d) hereof.

(c) Insolvent or Bankrupt Water User. Where premises in arrears for payment of water bills becomes subject to a bankruptcy or insolvency court, the Service Department may permit the supply of water to such premises to be continued or restored without previous payment of the water bill accrued under the bankrupt or insolvent owner.

(d) Foreclosure Proceedings Against Premises Supplied With City Water. Whenever the Department of Finance, Utilities Billing Division, has been given written notice that foreclosure proceedings have been instituted against premises supplied with City water, the Department shall arrange to require deposit payments or other suitable guaranties in advance for the water furnished to such premises until the premises have been sold or the proceedings otherwise terminated. If the Department receives notification in writing of the pendency of the foreclosure proceedings and the location of the premises affected thereby prior to such sale, the purchaser at the foreclosure sale shall be entitled to have water furnished the premises without payment of water charges accrued under the previous owner, for any period subsequent to the date of the receipt of notice of the pendency of foreclosure proceedings by the Department.

(e) Where payments required to be made to the City under a Development Incentive Agreement or a pre-annexation agreement (i.e. a contract by which a customer outside of the City's corporate boundary is provided with municipal water and/or sewer services) have not been paid as provided under the Development Incentive Agreement or pre-annexation agreement and the proper shutoff notice has been delivered, the water shall thereafter be shut off in accordance with these rules and regulations, and it shall not thereafter be turned on again until all charges due and payable, including advance charges and payments required to be made under the Development Incentive Agreement or pre-annexation agreement, if any, are fully paid. (Ord. 11-321. Passed 12-6-11.)

911.15 LATE PAYMENTS.

All water charges due from customers under the provisions of the chapter and remaining unpaid after they have become due shall bear interest at the rate of one percent (1%) per month or part thereof.

911.16 WATER CONNECTION FEE ON UNASSESSED PROPERTY.

(a) No person, firm, or corporation shall be permitted to make a tap to or connection with a water main for the purpose of affording water service to abutting property that has not previously had water service where such property has not been assessed the cost and expense of the construction of such water main until the applicant shall have paid a water main connection fee to the City.

(b) The Finance Director shall set such fee as follows:

- (1) The estimated replacement cost of the assets of the City's water utility system less depreciation and less the amount of debt outstanding shall be divided by the total number of 5/8-inch water meters or meter equivalents in place system-wide.
- (2) The applicable meter equivalent ratio from the chart below shall be selected based on the size of the meter being installed at the property.
- (3) The result of the calculation in subparagraph (1) above shall be multiplied by the meter equivalent ratio.

Meter Size in Inches	Meter Equivalent Ratio
5/8	1.0
3/4	1.5
1	2.2
1-1/2	4.2
2	6.2
3	15.0
4	25.0
6	50.0
8	80.0
10	115.0
12	155.0

(c) A tap or connection to the water system that increases the size of the meter serving the property shall only be made after the payment of both a water upgrade fee based on the difference between the size of the previous meter and the size of the new meter, and the sewer upgrade fee described in Section 915.02(d) of these Codified Ordinances.

(d) The water upgrade fee and the sewer upgrade fee shall be paid either in cash or by execution of a note therefor payable to the City over a period not to exceed five (5) years and billed to the owner by the City with each water and sewer bill during such period.

(e) The Finance Director shall recalculate the connection fee every two years. Any change in the fee as a result of such recalculation shall apply only to new connections applied for after the recalculation has been made.

(f) The water connection fee calculated as set out above shall be effective for any connections made on or after January 1, 2021, except that a property owner may connect if that owner pays the fee as calculated under the terms defined in Ordinance No. 16-102, passed April 12, 2016, before December 22, 2020.

(Ord. 13-311, passed 12-23-13; Ord. 16-102, passed 4-12-16; Ord. 20-295, passed 12-8-20.)

911.17 COMPLIANCE WITH CHAPTER 929 REQUIREMENTS.

Every person subject to and required to comply with the requirements of Chapter 929 of the Codified Ordinances and who also receives water

service from the City at the property subject to regulation under Chapter 929 of the Codified Ordinances is required to comply with the requirements of Chapter 929 of the Codified Ordinance as a condition to receiving continuing water service from the City at the property subject to regulation under Chapter 929 of the Codified Ordinances. In the event a person receiving water service from the City at a property subject to regulation under Chapter 929 of the Codified Ordinances fails to come into compliance with the requirements of Chapter 929 of the Codified Ordinances within ten days after receiving notice of such non-compliance, the City may shut off the non-complying person's water service at the property subject to regulation under Chapter 929 of the Codified Ordinances, until such person's compliance with Chapter 929 of the Codified Ordinances has been achieved.
(Ord. 16-258. Passed 9-13-16.)

911.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor. Any such violation shall constitute a separate offense on each successive day continued.

CHAPTER 913

Cross Connection Control and Water Quality Protection

- 913.01 Backflow protection.**
- 913.02 Definitions.**
- 913.03 Cross connections prohibited.**
- 913.04 Surveys and investigations.**
- 913.05 Where protection is required.**
- 913.06 Type of protection required.**
- 913.07 Backflow prevention devices.**
- 913.08 Booster pumps.**
- 913.99 Penalty.**

CROSS REFERENCES

Cross connections - see OAC 3745-95-01 – 3745-95-02
Backflow prevention devices - see OAC 3745-95-06
Violations - see OAC 3745-95-08

913.01 BACKFLOW PROTECTION.

If, in the judgment of the Service Director, the integrity of the public water system is, or can be, endangered by backflow from an actual or a potential cross connection within the plumbing system of a water consumer, the Service Director may order the installation of an approved backflow prevention method or device consisting of either an air-gap, vacuum breaker, reduced pressure principle backflow preventer or any combination thereof at the water service connection to the premise. The water consumer shall install the designated device or method at his own expense, and failure, refusal or inability to install such device or method immediately shall constitute a ground for discontinuing water service to the premise until such device or method has been installed and approved by the Service Director. The use of the approved backflow preventer at the water service connection does not in any way affect or eliminate the need for individual fixture devices or air-gaps as required by the laws of the State of Ohio.
(Ord. 89-21. Passed 1-10-89.)

913.02 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

- (a) "Air gap separation" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet water supply to a tank, plumbing fixture or other device and the flood level rim of the receptacle.
- (b) "Approved" means that a backflow prevention device or method has been accepted by the Service Department and the Ohio Environmental Protection Agency as suitable for the proposed use.
- (c) "Auxiliary water system" means any water system on or available to the premises other than the City's public water system and includes the water supplied by the system. These auxiliary water systems may include, but are not limited to, water from another purveyor's public water system; or water from a source such as wells, cisterns, tanks, lakes or streams; or process fluids; or used water.
- (d) "Backflow" means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable water supply from any source other than the intended source of the potable water supply.
- (e) "Backflow prevention device" means any device, method or type of construction intended to prevent backflow into a potable water system.
- (f) "City" means the City of Springfield, Ohio.
- (g) "Consumer" means the owner or person in control of any premises supplied by or in any manner connected to a public water system.
- (h) "Consumer's water system" means any water system, located on the premises occupied by the consumer, supplied by, or in any manner connected to a public water system.
- (i) "Containment" means an impairment of the quality of the water by sewage or process fluids or waste to a degree which could create an actual hazard to the public health through poisoning or through spread of disease by exposure.
- (j) "Cross connection" means any arrangement whereby backflow can occur.
- (k) "Double check valve assembly" means an assembly composed of two single, independently acting, check valves including tightly closing shut-off valves located at each end of the assembly and suitable connections for testing the watertightness of each check valve.
- (l) "Health hazard" means any condition, device, or practice in a water system or its operation that creates, or may create, a danger to the health and well-being of users. The word "severe" as used to qualify "health hazard" means a hazard to the health of the water system user or the public that could reasonably be expected to result in potentially lethal or permanently debilitating morbidity or in death.
- (m) "Interchangeable connection" means an arrangement or device that will allow alternate but not simultaneous use of two sources of water.
- (n) "Nonpotable water" means water not safe for drinking, personal hygienic or culinary use.
- (o) "Person" means the state, any political subdivision, public or private corporation, individual, partnership, association, trust, or other legal entity.
- (p) "Pollution" means the presence in water of any foreign substance that tends to degrade its quality so as to constitute a health hazard or impair

the usefulness or quality of the water to a degree which does not create an actual hazard to the public health but which does adversely affect such waters for domestic use.

- (q) "Potable water" means water which is satisfactory for drinking, culinary, and personal hygienic purposes and meets the requirements of the Clark County Combined Health District.
 - (r) "Process fluids" means any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional or system hazard if introduced into the public or a potable consumer's water system. This includes, but is not limited to:
 - (1) Polluted or contaminated waters;
 - (2) Process waters;
 - (3) Used waters originating from the public water system which may have deteriorated in sanitary quality;
 - (4) Cooling waters;
 - (5) Contaminated natural waters taken from wells, lakes, tanks, cisterns, streams, or irrigation systems;
 - (6) Chemicals in solution or suspension;
 - (7) Oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for firefighting purposes.
 - (s) "Public water system" means any publicly or privately owned potable water system defined in to Ohio R.C. 6109.01(A).
 - (t) "Reduced pressure principle backflow prevention device" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closing shut-off valves located at each end of the device, and each device shall be fitted with properly located test cocks.
 - (u) "Service connection" means the terminal end of a service line from the public water system. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.
 - (v) "System hazard" means a condition through which posing an actual or potential threat of damage to the physical properties of the public water system or a potable consumer's water system.
 - (w) "Pollutional hazard" means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water system or a potable consumer's water system.
 - (x) "Used water" means any water supplied by a water purveyor from a public water system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water purveyor.
 - (y) "Water purveyor" means the owner or operator of a public water system.
 - (z) "Water system" means the pumps, plumbing, and connected appurtenances and connected water storage devices used to transport and store water.
 - (aa) "Ohio E.P.A." means the Ohio State Environmental Protection Agency.
- (Ord. 89-21. Passed 1-10-89; Ord. 12-293. Passed 9-25-12.)

913.03 CROSS CONNECTIONS PROHIBITED.

(a) No person shall install or maintain a water service connection to any premises where actual or potential cross connections to a public water system or a potable consumer's water system may exist unless such actual or potential cross connections are abated or controlled to the satisfaction of the Service Director.

(b) No person shall install or maintain any connection whereby water from an auxiliary water system may enter a public water system or potable consumer's water system unless the auxiliary water system and the method of connection and use of such system shall have been approved by the Service Director and by the Ohio E.P.A. as required by Ohio R.C. 6109.13-15.

(c) Except as otherwise provided in this chapter, no person shall install or maintain a water system wherein any air gap separation distance is less than twice the diameter of the water supply pipe or faucet or is less than one inch, whichever is the greater distance.

(Ord. 89-21. Passed 1-10-89; Ord. 12-293. Passed 9-25-12.)

913.04 SURVEYS AND INVESTIGATIONS.

(a) The Service Director, or his authorized representative, shall have the right to enter premises served by the public water system at all reasonable times for the purpose of making surveys and investigations of water use practices within the premises.

(Ord. 00-456. Passed 12-19-00.)

(b) On request by the Service Director, or his authorized representative, the consumer shall furnish the water purveyor, or its authorized representative, information on water use practices within the consumer's premises.

(Ord. 00-456. Passed 12-19-00.)

(c) Subsection (a) hereof does not relieve the consumer of the responsibility for conducting, or causing to be conducted, periodic surveys of water use practices on his premises to determine whether there are actual or potential cross connections in the consumer's water system through which contaminants or pollutants could backflow into a public water system or a potable consumer's water system.

(Ord. 89-21. Passed 1-10-89.)

913.05 WHERE PROTECTION IS REQUIRED.

(a) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving the consumer's premises, where in the judgment of the Service Director or the Ohio E.P.A., a real or potential health, pollutional, or system hazard to the public water system exists.

(b) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving the consumer's premises where the following conditions exist:

- (1) The premises has an auxiliary water system, unless such auxiliary system is accepted as an additional source by the Service Director and the additional source is approved by the Ohio E.P.A.
- (2) Any substance is handled on the premises in such a fashion as to create an actual or potential hazard to a public water system.
- (3) The premises has internal cross connections that, in the judgment of the Service Director, are not correctable or intricate plumbing

arrangements which make it impracticable to determine whether or not cross connections exist.

- (4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross connection survey.
- (5) The premises has a repeated history of cross connections being established or re-established.
- (6) Other conditions in which an approved backflow prevention device is required by Federal or Ohio law.

(c) An approved backflow prevention device shall be installed at each point of connection between a public water system and an auxiliary water system and at each point of connection between a potable consumer's water system and an auxiliary water system, unless such auxiliary system is accepted as an additional source by the Service Director and the additional source is approved by the Ohio E.P.A.

(Ord. 89-21. Passed 1-10-89.)

913.06 TYPE OF PROTECTION REQUIRED.

(a) The type of protection required under Section 913.05(b), shall depend on the degree of hazard which exists as follows:

- (1) A required air gap separation and an approved reduced pressure principle backflow prevention device shall be maintained where a public water system may be contaminated with substances that could cause a severe health hazard;
- (2) A required air gap separation shall be maintained or an approved reduced pressure principle backflow prevention device shall be installed where a public water system may be contaminated with any substance that could cause a system or health hazard or a pollutional hazard.

(b) The type of protection required under Section 913.05(c) shall be a required air gap separation or an approved interchangeable connection.

(c) Where an auxiliary water system is used as a secondary source of water for a fire protection system, the provisions of subsection (b) here of for a required air gap separation or an approved interchangeable connection may be waived by the Service Director and the Ohio E.P.A. provided:

- (1) At premises where the auxiliary water system may be contaminated with substances that could cause a system or health hazard, a public water system or a potable consumer's water system shall be protected against backflow by installation of an approved reduced pressure principle backflow prevention device;
- (2) At all other premises, a public water system or a potable consumer's water system shall be protected against backflow by installation of an approved reduced pressure principle backflow prevention device;
- (3) A public water system or a potable consumer's water system shall be the primary source of water for the fire protection system;
- (4) The fire protection system shall be normally filled with water from a public water system or a potable consumer's water system;
- (5) The water in the fire protection system shall be used for fire protection only, with no other use of water from the fire protection system, downstream from the approved backflow prevention device.

(d) Type of Backflow Protection Required; Domestic and Commercial Water Services. An approved backflow prevention device of the type designated shall be installed on each domestic water service connection to the following types of facilities unless the Service Director determines that no real or potential health, pollutional, or system hazard to the public water system exists.

Abbreviations used in this chapter are as follows:

A.G.—Air Gap Separation per Section 913.03(c)

R.P.—Reduced Pressure Principle Backflow Preventer.

Type of Facility	Minimum Type of Protection
Breweries, distilleries, bottling plants	R.P.
Car wash with recycling system and/or wax educator	R.P.
Chemical plants	R.P.
Dairies	R.P.
Health care facilities	R.P.
Fertilizer plants	R.P.
Film laboratory or processing plant	R.P.
Food or beverage plant	R.P.
Laboratories	R.P.
Laundries and dry cleaning plants	R.P.
Machine tool plants (health or system hazard)	R.P.
Machine tool plants (pollutional hazard)	R.P.
Metal processing plant (health or system hazard)	R.P.
Metal processing plant (pollutional hazard)	R.P.
Metal plating plant	R.P.
Morgues and mortuaries	R.P.
Packing houses or rendering plants	R.P.
Paper products plant	R.P.
Petroleum processing plant	R.P.
Petroleum storage yard (health or system hazard)	R.P.
Pharmaceutical or cosmetic plant	R.P.
Power plants	R.P.

Radioactive material plants	R.P.
Restaurants with soap educators and/or industrial type disposal	R.P.
Sand and gravel pits	R.P.
Schools with laboratories having acid wastes	R.P.
Sprinkling or irrigation systems	R.P.
Swimming pools with piped fill line	R.P.
Sewage treatment plants	R.P.
Sewage pumping stations	R.P.
Veterinary establishments	R.P.
Premises having submerged inlets to equipment	R.P.
Premises having self-draining yard hydrants, fountains, hose boxes or similar devices presenting a health or system hazard (i.e., chemical storage plants, tank farms, bulk storage yards)	R.P.
Premises having self-draining yard hydrants, fountains, hose boxes or similar devices presenting a polluttional hazard (i.e., parks, play fields, cemeteries)	R.P.

(e) Type of Backflow Protection Required: Fire Protection Service. An approved double check valve assembly device or the use of a reduced pressure principle backflow prevention device shall be installed on each fire protection service to any premises unless the Service Director determines that no real or potential health, polluttional, or system hazard to the public water system exists. The double check assembly device must meet all of the following requirements before it can be approved by the City Water and Fire Divisions.

- (1) Water from the downstream side of the double check valve assembly device shall be used for fire protection only.
- (2) There shall be no regular use of water downstream from the double check valve assembly device other than for fire system make-up water.
- (3) The fire system shall be filled with water from the public water supply only.
- (4) The public water supply must be the primary source of water for fighting fires.
- (5) The water system must contain no additives. Provided, however, where the fire protection system contains any of the following components, a reduced pressure principle backflow prevention device shall be installed between such component and the rest of the water system so as to isolate such component from the rest of the water system:

Auxiliary Water System
Anti-Freeze Legs
Covered Gravity or Pressure Storage Tanks
Uncovered Storage Tanks or Reservoirs

(f) The City Fire Division shall maintain a current record of all double check valve assembly devices which are a part of the fire sprinkler system connected to the City public water system.

(Ord. 89-21. Passed 1-10-89.)

913.07 BACKFLOW PREVENTION DEVICES.

(a) Any backflow prevention device installed in the City shall be of a model or construction approved by the Service Director and the Ohio E.P.A. and shall be tested and be found to function properly and shall be certified by an inspector certified pursuant to Ohio R.C. 3703.01(D), 3703.04, and 3703.05 before the device is put in use.

(b) Any backflow prevention device required shall be installed at a location and in a manner approved by the Service Director and shall be installed by and at the expense of the water consumer.

(c) It shall be the duty of the consumer, on any premises on which backflow prevention devices have been installed to have thorough inspections and operational tests made of the devices at such intervals and in such manner as may be required by the Service Director or the Ohio E.P.A., but in no event shall such tests be made at greater than twelve-month intervals. These inspections and test shall be at the expense of the water consumer and shall be performed by an inspector certified pursuant to Ohio R.C. 3703.01(D), 3703.04 and 3703.05.

(d) Backflow prevention devices shall be repaired, overhauled, or replaced at the expense of the consumer within fourteen days after they are found to be defective. Records of such inspections, tests, repairs, and overhaul shall be kept by the consumer and made available to the Service Director and the City's Health Commissioner.

(e) Backflow prevention devices shall be tested during normal business hours. Manifold or dual settings of the devices should be considered for premises requiring uninterrupted water service. Backflow prevention devices set in manifold shall meet the minimum flow requirements of a single device of the proper size.

(f) Existing backflow prevention devices approved by the Service Director or the Ohio E.P.A. prior to the effective date of this regulation and which are properly maintained shall, except for inspection, testing, and maintenance requirements, be excluded from the requirements of subsections (a) and (b) hereof, if the Service Director and the Ohio E.P.A. are assured that the devices will satisfactorily protect the public water system.

(g) The Clark County Combined Health District shall maintain a current record of all backflow prevention devices which are a part of any water system connected to a public water system.
(Ord. 89-21. Passed 1-10-89.)

(h) Persons performing inspections as required in this section shall, within fifteen days of performing such inspection, file with the Clark County Combined Health District a test report. The test report shall include the following data:

- (1) Type of backflow prevention device.
- (2) Size of backflow prevention device.
- (3) Location of backflow prevention device.
- (4) Model designation of backflow prevention device.

- (5) Date backflow prevention device was installed.
- (6) Test results before backflow prevention device was repaired.
- (7) Description of repairs made.
- (8) Description of materials used in making repairs.
- (9) Results of a final test of the backflow prevention device after the repair or installation.
- (10) Inspector's signature.
- (11) Date of inspection.
- (12) Certification by the owner of the premises on which the backflow prevention device is located certifying that the backflow prevention device has been in constant use at the location of the backflow prevention device during the entire proscribed interval between test periods and that during that period the backflow prevention device was not by-passed, made inoperative, or removed without proper authorization.
- (13) Such other information as the Health Commissioner deems necessary.

The person filing such report with the Clark County Combined Health District shall pay a filing fee in the amount of Ten Dollars (\$10.00) to the Clark County Combined Health District for each report filed.
(Ord. 89-427. Passed 8-1-89; Ord. 12-293. Passed 9-25-12)

913.08 BOOSTER PUMPS.

(a) No person shall install or maintain a water service connection to any premises where a booster pump has been installed on the service line to or within such premises, unless such booster pump is equipped with a low-pressure cutoff designed to shut off the booster pump when the pressure in the service line on the suction side of the pump drops to ten pounds per square inch gauge or less.

(b) It shall be the duty of the water consumer to maintain the low-pressure cutoff device in proper working order and to certify to the Service Director, at least once a year, that the device is operable.

(c) The low-pressure cutoff control for booster pumps shall conform to the Ohio E.P.A. Specifications as described in the Ohio E.P.A. publication, *Backflow Prevention and Cross-Connection Control*, third edition 1987.
(Ord. 89-21. Passed 1-10-89.)

913.99 PENALTY.

Whoever violates any provision of this chapter for which another penalty is not specifically provided shall be guilty of a misdemeanor of the first degree, punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding six months or both.
(Ord. 89-21. Passed 1-10-89.)

CHAPTER 915

Sewer Connections

915.01 Definitions.

915.02 Sewer connection fee on unassessed property.

915.03 Issuance of license.

915.04 Fees; Sewer Fund.

915.05 Licensing sewer tappers.

915.06 Examination for license.

915.07 Bond required; revocation.

915.08 Unlicensed sewer tapping.

915.09 Sewer connections.

915.99 Penalty.

CROSS REFERENCES

Power to license sewer tappers—see Ohio R.C. 715.27

Compulsory sewer connections—see Ohio R.C. 729.06

Regulations to control house sewers and connections— see Ohio R.C. 729.51

915.01 DEFINITIONS.

For the purpose of Chapters 915 and 917 of this Code, the definitions set forth in Chapter 916 shall apply.
(Ord. 67-199. Passed 9-25-67.)

915.02 SEWER CONNECTION FEE ON UNASSESSED PROPERTY.

(a) No person, firm, or corporation shall be permitted to make a tap to or connection with a sanitary sewer or a combined sewer for the purpose of affording sanitary sewer service to abutting property that has not previously had sanitary sewer service where such property has not been assessed the cost and expense of the construction of such sewer until the applicant shall have paid a sewer connection fee to the City.

(b) The Finance Director shall set such fee as follows:

- (1) The estimated replacement cost of the assets of the City's sanitary sewer utility system less depreciation and less the amount of debt outstanding shall be divided by the total number of 5/8-inch water meters or meter equivalents in place system-wide.
- (2) The applicable meter equivalent ratio from the chart below shall be selected based on the size of the meter being installed at the property.
- (3) The result of the calculation in subparagraph (1) above shall be multiplied by the meter equivalent ratio.

Meter Size in Inches	Meter Equivalent Ratio
5/8	1.0

3/4	1.5
1	2.2
1-1/2	4.2
2	6.2
3	15.0
4	25.0
6	50.0
8	80.0
10	115.0
12	155.0

(c) A sewer connection for a property to be served by the sanitary sewer system, but not by the water system, shall be calculated by the Finance Director based on the size of the well meter, or some other measure that estimates the sewer capacity being made available to the property.

(d) A tap or connection to the sanitary sewer system that increases the size of the meter serving the property shall only be made after the payment of a sewer upgrade fee based on the difference between the size of the previous meter and the size of the new meter.

(e) The sewer upgrade fee shall be paid either in cash or by execution of a note therefor payable to the City over a period not to exceed five (5) years and billed to the owner by the City with each sewer bill during such period.

(f) The Finance Director shall recalculate the connection fee every two years. Any change in the fee as a result of such recalculation shall apply only to new connections applied for after the recalculation has been made.

(g) The sewer connection fee calculated as set out above shall be effective for any connections made on or after January 1, 2021, except that a property owner may connect if that owner pays the fee as calculated under the terms defined in Ordinance No. 16-102, passed April 12, 2016, before December 22, 2020.

(Ord. 13-311, passed 12-23-13; Ord. 16-102, passed 4-12-16; Ord. 20-295, passed 12-8-2020)

915.03 ISSUANCE OF LICENSE.

The Services Director shall within a reasonable time, report the estimate to the City Commission in writing, after which the Commission may proceed with the issuance of the right and license to construct such sewer above referred to.

(Ord. 00-456. Passed 12-19-00.

915.04 FEES; SEWER FUND.

The fee provided to be paid in Section 915.02 shall be in addition to all other fees, charges or deposits now or hereafter provided by law to be paid or deposited for the making of such taps or connections and construction of sewers, and the doing of other work incidental thereto. All fees payable hereunder shall be deposited in the Sewer Fund which is hereby established. The Fund shall be used for the maintenance and repair of the City sewer system, and for no other purpose whatsoever. The Director of Finance shall make a report annually of the receipts and disbursements of this Fund to the City Commission.

(Ord. 67-199. Passed 9-25-67.)

915.05 LICENSING SEWER TAPPERS.

No person shall engage in or carry on the business of building house connections with sewers or of tapping sewers within the City until he has obtained a license from the Health Commissioner in accordance with law and the provisions of this chapter. Such license shall be issued by the Health Commissioner in the manner herein provided for, and the fee therefor, for each person, shall be forty dollars (\$40.00) to the Clark County Combined Health District. Such licenses shall expire on December 31 of each year succeeding the date of issue and shall be renewable annually upon the payment of the license fee and the renewal of the bond.

(Ord. 03-353. Passed 10-28-03.)

915.06 EXAMINATION FOR LICENSE.

Any person desiring to engage in the work or business of constructing house connections with sewers or tapping sewers shall apply to the Health Commissioner for a license for such purpose, and shall pay forty dollars (\$40.00) to the Clark County Combined Health District to take a sewer tappers examination. The Health Commissioner shall examine such applicant as to his practical knowledge of constructing house connections with sewers and of tapping sewers and if satisfied of the competency and reliability of such person to do such work, shall issue to him a license authorizing him to engage in the work or business of constructing house connections with sewers and of tapping sewers upon his compliance with the conditions hereinafter stated.

(Ord. 03-353. Passed 10-28-03.)

915.07 BOND REQUIRED; REVOCATION.

Every person, before receiving the license aforesaid, shall enter into a bond in the sum of five thousand dollars (\$5,000) with sureties to the approval of the City Manager, conditioned that he will indemnify and save harmless the City from all accidents, liability and damage of every kind and nature caused by his negligence either in the execution of or protection of his work or for any unfaithfulness or inadequate work done under and by virtue of his license and that such licensee will comply with all ordinances of the City and all rules and regulations now in force or hereinafter provided. The City Manager may revoke any license for any violation of any of the ordinances of the City or for the violation of any rules and regulations or for any cause which the City Manager may deem just and proper.

915.08 UNLICENSED SEWER TAPPING.

No house connections with sewers shall be made and no sewer shall be tapped except by a person having a license as hereinbefore provided, and all house connections with sewers, and all sewer tapping shall be done under and according to such rules and regulations as may be adopted by the

915.09 SEWER CONNECTIONS.

No person, firm or corporation shall be permitted to connect the sewage systems of two or more separate dwelling houses to one sewer connection. Each individual structure shall be connected with a sewer located in the street or right of way, if such a sewer is available.
(Ord. 67-199. Passed 9-25-67.)

915.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor.

CHAPTER 916

Use of Public Sewers

(Entire Chapter 916 amended by Ordinance No. 21-155, passed May 25, 2021)

916.01 Definitions.

916.02 Use of Public Sewers.

916.03 Obligations of Dischargers - Application and Reports.

916.04 Obligations of Dischargers - Facilities and Equipment.

916.05 Issuance of Local Permit

916.06 Fees.

916.07 Prohibitions.

916.08 Enforcement.

916.99 Penalty.

CROSS REFERENCES

Compulsory sewer connections—see Ohio R.C. 729.06

Sewer regulations—see Ohio R.C. 729.51

Untreated sewage—see Ohio R.C. 3701.59

Private sewage disposal systems—see OAC Ch. 3701.29

916.01 DEFINITIONS.

Whenever used in this chapter:

- (a) "Act" means the Clean Water Act (33 U.S.C. 1251 et seq) as amended.
- (b) "BOD" (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the carbonaceous and nitrogenous biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty degrees Celsius, expressed in milligrams per liter (mg/L).
- (c) "Best Management Practice" (BMP): Any schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in OAC 3745-3-04. BMP's also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- (d) CBOD (Denoting Carbonaceous Biochemical Oxygen Demand) means the quantity of oxygen utilized in the carbonaceous biochemical oxygen demand of organic matter under standard laboratory procedure in five days at twenty degrees Celsius, expressed in milligrams per liter (mg/L).
- (e) "Categorical Pretreatment Standards" means the National Pretreatment Standards of the Clean Water Act (33 U.S.C. 1251 et seq) specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into the Springfield POTW by specific industrial dischargers.
- (f) "CFR" means code of federal regulations.
- (g) "Chronic violation" means that sixty six percent (66%) or more of the measurements in a six (6) month period have exceeded the limits in the Local Permit issued by the City to the Discharger as measured at a monitoring point designated in the Local Permit.
- (h) "Combined sewer" means a sewer designated to receive both surface runoff and sewage.
- (i) "Compatible pollutant" shall mean pollutants which the treatment plant was designed to treat which are BOD, suspended solids, fecal coliform, phosphorous and ammonia.
- (j) "Composite wastewater sample" means a combination of individual samples of water or wastewater taken at selected intervals, either time proportional or flow proportional, as to minimize the effect of the variability of the individual sample. The individual aliquots comprising the time and flow proportional samples will be of roughly equal volume.
- (k) "Director" means the Director of the Service Department of the City, or the Director's authorized deputy, agent, or representative.
- (l) "Industrial discharger" means any non-residential user who releases any effluent into the POTW by means of pipes, conduits, pumping stations, force mains, construction drainage ditches, intercepting ditches, and all constructed devices and appliances appurtenant thereto.
- (m) "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispersing of food, and from the handling, storage and sale of produce.
- (n) "Grab Sampling:" An individual sample, taken at one specific point in time, and not combined with any other samples taken.
- (o) "Hazardous waste" means any waste or combination of wastes which pose a substantial present or potential hazard to human health or living organisms because such wastes are non-biodegradable or persistent in nature or because they can be biologically magnified, or because they can be lethal, or because they may otherwise cause or tend to cause detrimental cumulative effects, including any substance, combination of substances or mixtures as defined as "hazardous wastes" in 40 CFR Part 261.
- (p) "High Strength sewage" is defined as sewage containing more than 500 mg/L total Suspended Solids, 400 mg/L BOD, and/or 30 mg/L Ammonia Nitrogen.
- (q) "Industrial wastes" means the liquid or solid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.
- (r) "Industrial user" means any source of the introduction of pollutants into the POTW from any non- domestic source regulated under Section 307 (B)(C)(D) of the Act.
- (s) "Interference" means the inhibition or disruption of the POTW, treatment processes or operations which contributes to a violation of any requirement of its NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act or any criteria, guidelines, or regulations developed pursuant to the Clean Air Act, the Solid Waste Disposal

Act (including Title II, more commonly known as the Resource Conservation and Recovery Act), the Toxic Substance Control Act, the Marine Protection Research And Recovery Act, or any more stringent state criteria.

- (t) "National Pretreatment Standard" means any regulation of the U.S. EPA, containing pollutant discharge limits promulgated by the administrator in accordance with sections 307(b) and (c) of the act, that applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 C.F.R. 403.5, 40 C.F.R. 403.3(I) and OAC 3745-3-01(N).
- (u) "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- (v) "New source or new discharger" means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of the proposed pretreatment standards under Section 307(C) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that: (1) the building, structure, facility or installation is constructed at a site at which no other source is located; or (2) the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or (3) the production or wastewater generating process of the building, structure, facility or installation are substantially independent of existing source at the same site.
- (w) "Normal sewage" is defined as sewage containing not more than 250 mg/L Suspended Solids, or 200 mg/L BOD, or 15 mg/L Ammonia Nitrogen.
- (x) "NPDES permit" shall mean the National Pollution Discharge Elimination System permit in effect as issued by the Ohio Environmental Protection Agency to the City for the operation of the POTW which regulates the strength of the POTW effluent at its discharge point to the Mad River.
- (y) "Pass through" means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirements of the NPDES Permit.
- (z) "Person" means any individual, firm, company association, society, corporation, or group.
- (aa) "pH" means the logarithm of the reciprocal of the concentration of hydrogen ions in gram equivalents per liter of solution.
- (bb) "POTW" means Publicly Owned Treatment Works or any sewage treatment works and the sewers and conveyances appurtenances discharging thereto, owned and operated by the City of Springfield.
- (cc) "Pretreatment" means the reduction of the amounts of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW.
- (dd) "Pretreatment regulations" is defined as a discharge limit related to pretreatment that is imposed on an industrial discharger by the Ohio Administrative Code Chapter 3745-3, Chapter 916 of the Codified Ordinances of the City of Springfield, Ohio, any control mechanism (including a Local Permit), categorical pretreatment standards, prohibitive discharge limits established pursuant to rule 3745-3-04 of the Ohio Administrative Code, local limits established pursuant to paragraph (C)(4) of rule 3745-3-03 and paragraph (D) of rule 3745-3-04 of the Ohio Administrative Code, and any enforceable schedule designed to achieve compliance with such limit.
- (ee) "Pretreatment Requirement" means any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User, per 40 CFR 403.3(t).
- (ff) "Priority pollutant" means any of the pollutants classified by the USEPA in 40 CFR Part 122, Appendix D, and amendments. These generally consist of volatile and semi-volatile organic compounds, pesticides, poly-chlorinated biphenols and metals.
- (gg) "Properly shredded garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- (hh) "Public sewer" means a sewer which is controlled by public authority.
- (ii) "Regulated industrial categories" means those categories defined in the Clean Water Act (33 U.S.C. 1251 et seq) as being regulated.
- (jj) "Sanitary sewer" means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.
- (kk) "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.
- (ll) "Sewer" means a pipe or conduit for carrying sewage.
- (mm) "Shall" is mandatory; "may" is permissive.
- (nn) "Significant Non-Compliance" means a violation which remains uncorrected forty five (45) days after notification of noncompliance; which is part of a pattern of noncompliance over a twelve month period, either chronic violations or technical review criteria violations; which involves a failure to accurately report noncompliance; or which resulted in the POTW exercising its emergency authority under 40 CFR, Part 403.8(f)(1)(vi)(B).
- (oo) "Significant industrial user" means all categorical industries and any non-categorical industry that has either, 1) a discharge averaging 25,000 gallons per day of process wastewater per billing period, or 2) discharges less than 25,000 GPD [determined by the average daily discharge per billing period] and contributes a process consistent waste-stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the treatment plant and/or 3) has a reasonable potential, in the opinion of the director, to adversely affect the POTW.
- (pp) "Slug" means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge that has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions. The results of these activities shall be made available to the director upon request.
- (qq) "Storm sewer" means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
- (rr) "Suspended solids" means any solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.
- (ss) "Technical Review Criteria (TRC) violations" means that thirty three percent (33%) or more of all the measurements for each pollutant parameter taken during a six month period have equaled or exceeded the product of the daily maximum limit or average limit multiplied by the applicable TRC (TRC=1.4 for fats, oil and grease, and 1.2 for all other pollutants except pH) as measured at a monitoring point designated in the Local Permit.
- (tt) "TKN" means Total Kjeldahl Nitrogen determined by the kjeldahl method as nitrogen in the form of organic proteins and/or their decomposition product ammonia expressed in milligrams per liter (mg/L).
- (uu) "Total Toxic Organics" (TTO) means the sum of masses or concentrations of specific toxic organic compounds found in the industrial discharger's process discharge at a concentration greater than 0.01 mg/L. Each categorical standard is listed in 40 CFR Part 403, the specific toxic organic compounds that are to be included in the summation to define TTO for the category. If the industry is not defined under the categorical standards, then total toxic organics means the organic constituents that are considered federal priority pollutants.
- (vv) "Toxic pollutants" means those substances considered by the Federal Environmental Protection Agency as priority pollutants.
- (ww) "Upset" means an exceptional incident in which a discharger unintentionally and temporarily is in a state of non-compliance with the standards set forth in this ordinance due to factors beyond the reasonable control of the discharger, and excluding non-compliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.
- (xx) "Watercourse" means a channel in which flow of water occurs, either continuously or intermittently.
- (yy) "Wastewater Treatment Plant" means any arrangement of devices and structures used for treating sewage.
- (zz) "Non-polar fat, grease, and oil material" means that portion of the Hexane Extractable Material (HEM) not absorbed by silica gel used in USEPA testing Method 1664A.
- (aaa) "Polar fat, grease, and oil material" means that portion of the Hexane Extractable Material (HEM) that is absorbed by silica gel used in USEPA testing Method 1664A.

916.02 USE OF PUBLIC SEWERS.

- (a) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. All existing connections allowing such discharge may

be reviewed and approved or rejected by the Director upon consideration of the resulting hardships and related factors.

(b) Non-contact cooling water may be discharged to a storm sewer or natural outlet. Non-contact cooling water may be discharged to a combined sewer only with approval of the Director.

(c) Pursuant to 40 CFR 403.8(f)(1)(B)(1-6) and OAC 3745-03-03(C)(1)(c)(ivi), individual wastewater discharge permits and general permits must contain:

- (1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
 - (2) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards
 - (3) Self monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
 - (4) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
 - (5) Requirements to control Slug Discharge, if determined by the Director to be necessary.
- (d) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
- (1) Any liquids, solids, or gasses which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the sewer system or the POTW or to the operation of the POTW, including, but not limited to, waste-streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test method specified in 40 CFR 261.21. Prohibited substances include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, ketones, aldehydes, peroxides, chlorates, alcohols, bromates, carbides, hydrides, perchlorates, sulfides and any other substance which the City, the state, or EPA has notified the user is a fire hazard or hazard to the system.
 - (2) Any waters or wastes containing toxic or poisonous pollutants as solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to human or animals, create a public nuisance or create any hazard in the receiving waters of the POTW.
 - (3) Any waters or wastes having a corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
 - (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, wood, glass, rags, feathers, tar, flashings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
 - (5) Any waters or wastes containing objectionable or toxic substances in excess of the allowable limits determined by the Director and listed in the "Index of Restricted Substances" posted at the Wastewater Treatment Plant, the City Service Center and on the City's website.
 - (6) Any waters or wastes which may cause the POTW to exceed NPDES Permit conditions.
- (e) No discharger shall increase the use of potable or process water in any way, nor mix separate waste streams for the purpose of diluting a discharge to partially or completely substitute adequate treatment to achieve compliance with the standards set forth in this ordinance.
- (f) No person shall discharge any hazardous wastes to the POTW by truck, rail, or dedicated pipeline. Industrial dischargers are required to notify the POTW if they are disposing of any Resource Conservation and Recovery Act (RCRA) listed or characteristic hazardous wastes, as defined in 40 CFR 261, by discharging it into the POTW. Exempt from this notification requirement are these industrial dischargers who discharge 15 kilograms or less per month of non-acute hazardous wastes. All industrial dischargers shall promptly notify the Director in advance of any substantial changes in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial discharger has submitted initial notification under 40 CFR 403.12(p).
- (g) No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Director that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Director will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of sewage treatment process, capability of the POTW, and other pertinent factors. The substances prohibited are:
- (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit, or 65 degrees Celsius at the discharge point into the sewer and/or any temperature which would cause the POTW to have an influent temperature of 104 degrees Fahrenheit or 40 degrees Celsius at any time.
 - (2) Any water or wastes containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit, or between 0 degrees and 65 degrees Celsius.
 - (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipment with a motor of three-fourths horsepower or greater shall be subject to the review and approval of the Director.
 - (4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions.
 - (5) Any waters or wastes containing taste or odor producing substances in such concentrations as exceed limits which may be established by any State, Federal, or other public agency having jurisdiction over the discharge of such substances to the receiving waters.
 - (6) Any radioactive waste or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable State or Federal regulations.
 - (7) Materials which exert or cause:
 - A. Unusual concentration of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residue) or of dissolved solids, (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration, such as, but not limited to, dye wastes and vegetable tapping solutions.
 - C. Unusual requirements of BOD, suspended solids, or chlorine demand in such quantities as to constitute a significant load on the POTW.
 - D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined in Section 916.01(pp).
 - (8) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the POTW effluent cannot meet the requirements of other agencies having jurisdiction over the discharge of such substances to the receiving waters or will contaminate the sludge thereby rendering it unsuitable for reclamation.
- (h) No discharger subject to the National Categorical Pretreatment Standards as promulgated by the U.S. Environmental Protection Agency (USEPA) shall fail to meet by the applicable standards.
- (i) The Director is authorized to establish Local Limits pursuant to 40 CFR 403.5(c-d) and OAC 3745-3-03(C)(4).
- (j) The pollutant limits, recorded in the Manager's Journal, are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of those limits.
- (k) The Director may develop Best Management Practices (BMPs), by ordinance, in individual wastewater discharge permits, or general permits, to implement Local Limits and other requirements in this section.

916.03 OBLIGATIONS OF DISCHARGERS - APPLICATION AND REPORTS.

(a) All persons proposing to connect to or discharge sewage, industrial wastes and other wastes to the POTW shall submit a utility service application to the City of Springfield before connection or discharging to the POTW. In addition, all industrial dischargers proposing to connect to or contribute to the POTW shall complete and file with the City a Baseline Monitoring Report and any other pertinent documents deemed by the City as being necessary to determine discharge characteristics and flow. If, in the opinion of the Director, an industrial discharger is required to obtain a wastewater discharge permit, known as a Local Permit, the Baseline Monitoring Report may be used as the application. Additionally, if in the opinion of the Director, an industrial discharger is required to develop a slug discharge control plan, the plan must be submitted and approved before the permit may be approved. This plan must be reviewed and updated each time the permit is renewed. The slug discharge plan must include, but is not limited to the following:

- (1) Description of discharge practices, including non-routine batch discharges;

- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under paragraph (B) of rule 3745-3-04 of the Administrative Code, with procedures for follow-up written notification within five days;
- (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of wastewater discharge, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), or measures and equipment for emergency response.

The Local Permit will be issued to a specific user for a specific operation. The Local Permit is non-transferable and shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation. Any succeeding owner or user shall also apply for a new Local Permit. The City of Springfield has the right to disapprove permit applications for new dischargers or increases to existing loadings before discharges actually commence. The City has the right to revoke existing permits should it become necessary to protect the POTW or its discharge points or for violations of this ordinance. No significant industrial user shall discharge into any City sewer, whether directly or indirectly, without a Local Permit. Should changes occur to the significant industrial user's operation or any system that might alter the nature, quality, or volume of its wastewater, that user must notify the Director at least thirty (30) days in advance, and request that a new permit be issued.

(b) All existing and new industrial dischargers will submit a Baseline Monitoring Report, and any other report as required by the City, 40 CFR 403.12(d) and/or OAC 3745-3-06(D), within 90 days after connection to the sanitary sewer system. The report shall be in such form as prescribed by the Director and shall include such information as required. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and if not, what additional operating and maintenance and/or pretreatment is necessary to bring the discharger into compliance with the applicable pretreatment requirements. All sampling requirements must meet the standards in Section 916.03(g).

(c) All existing and new industrial dischargers will submit a Baseline Monitoring Report within 90 days after connection to the sanitary sewer system. The report shall be in such form as prescribed by the Director and shall include such information as the Director shall require. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not what additional operating and maintenance and/or pretreatment is necessary to bring the discharger into compliance with the applicable pretreatment requirements. All sampling requirements must meet the standards in Section 916.03(g).

(d) In addition to the report in Section 916.03(c), each industrial discharger regulated by the Federal Categorical pretreatment standards as promulgated by the USEPA shall submit to the City within ninety (90) days of initial discharge and on a bi-annual basis, a compliance report. This compliance report shall be in such form as prescribed by the Director and shall include such information as the Director shall require.

All sampling shall be performed as outlined in Section 916.03(g).

If any significant industry that is required to self-monitor analyzes any pollutant more frequently than required by its discharge permit, using approved analytical methods as specified herein, the results of such monitoring shall be included in the following compliance reports. If any self-monitoring, results show a violation of this ordinance then the discharger must notify the City within twenty-four (24) hours after becoming aware of the violation and must resample for the parameters in violation and report the results to the POTW within thirty (30) days of becoming aware of the initial violation.

(e) Any discharger subject to this ordinance shall, if deemed necessary by the City, submit to the Director a quarterly report indicating the nature and concentration of all substances prohibited or regulated by this ordinance or Federal Categorical

Pretreatment Standards that are contained in its discharge and the average and maximum daily flows in gallons.

(f) In the event any substance, material, slug, upset, water or waste the discharge of which is prohibited by Section 916.02(d) and (f) herein is discharged into the sewer system, the person responsible for such discharge shall notify the City immediately, and in no case later than one (1) hour following such discharge, by calling the emergency number provided. The person responsible for such discharge shall report to the Director in writing within five (5) days after the discharge as to the cause, action taken, and measures taken to prevent such occurrences from happening again. All costs incurred to correct any damage resulting from such discharge shall be charged to the discharger and any person responsible for such discharge. Each such discharge shall be considered separately and costs and charges shall be levied accordingly.

Failure of the person responsible for such discharge to report it, or to institute such corrective measures as are necessary to prevent a subsequent discharge after having been notified in writing by the City to do so and having been given a reasonable time in which to institute such measures, may result in the sewer through which such discharge enters the public sewer being disconnected from the public sewer. A sewer disconnected under this provision will not be reconnected until, in the opinion of the Director, appropriate corrective measures have been implemented.

(g) All analyses required by this Chapter shall be performed by the discharger, or by his agent, in accordance with 40 CFR, Part 136 and amendments thereto. Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedure set forth in the most recent publication of the USEPA, "Sampling And Analysis Procedures For Screening Of Industrial Effluents For Priority Pollutants", and/or the USEPA manual "Methods For Chemical Analysis For Water And Wastes" and/or the American Public Health Association "Standard Methods For the Examination Of The Water And Wastewater" and amendments thereto, or with any other sampling and analytical procedure approved by the administrator of the USEPA or Ohio EPA. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined at the control structure (per the Local Permit and/or Section 916.04(c)) provided, or upon suitable samples taken at the control structure. In the event that no special structure has been required, the control structure shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by the customarily accepted methods to reflect the effect of constituents upon the property. The particular analyses involved will determine whether a twenty-four hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Samples will be collected by and analyzed by personnel assigned by the City for that duty. Additionally, when flow-measuring equipment has been required to be installed, sampling shall be completed using the flow proportional method for those parameters requiring composite sampling.

(1) The following analytes shall utilize the "grab" sample technique: Cyanide (Total and Free), Hexavalent Chromium, Oil and Grease (Total, Non-Polar and Polar), pH, Total Phenols and Volatile Organic Compounds. All other analytes shall utilize the "Composite" sample technique, using time or flow proportional sampling as required.

(2) All samples shall be representative of the discharge and taken during normal facility operations.

(h) All reports required under this section shall include the following certification statement: "I certify that under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." All reports that are more than forty five (45) days late shall require that the Sewer User be found in Significant Non-Compliance. All reports shall be signed by a manager that:

- (1) Is authorized to make managerial decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations; and;
- (2) Initiates and directs other comprehensive measures, to assure the long-term environmental compliance with applicable laws and regulations.
- (3) Can ensure that the necessary systems are established or that the necessary actions are taken to gather complete and accurate information for control mechanism requirements and;
- (4) Is assigned or delegated the authority to sign documents in accordance with corporate procedures.

(i) The City, at its discretion, may issue Monitoring Waivers to Categorical Industrial Sewer Users. Monitoring Waivers will not be issued to Centralized Waste Treatment facilities as regulated and defined in 40 CFR 437. These waivers allow dischargers subject to a waiver to forego sampling and analyzing for certain pollutants, as identified by the City and regulated by categorical pretreatment standards, under the following conditions:

- (1) Those pollutants not already exempted by other certification processes and/or requirements established by the City;
- (2) If a waived pollutant is found to be present or is expected to be present based on changes that occur in the industrial discharger's operations, the discharger shall be required to immediately notify the City in writing and begin monitoring that pollutant at the frequency specified in the City's pretreatment program.
- (3) In making a demonstration that a pollutant is not present, the industrial discharger must provide the following:

- A. An analysis of four (4) consecutive samples of process wastewater, prior to any treatment process present at the facility that is representative of normal operations.
- B. Non-Detectable sample results may only be used as a demonstration that a pollutant is not present only if procedures from Section 916.03(g) of this ordinance are followed and;
- C. The lowest method detection limit for that pollutant was used.
- (4) These waivers must be requested by an industrial sewer Discharger. If approved by the City, the waivers will be included in the respective Local Permits. Dischargers issued a Monitoring Waiver will still be responsible for meeting the limits of those parameters whose monitoring has been waived. Monitoring Waivers will expire with the related Local Permit. A new waiver may be granted in conjunction with a new Local Permit.
- (5) A Monitoring Waiver may be revoked due to a change in industrial activity, upon receipt of results indicating that any waived parameter has exceeded the respective limit, or any other reasonable basis.
- (6) Any industrial discharger granted a Monitoring Waiver must include the following language on each compliance report:
 "Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standards under 40 CFR [specify applicable national pretreatment standard part or parts], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant or pollutants] in the wastewaters due to the activities at the facility since submittal of the last periodic report under paragraph (E) of rule 3745-3-06 of the Administrative Code."
- (j) All dischargers subject to this ordinance shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling, and chemical analysis made by or on the behalf of a discharger in connection with its discharge. All records which pertain to matters which are subject to administration adjustment or any other enforcement or litigation activities brought by the City of Springfield pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitations with respect to any and all appeals have expired.
- (k) Information and data furnished to the City of Springfield with respect to the nature and frequency of discharge shall be available to the public or other governmental agencies without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the Law Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of proprietary information of the discharger. Information deemed to be trade secrets by the Law Director shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this ordinance, the National Pollution Discharge Elimination System (NPDES) Permit, State Disposal System Permit and/or the pretreatment programs.
- (l) The Director reserves the right to issue General Permits for those industries that discharge similar types of wastes, have substantially similar types of operations, require the same effluent limitations and require the same or similar monitoring. These General Permits shall not be issued to significant industrial users or industrial dischargers whose limits are based on pretreatment standards expressed as mass of pollutant discharged per day.

916.04 OBLIGATIONS OF DISCHARGERS - FACILITIES AND EQUIPMENT

- (a) If the pretreatment or equalization of waste flows is required by this Chapter, then the design and installation of the plants and equipment required shall be subject to the Director's approval. Grease, oil, and sand interceptors shall be provided, when in the opinion of the Director, they are necessary for the proper handling of liquid wastes containing harmful ingredients; except that such interceptors shall not be required for private dwelling units. All interceptors shall be of a type and capacity approved by the Director, and shall be located as to be readily and easily accessible for cleaning and inspection.
- (b) Where preliminary treatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- (c) When required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters, flow measuring devices and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The structure shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
- (d) In accordance with 40 CFR 403.8(f)(1)(iv) and OAC 3745-3-03(C)(1)(e), industrial users must develop a compliance schedule for the installation of pretreatment technology, pollution control or construction of appropriate containment devices and any other appurtenances, designed to reduce, eliminate or prevent the introduction of pollutants into the POTW.
- (e) The following conditions shall apply to the compliance schedule required by Section 916.04(d) of this ordinance, 40 CFR 403.12(c) and OAC 3745-3-06(C)(9):
 - (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;
 - (2) No increment referred to above shall exceed nine (9) months;
 - (3) The User shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule;
 - (4) In no event shall more than nine (9) months elapse between such progress reports to the Director.

916.05 ISSUANCE OF LOCAL PERMIT.

- (a) Upon determination by the Director that a discharger or prospective discharger has fulfilled all obligations with regard to the issuance of a Local Permit, the Director shall issue such Local Permit.
- (b) The Local Permit may contain conditions that the Director reasonably determines are necessary to achieve compliance with this Chapter, such as requiring the adoption of one or more BMP's, requiring the discharger to install and maintain additional pretreatment equipment or to conduct additional monitoring and reporting.

916.06 FEES.

- (a) Every industrial discharger which discharges "High Strength sewage" rather than, or in addition to "Normal sewage", either directly or indirectly, into the POTW shall be charged and pay a sewer system surcharge in addition to the sewerage service charge. Every person discharging sewage into the POTW having a concentration of any one or more of the sewage constituents described in subparagraph (1) of this paragraph (a), which is more than two (2) times the "Normal sewage" value of that sewage constituent, as defined in Section 916.01(w), shall be charged a base surcharge for the billing period. The surcharge will apply at all volumes discharged during a billing period above 15,000 gallons per day and shall be determined by the average daily discharge per billing period. Every person discharging sewage into the POTW having a concentration of any one or more of the sewage constituents described in subparagraph (1) of this paragraph (a), which is more than seven and one half (7.5) times the "High Strength sewage" value for that sewage constituent, as defined in Section 916.01(p), (i.e. a Slug or sometimes called a "Slug Load"), shall be charged an enhanced surcharge for the billing period.
 - (1) The amount of the surcharge shall be based on the levels of the following three sewage constituents pertinent to the wastewater being discharged into the POTW:
 - A. Total Suspended Solids (TSS)
 - B. Biochemical Oxygen Demand (CBOD)
 - C. Ammonia Nitrogen (NH3)
 - (2) Surcharges imposed under this paragraph (a) shall be calculated based on all constituent values over the "High Strength sewage" value for the concentration values for the sewage constituents described in subparagraph (1) of this paragraph (a) discharged by the customer during the billing period, as determined by use of the applicable formulas shown below.

"High Strength sewage" Formula:

$$SC1 = Q \times (CV - SL - HSS) \times 8.34 \times SCR$$

"Slug Load" Formula:

$$SC2 = Q \times SL \times 8.34 \times (SCR \times 4)$$

Wherein:

SL = Surchargeable Slug Load concentration (mg/L).

$$SL = CV - SLV$$

(When SL is less than or equal to zero, the SL value used in the above formulas shall be zero.)

SC1 = Surcharge for a constituent's High Strength sewage concentration (\$).

SC2 = Total charge for Slug Load surcharge for concentration (\$).

Q = Total quantity of the waste flow million gallons (MG).

CV = Constituents concentration from sampling (mg/L).

HSS = High Strength sewage value for constituent (mg/L).

CBOD = 400 mg/L

TSS = 500 mg/L

NH3 = 30 mg/L

SLV = Slug Load value for constituent (mg/L)

CBOD = 3000 mg/L

TSS = 3750 mg/L

NH3 = 225 mg/L

SCR = Base rate of surcharge per pound for constituent (\$).

Table Of Base Rates Of Surcharge Per Pound For Constituent

High Strength sewage Slug Load value

CBOD Surcharge per Lb	\$0.16	\$0.64

TSS Surcharge per Lb	\$0.13	\$0.52

NH3 Surcharge per Lb	\$0.60	\$2.40

The total of all surcharges imposed under this paragraph (a) for a billing period shall be the sum of SC1 plus SC2 computed for each of the three constituents listed in Section 916.06(a)(1) [this may require six calculations and the summation of six surcharge numbers]. Surcharge amounts will be added to the discharger's bill for the billing period.

(3) The measurements described in Section 916.06(a)(2) shall be analytical measurements determined from samples taken from discharge points determined by the City at such a time or times, of such duration and in such a manner as the City may elect.

(4) If for any one or more of the sewage constituents described in Section 916.06(a)(1) the mass amount of the sewage constituent discharge for a sample is equivalent to five percent (5%) or more of the POTW Average Headworks Loading for that sewage constituent, as defined herein, the Director may establish a compliance schedule under which the customer must reduce the concentration of the discharged sewage constituent: (a) so that the discharge of the sewage constituent does not meet the definition of a slug; or (b) to a maximum mass discharge amount of four percent (4%) of the POTW Average Headworks Loading, whichever is greater. POTW Average Headworks Loading is defined as the average monthly mass amount of each sewage constituent, described in Section 916.06(a)(1), received by the POTW, as determined from the latest POTW influent analysis, less any process recycle loading in the most recent calendar year for which data is available.

(b) Industrial Users who seek greater consistency in the amount charged per billing period may make a written request to the Finance Director to receive what is known as an 'average monthly bill'. Upon approval, an average monthly bill shall mean, the amount billed for the remainder of the calendar year which shall be calculated using the average monthly surcharge for the previous one or three calendar years, whichever is greater. Average monthly bills will be recalculated and adjusted accordingly each calendar year.

An Industrial User may return to standard/actual monthly billing upon written request to the Finance Director. Industrial Users who return to standard/actual monthly billing will have the option of catching up any outstanding balance with either: (1) a one-time payment in full or (2) having the balance evenly distributed over the next 12 monthly bills. Once an Industrial User elects to return to standard/actual monthly billing they shall not be permitted to receive average monthly billing for a period of 18 months.

916.07 PROHIBITIONS.

(a) No person shall maliciously, willfully, or negligently break, damage, uncover, deface or tamper with sewage works.

(b) No person shall access the sewer system or POTW for any activity including discharge of hauled septic or industrial wastes except at the locations and at times designated by the Director.

(c) No person shall remove a manhole lid, or otherwise access the sewer system for the purpose of discharging wastes at times and/or locations other than those designated by the Director, or without the express permission of the Director.

916.08 ENFORCEMENT.

(a) The Director and other authorized employees of the City with proper credentials and identification shall be permitted to enter at reasonable times all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The Director or his representative shall be given access to and allowed to copy any records, forms, or reports necessary to ensure compliance with all applicable discharge requirements, hazardous waste requirements and pretreatment requirements which shall include, but not be limited to, any hazardous wastes manifests, chemical inventories, solid or liquid disposal reports, material safety data sheets (MSDS), discharge analysis, or any other related records. The Director or his representative shall have no authority to inquire into any processes beyond that point having a direct bearing on the kind and source of discharge to the sewers and waterways or facilities for waste treatment. They shall observe all safety regulations which are applicable to the premises.

(b) Whenever the Director or his agent finds that any industrial discharger has violated or is violating this ordinance, or a wastewater permit, or order issued hereunder, the Director or his agent may serve upon said user a written notice of violation. Within ten (10) working days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Director or his agent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after the receipt of the notice of violation.

(c) If the Director determines that the violation did not occur, the Director shall notify the discharger of that determination.

(d) If the Director determines that the violation occurred and that the discharger's corrective plan is reasonable and appropriate, the Director may (1) issue a civil penalty or fine under Section 916.99 (a) or (b), (2) approve the corrective plan, or (3) both. Approved corrective plans shall become part of the discharger's Local Permit.

(e) If the Director determines that the violation occurred and that the Discharger has failed to submit a reasonable and appropriate corrective plan, the Director may issue an order to the Discharger to show cause why enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the violation(s) to be considered, available enforcement actions, and requiring that the user show cause why available enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate officer. Whether or not a duly notified industrial discharger appears as noticed, immediate enforcement action may be pursued.

(f) Notwithstanding the provisions of subsections (b) through (e) above, the Director may immediately suspend the wastewater treatment services of a discharger when it reasonably appears to the Director that an actual or threatened discharge presents or threatens an imminent or substantial danger to the health or welfare of persons, substantial danger to the environment, interfere with the operation of the POTW, violate any pretreatment

limits imposed by this ordinance or a Local Permit issued pursuant to this ordinance.

(g) The City of Springfield may revoke the Local Permit and/or disconnect the service of any discharger which:

- (1) Fails to factually report the wastewater constituents and characteristics of its discharge in any baseline, quarterly or any other required report;
- (2) Fails to report significant changes in the wastewater constituents or characteristics;
- (3) Refuses reasonable access to the discharger's premises by representatives of the City of Springfield for the purpose of inspecting or monitoring;
- (4) Violates the conditions of its Local Permit, or this ordinance, or any final judicial order entered with respect thereto.

(h) Any Discharger notified of the revocation or suspension of the City's wastewater treatment service shall within a period of time, as determined by the City, cease all discharges. In the event of failure of the discharger to comply voluntarily with the suspension order within the specified time, the City shall disconnect service lines from the main sewer system and may commence judicial proceedings to compel the discharger's compliance with such order. The City shall reinstate the wastewater Discharger's service and/or Local Permit when the Director is reasonably satisfied that the threat of imminent or substantial danger has been eliminated.

(i) Whenever an industrial discharger has violated or continues to violate the provisions of this ordinance or an order or Local Permit issued hereunder, water service to the industrial discharger may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(j) In accordance with 40 CFR 403.8(f)(1)(iv) and OAC 3745-3-03(C)(1)(h), The remedies provided for in this ordinance are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the Director may take other action against any User when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

916.99 PENALTY.

(a) Civil Penalties.

(1) A person who violates Section 916.02(b), is subject to a Class A civil penalty as described in Section 1324.02 of these Codified Ordinances.

(2) A person who fails to submit a timely and adequate report as required in Section 916.03 (b), (c), (d), (e) or (f) or fails to comply with the conditions of the Local Permit authorized in Section 916.05(b) is subject to a Class C civil penalty as described in Section 1324.04 of these Codified Ordinances.

(b) Civil Fines. A person violating any provision of this Chapter 916 other than those listed in Section 916.99(a) may be assessed a civil fine not to exceed \$1,000 for each violation. Each day that the violation continues shall constitute a separate violation. The Director shall determine the amount of the fine in accordance with the discharger's history of compliance or non-compliance with this Chapter 916, the severity of the violation and the amount of harm threatened or caused by the violation.

(c) A person who desires to dispute a civil penalty or fine must file a request with the Director to reconsider the fine within ten (10) days of being notified of the fine. The Director shall convene a hearing on the matter within thirty (30) days of receiving the request for reconsideration. The Director's determination shall be final, and appealable to the Court of Common Pleas in accordance with Chapter 2506 of the Ohio Revised Code.

(d) Criminal Penalties.

(1) Any person who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance is guilty of a misdemeanor of the second degree.

(2) Any person who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance, who has been convicted of a violation of Section 916.99(a) within the previous five (5) years is guilty of a misdemeanor of the first degree.

(e) Restitution.

(1) Any person who violates any provisions of this chapter and thereby causes any expense, loss or damage to the City or its property is liable to the City for any expense, loss or damage occasioned by the violation including those costs assessed by the Ohio Environmental Protection Agency and/or The U.S. Environmental Protection Agency. The Law Director is authorized to collect such expense, loss or damage through civil action.

(f) Publication.

At least annually, the Director shall publish a list of all industrial dischargers which, at any time during the previous twelve months, were in Significant Non-Compliance. For the purpose of this provision, an industrial discharger is in Significant Non-Compliance if its violations meet one or more of the following criteria:

- (1) For significant industrial users at any permitted discharge point, any Chronic violations of wastewater discharge limits;
- (2) For significant industrial users at any permitted discharge point, any Technical Review Criteria (TRC) violations;
- (3) For all industrial dischargers, any other violation of pretreatment effluent limit (daily maximum or longer term average) that the Director determines has caused, alone or in combination with other dischargers, interferences or pass through (including endangering the health of POTW personnel or general public);
- (4) For all industrial discharger, any discharge of a pollutant that has caused imminent endangerment of human health, welfare or to the environment or has resulted in the POTW's exercise of emergency authority to halt or prevent such a discharge;
- (5) For all industrial dischargers, any failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) For all industrial dischargers, any failure to provide, within forty five (45) after the due date, required reports such as Baseline Monitoring Reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) For all industrial dischargers, any failure to accurately report noncompliance;
- (8) For all industrial dischargers, any other violation or group of violations which the Director determines will or has adversely affected the operation or implementation of the City's pretreatment program.

(g) Injunctive Relief. In addition to pursuing the remedies and penalties set forth above, the Law Director may seek injunctive or other remedies when a Discharger has violated or continues to violate the provisions of this ordinance, a condition of the Discharger's permit or an order issued this Chapter.

(h) If any provision, paragraph, word, or section of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall continue in full force and effect.

CHAPTER 917

Sewerage Charges

(Entire Chapter amended by Ordinance No. 12-220, passed July 17, 2012.)

917.01 Service charge levied.

917.02 Service charge rates.

917.03 Payment of service charge.

- 917.04 Collection of pay service charge.**
- 917.05 Failure to pay service charge.**
- 917.06 Establishment and use of sewer fund.**
- 917.07 Definitions.**
- 917.08 Water shutoff for non-payment of sewer bill; exceptions.**
- 917.09 Late payments.**
- 917.10 Rate assessments.**
- 917.11 Septage discharge fees.**
- 917.99 Penalty.**

CROSS REFERENCES

Sewerage rates—see Ohio R.C. 729.49
 Weekly deposit of sewer rentals collected—see Ohio R.C. 729.52
 Definitions—see S.U. & P.S. 911.01
 Sewer tapping fee—see S.U. & P.S. 915.02

917.01 SERVICE CHARGE LEVIED.

(a) To provide necessary funds for equipment, personnel, and other expenses in connection with the providing of sewer services by the City, the City Manager is hereby directed to charge and collect a sewer service charge from every owner of a premises at the rates set forth in Section 917.02.

(b) It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the City, to levy and collect service charges or rentals upon all lots, lands and premises served by having connections with the sewage system and by the sewage treatment and disposal works of the City, the proceeds of such charges or rentals so derived to be for the use of the sewage system and the treatment and disposal works of the City as now or hereafter provided.

(c) The definitions contained in Section 911.01 shall be applicable to this chapter.

917.02 SERVICE CHARGE RATES.

For the purpose as provided in Sections 917.01 and 917.06, there is levied and assessed upon such premises having any sewer connection with the sewage system of the City or otherwise discharging sanitary sewage, industrial waste, water or other liquids, either directly or indirectly into the City sewage system, and upon the owner of such premises, a sewage service charge or rental at rates to be in effect and payable as hereinafter provided, and in the amount, as applicable, to be determined as follows:

- (a) For any premises situated within the corporate limits or within the JEDD, and having any connection with the sewage system or otherwise discharging sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly into the City's sewage system, the service charge or rental shall be based upon the quantity of water used thereon or therein as the same is measured by the City water meter there in use and any increases in such quantity as provided pursuant to Section 916.02.

Monthly Rates Inside City Rate Effective January 1, 2025	
First 200 cu. ft.	*Minimum Charge
Next 1,500 cu. ft.	\$ 5.80 per 100 cu. ft.
Next 31,700 cu. ft.	4.94 per 100 cu. ft.
All over 33,400 cu. ft.	4.91 per 100 cu. ft.

*Minimum charge is based on the size of the water meter as set forth in subsection (e) hereof and includes the 200 cubic feet.

- (b) For any premises situated outside the corporate limits except (1) premises inside the JEDD, or (2) residential premises located in Springfield Township, and being supplied with the sewage system or otherwise discharging sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly into the City's sewage system, the service charge or rental shall be based upon the quantity of water used thereon or therein as the same is measured by the City water meter there in use and any increases in such quantity as provided pursuant to Section 916.02.

Monthly Rates Outside City Rate Effective January 1, 2025	
First 200 cu. ft.	*Minimum Charge
Next 1,500 cu. ft.	\$ 11.59 per 100 cu. ft.
Next 31,700 cu. ft.	9.88 per 100 cu. ft.
All over 33,400 cu. ft.	9.82 per 100 cu. ft.

*Minimum charge is based on the size of the water meter as set forth in subsection (e) hereof and includes the 200 cubic feet.

- (c) For any residential premises situated outside the corporate limits and within Springfield Township, and having any connection with the sewage system or otherwise discharging sanitary sewage, industrial, wastes, water or other liquids, either directly or indirectly into the City's sewage system, the service charge or rental shall be based upon the quantity of water used thereon or therein as the same is measured by the City water meter there in use and any increases in such quantity as provided pursuant to Section 916.02.

Monthly Rates Springfield Township Residential Rate Effective January 1, 2025	
First 200 cu. ft.	*Minimum Charge
Next 1,500 cu. ft.	\$ 8.70 per 100 cu. ft.
Next 31,700 cu. ft.	7.41 per 100 cu. ft.
All over 33,400 cu. ft.	7.36 per 100 cu. ft.

*Minimum charge is based on the size of the water meter as set forth in subsection (e) hereof and includes the 200 cubic feet.

- (d) The maximum monthly charges for premises containing a one or two-family dwelling shall be based on the wintertime water usage as measured by the meter reading in February. The wintertime water usage shall be used to determine the sewer charge for the 12 month

period beginning in May and continuing through the following April. In the event that a February water meter reading was not taken, or that the February water meter reading when multiplied by twelve does not reflect the true annual sewer usage, the Director of Finance shall base the sewer charges on the average monthly usage for the preceding year or on some other equitable basis which more accurately reflects the actual sewer usage. However, in no event shall charges per month be less than the minimum charges provided for each respective calendar year as shown in 917.02(e). Premises containing dwellings for three or more families, and commercial properties shall be charged at the rate set forth in subsections (a), (b), and (c) hereof.

- (e) Minimum Charges: the following minimum charges per month based on the following meter sizes shall be charged for sewer service. These rates are effective January 1, 2025.

Meter Size In Inches	Premises Inside City Or Inside JEDD	Premises Except JEDD or Residential Premises Located Within Springfield Township	Outside City Residential Premises Both Outside City And Inside Springfield Township
5/8	\$26.43	\$ 52.86	\$ 39.65
3/4	33.71	67.43	50.57
1	42.51	85.02	63.77
1-1/2	70.87	141.74	106.31
2	103.57	207.13	155.35
3	223.25	446.50	334.88
4	365.21	730.41	547.81
6	717.49	1,434.99	1,076.25
8	1,449.51	2,899.02	2,174.27
10	2,118.98	4,237.96	3,178.47
12	3,085.31	6,170.62	4,627.96

- (f) For any premises situated within the corporate limits or within the JEDD, and having any connection with the sewage system or otherwise discharging sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly into the City's sewage system, the service charge or rental shall be based upon the quantity of water used thereon or therein as the same is measured by the City water meter there in use and any increases in such quantity as provided pursuant to Section 916.02.

Monthly Rates Inside City Rate Effective January 1, 2026	
First 200 cu. ft.	*Minimum Charge
Next 1,500 cu. ft.	\$ 5.86 per 100 cu. ft.
Next 31,700 cu. ft.	4.99 per 100 cu. ft.
All over 33,400 cu. ft.	4.96 per 100 cu. ft.

*Minimum charge is based on the size of the water meter as set forth in subsection (j) hereof and includes the 200 cubic feet.

- (g) For any premises situated outside the corporate limits except (1) premises inside the JEDD, or (2) residential premises located in Springfield Township, and being supplied with the sewage system or otherwise discharging sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly into the City's sewage system, the service charge or rental shall be based upon the quantity of water used thereon or therein as the same is measured by the City water meter there in use and any increases in such quantity as provided pursuant to Section 916.02.

Monthly Rates Outside City Rate Effective January 1, 2026	
First 200 cu. ft.	*Minimum Charge
Next 1,500 cu. ft.	\$ 11.71 per 100 cu. ft.
Next 31,700 cu. ft.	9.98 per 100 cu. ft.
All over 33,400 cu. ft.	9.92 per 100 cu. ft.

*Minimum charge is based on the size of the water meter as set forth in subsection (j) hereof and includes the 200 cubic feet.

- (h) For any residential premises situated outside the corporate limits and within Springfield Township, and having any connection with the sewage system or otherwise discharging sanitary sewage, industrial, wastes, water or other liquids, either directly or indirectly into the City's sewage system, the service charge or rental shall be based upon the quantity of water used thereon or therein as the same is measured by the City water meter there in use and any increases in such quantity as provided pursuant to Section 916.02.

Monthly Rates Springfield Township Residential Rate Effective January 1, 2026	
First 200 cu. ft.	*Minimum Charge
Next 1,500 cu. ft.	\$ 8.78 per 100 cu. ft.
Next 31,700 cu. ft.	7.49 per 100 cu. ft.
All over 33,400 cu. ft.	7.44 per 100 cu. ft.

*Minimum charge is based on the size of the water meter as set forth in subsection (j) hereof and includes the 200 cubic feet.

- (i) The maximum monthly charges for premises containing a one or two-family dwelling shall be based on the wintertime water usage as measured by the meter reading in February. The wintertime water usage shall be used to determine the sewer charge for the 12 month period beginning in May and continuing through the following April. In the event that a February water meter reading was not taken, or that the February water meter reading when multiplied by twelve does not reflect the true annual sewer usage, the Director of Finance shall base the sewer charges on the average monthly usage for the preceding year or on some other equitable basis which more accurately reflects the actual sewer usage. However, in no event shall charges per month be less than the minimum charges provided for each respective calendar year as shown in 917.02(j). Premises containing dwellings for three or more families, and commercial properties shall be charged at the rate set forth in subsections (f), (g), and (h) hereof.

- (j) Minimum Charges: the following minimum charges per month based on the following meter sizes shall be charged for sewer service. These rates are effective January 1, 2026.

Meter Size In Inches	Premises Inside City Or Inside JEDD	Premises Outside City Except JEDD or Residential Premises Located Within Springfield Township	Residential Premises Both Outside City And Inside Springfield Township
5/8	\$26.70	\$53.39	\$40.05
3/4	34.05	68.10	51.08
1	42.94	85.87	64.41
1-1/2	71.58	143.16	107.38
2	104.60	209.20	156.90
3	225.48	450.97	338.22
4	368.86	737.72	553.29
6	724.67	1,449.34	1,087.01
8	1,464.01	2,928.01	2,196.01
10	2,140.17	4,280.34	3,210.25
12	3,116.16	6,232.32	4,674.24

- (k) Notwithstanding the provisions of subsections (a) through (j) hereof, one and two-family dwellings which are connected to the City sewage system, but not to the water system, and for which the Service Director has not required the installation of a water meter, will be billed at the following rate:

Effective January 1, 2025	Monthly
Inside City Rate	\$ 55.44
Outside City Outside Springfield Township Rate	110.88
Outside City Inside Springfield Township Rate	83.16
Effective January 1, 2026	Monthly
Inside City Rate	\$ 55.99
Outside City Outside Springfield Township Rate	111.99
Outside City Inside Springfield Township Rate	84.00

Service to dwellings serving three or more families, not commercial properties, shall be charged at a rate to be determined by the City Manager.

- (l) Notwithstanding the provisions of subsections (a) through (j) hereof, non-residential premises that are connected to the City sewage system, but not to the water system, and for which the Service Director has not required the installation of a water meter, will be billed at the following rate:

Effective January 1, 2025	Monthly
Inside City Rate	\$ 111.49
Outside City Rate	222.99
Effective January 1, 2026	Monthly
Inside City Rate	\$ 112.61
Outside City Rate	225.22

- (m) If a lot, parcel of land, building, or premises discharges sanitary sewage, industrial wastes, water, or other liquids into the City sanitary sewage system, but is not a user of water supplied by the City, the Service Director may require the owner of such lot to install a meter measuring water being furnished to the lot in order to measure discharges into the City sanitary sewer system. The meter and its installation must be approved by the Service Director and arrangements satisfactory to the Finance Director must be made to obtain readings to measure sewer usage and generate an accurate bill. The owner's charges will then be based on the water usage as measured by such meter at rates set forth in 917.02.
- (n) If a lot, parcel of land, building or premises, discharges sanitary sewage, industrial wastes, water or other liquids into the City sanitary sewage system, but is not a user of water supplied by the City, the owner of such lot may install a sewer meter or other device on the premises that will more truly measure discharges into the City sanitary sewer system, provided that such sewer meter or other device and its installation have been approved by the Service Director and arrangements satisfactory to the Finance Director have been made to obtain readings to measure sewer usage and generate an accurate bill.
- (o) If an owner of a lot, parcel of land, building or premises, that discharges sanitary sewage, industrial wastes, water or other liquids into the City sanitary sewage system shows to the satisfaction of the Service Director that the volume of discharges into the City sanitary sewer is not fairly reflected by the amount of City water used on such lot, the owner of such lot may install a sewer meter or other device on the premises that will more truly measure discharges into the City sanitary sewer system, provided that such sewer meter or other device and its installation have been approved by the Service Director and arrangements satisfactory to the Finance Director have been made to obtain readings to measure sewer usage.
- (p) Voluntarily accepted additional service charges: The charges pertaining to a property owner's allocated share of total costs to design, construct, and collect costs related to City constructed water utility improvements benefiting the property and which a property owner has voluntarily accepted, in writing, as additional service charges. The voluntarily accepted additional service charges shall be billed to the customer receiving services at the property to which the voluntarily accepted additional service charges apply, regardless of changes in ownership, until paid in full.
- (q) No sewage service charge shall be imposed upon premises owned or operated by either the City of Springfield or by the Clark County Park District.
- (Ord 24-246. Passed 8-27-24)

917.03 PAYMENT OF SERVICE CHARGE.

The service charge or rental levied and assessed by this chapter shall be payable in monthly payments, as applicable, in each year; provided, that the amount of the charge or rental payable for its first payment period after service begins shall be determined on the basis of a per diem proration of the minimum charge herein established, except for those cases in which the metered or measured charge will exceed the minimum.

917.04 COLLECTION OF SERVICE CHARGE.

Each service charge or rental levied pursuant to this chapter shall be collected by the Finance Director at the same time as bills for water service are collected, and the City Manager shall make and enforce such bylaws and regulations as may be deemed necessary for the safe, economical and efficient management and protection of the City sewage system and the sewage treatment and disposal works, for the construction and use of house sewers and connections to the sewage system and for the regulations, collection, rebating and refunding such charges and rentals.

917.05 FAILURE TO PAY SERVICE CHARGE.

Each service charge or rental levied by or pursuant to this chapter is hereby made a lien upon the corresponding lot, land or premises served by a

connection with the sewage system of the City and, if the same is not paid within thirty days after it is due and payable, it shall be certified to the Auditor of Clark County, who shall place the same on the tax duplicate of the County, with the interest and penalties allowed by law and be collected as other taxes are collected.

917.06 ESTABLISHMENT AND USE OF SEWER FUND.

The funds received from the collection of the service charges or rental authorized by this chapter shall be deposited daily with the Director of Finance and shall be accounted for and be known as the Sewer Fund and when appropriated by the City Commission, shall be available for the payment of the costs and expenses of the management, maintenance and repair of the City sewage system and the sewage treatment and disposal works and storm sewers, and any surplus in such Fund shall be used for the payment of the interest on bonds issued and outstanding or which may be issued to provide funds with which to pay the City's portion of the costs of constructing such sewage system or part thereof and such sewage treatment and disposal works, and to retire such bonds when they mature, and for the enlargement or replacement of the sewage system, treatment and disposal works and storm sewers.

917.07 DEFINITIONS. (REPEALED)

917.08 WATER SHUTOFF FOR NONPAYMENT OF SEWER BILL; EXCEPTIONS.

(a) Payment Required Prior to Water Service Resumption. Where a bill for a service charge or rental levied and assessed by this chapter has not been paid as provided by the rules and regulations of the City Manager and the proper shutoff notice has been delivered, the water shall thereafter be shut off in accordance with these rules and regulations, it shall not thereafter be turned on again until all charges due and payable, including advance charges, if any, are fully paid.

(b) Application. This section shall apply whether or not there has been, in the meantime, a change of ownership or possession of the premises supplied, except as provided in subsections (c) and (d) hereof.

(c) Insolvent or Bankrupt Sewer User. Where premises in arrears for payment of sewer bills becomes subject to a bankruptcy or insolvency court, the Service Department may permit the supply of water to such premises to be continued or restored without previous payment of the sewer bill accrued under the bankrupt or insolvent owner.

(d) Foreclosure Proceedings Against Premises Supplied With City Sewer Services. Whenever the Department of Finance, Utilities Billing Division, has been given written notice that foreclosure proceedings have been instituted against premises supplied with City sewer services, the Department shall arrange to require deposit payments or other suitable guaranties in advance for the sewer services furnished to such premises until the premises have been sold or the proceedings otherwise terminated. If the Department receives notification in writing of the pendency of the foreclosure proceedings and the location of the premises affected thereby prior to such sale, the purchaser at the foreclosure sale shall be entitled to have sewer services furnished the premises without payment of charges accrued under the previous owner, for any period subsequent to the date of the receipt of notice of the pendency of foreclosure proceedings by the Department.

(e) Where payments required to be made to the City under a Development Incentive Agreement or a pre-annexation agreement (i.e. a contract by which a customer outside of the City's corporate boundary is provided with municipal water and/or sewer services) have not been paid as provided under the Development Incentive Agreement or pre-annexation agreement and the proper shutoff notice has been delivered, the water shall thereafter be shut off in accordance with these rules and regulations, and it shall not thereafter be turned on again until all charges due and payable, including advance charges and payments required to be made under the Development Incentive Agreement or pre-annexation agreement, if any, are fully paid. Where payments required to be made to the City under a Development Incentive Agreement or a pre-annexation agreement have not been paid as provided under the Development Incentive Agreement or pre-annexation agreement and the proper disconnect notice has been delivered, the property owner's connection to the City's public sewer line shall thereafter be cut off in accordance with these rules and regulations, and the subject property shall not thereafter be reconnected to the City's public sewer line again until all charges due and payable, including advance charges and payments required to be made under the Development Incentive Agreement or pre-annexation agreement, if any, are fully paid.

917.09 LATE PAYMENTS.

All sewer charges due from customers under the provisions of the chapter and remaining unpaid after they have become due shall bear interest at the rate of one percent (1%) per month or part thereof.

917.10 RATE ASSESSMENTS.

The City Manager shall apply and assess the rates provided herein as they are in effect on the date the water meter approved by the City in use on the premises was read.

917.11 SEPTAGE DISCHARGE FEES.

Subject to regulations duly adopted by the City Manager, persons or companies may use the dumping facility at the Springfield Wastewater Treatment Plant for truck discharge of residential septic tank waste or other liquid domestic sanitary waste upon the payment of a registration fee of \$50.00 per entity and a truck inspection fee of \$10.00 per truck used by such entity, per calendar year, or any remaining portion thereof, plus an additional fee for each 500 gallons of septage or fraction thereof, each time liquid domestic sanitary waste is dumped.

Effective January 1, 2025, the rate for the additional fee shall be \$53.21 for each 500 gallons of septage or fraction thereof, each time liquid domestic sanitary waste is dumped.

Effective January 1, 2026, the rate for the additional fee shall be \$53.74 for each 500 gallons of septage or fraction thereof, each time liquid domestic sanitary waste is dumped.

Liquid domestic sanitary waste discharges shall be billed based on the rated capacity of the registered truck.

(Ord. 13-29. Passed 1-22-13; Ord. 15-148. Passed 5-25-15; Ord. 15-259. Passed 9-15-15; Ord. 15-337. Passed 12-22-15; Ord. 17-287. Passed 12-5-17; Ord. 21-215. Passed 7-20-21; Ord 24-246. Passed 8-27-24.)

917.99 PENALTY.

Whoever violates or fails or refuses to comply with any provision of this chapter is guilty of a minor misdemeanor for each offense.

CHAPTER 918

Stormwater Utility Charges

Entire Chapter 918 amended by Ordinance No. 15-164

- 918.01 Establishment of stormwater utility, purposes.**
- 918.02 Definitions.**
- 918.03 Calculation of stormwater utility service charge.**
- 918.04 Stormwater utility service charges; ESU rates.**
- 918.05 Stormwater utility service charge credits.**
- 918.06 Payment of stormwater utility service charge.**
- 918.07 Collection of stormwater utility service charge.**
- 918.08 Failure to pay stormwater utility service charge.**
- 918.09 Late payments.**
- 918.10 Stormwater utility coordinator; appeals.**
- 918.11 Establishment and use of stormwater utility fund.**

918.01 ESTABLISHMENT OF STORMWATER UTILITY, PURPOSES.

(a) There is established in the City a stormwater utility to provide efficient and effective management and financing of a stormwater system within the City; to provide a system for mitigating the damaging effects of uncontrolled and unplanned stormwater runoff; to mitigate and reduce the amount of stormwater mixed with sanitary sewage and sent to the City's wastewater treatment facilities; to protect the public health, safety and welfare by providing for the safe and efficient capture and conveyance of stormwater runoff, for the correction of stormwater conditions detrimental to the public health, safety and welfare; to authorize the establishment and implementation of plans and mechanisms for dealing with stormwater drainage, including design, coordination construction, management, operation, maintenance and replacement of stormwater management facilities, inspection and enforcement activities and administration of the City's stormwater utility; to establish reasonable stormwater utility service charges based on each property's contribution of stormwater runoff to the system and use and benefit of services and facilities to fund the City's stormwater system; and to encourage and facilitate urban water resources management techniques, including detention of stormwater runoff, enhancing the amount of and use of permeable surfaces, minimization of the need to construct storm sewers, and the protection of the environment.

(b) It is determined that the establishment of a stormwater utility is necessary to enable the City to comply with the unfunded mandates imposed on it under the federal Clean Water Act and under requirements imposed on the City under the City's National Pollutant Discharge Elimination System (NPDES) permit.

(c) It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and necessary in order to accomplish the aforementioned purposes that a stormwater utility service charge shall be made on each lot or parcel in the City from which stormwater drains and which contributes to stormwater runoff. Each property's contribution to runoff shall be the primary consideration in setting the service charge. Secondary consideration shall be given to specific or unusual service requirements of some properties, and special and general benefits accruing to or from properties as a result of providing their own stormwater runoff mitigation facilities.

(d) The City's stormwater utility service charges are intended and designed to be fair and reasonable and bear a substantial relationship to the cost of providing service and facilities, regulation of stormwater runoff and administration of the City's stormwater utility. Similar properties shall pay similar stormwater service charges. Charges shall reflect the area of each property and its intensity of development, since these factors bear directly on the peak rate of stormwater runoff. Stormwater utility service charge rates are designed to recover the cost of rendering stormwater service for the time period under consideration. The stormwater utility service charge rates are also established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, as well as variations in the demand for services.

(Ord. 15-164, Passed 6-9-15.)

918.02 DEFINITIONS.

The definition of terms provided in Sections 101.02 of the Codified Ordinances shall be applicable to this Chapter; except as a term is otherwise defined in this section.

- (a) "Calendar year" means a twelve calendar month period beginning January 1 and ending December 31.
- (b) "Commercial property" means property with a Stormwater Class of Commercial.
- (c) "Condominium property" means property with a Stormwater Class of Condominium.
- (d) "Credit" means a reduction in the amount of the stormwater utility service charge that is levied against a Property.
- (e) One "Equivalent Stormwater Unit" or "ESU" is equal to 1,898 square feet of Impervious Area.
- (f) "ESU Rate" means a fee charge on each ESU.
- (g) "Gross area" means a total square footage of a parcel as measured by the Auditor of Clark County, Ohio.
- (h) "Impervious Area" means the number of square feet of horizontal surface area covered by buildings and other impervious surfaces.
- (i) "Impervious Surface" means a surface area which is compacted or covered with a material that is resistant to infiltration by water or to allow water to percolate through, including, but not limited to, pavements, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graded, or compacted soils, or other surface which impedes the natural infiltration of surface water.
- (j) "Month" or "monthly" means a period of approximately thirty days.
- (k) "Non-Residential Property" means property with a Stormwater Class of Commercial, Condominium, or Agricultural. The term "Non-Residential Property" includes all property which is not defined as Residential Property under the definition of Residential Property established in this section.
- (l) "Owner" means the legal owner of a freehold estate in real property.
- (m) "Property" means land and buildings together considered as a parcel as identified by the tax parcel established by the County Auditor.
- (n) Residential Property means property with a Stormwater Class of Residential (being property with a residential use and which is a single, two or three family dwelling, but does not include condominium units).
- (o) "Runoff Coefficient" means the percentage that is used to estimate the impervious area for property. The Runoff Coefficient for property with a Stormwater Class as Agricultural is 10 percent. The Runoff Coefficient for all other property is 15 percent.

- (p) “Stormwater Class” means the classification of property as Residential, Commercial, Condominium, and Agricultural based on the land use code applied to the property by the Auditor of Clark County and as designated by the following table:

Stormwater Class	Land Use Code
Residential	500, 501, 502, 503, 504, 505 510, 511, 512, 513, 514, 515, 520, 521, 522, 523, 524, 525, 530, 531, 532, 533, 534, 535, 540, 541, 560, 561, 562, 563, 564, 565, 599
Commercial	103, 104, 108, 109, 113, 114, 200, 220, 230, 240, 250, 260, 300, 400 401, 402, 403, 410, 411, 412, 415, 416, 419, 420, 421, 422, 424, 425, 426, 427, 429, 430, 435, 439, 440, 441, 442, 444, 445, 447, 448, 449, 452, 453, 454, 455, 456, 460, 461, 462, 463, 464, 465, 480, 482, 490, 496, 499, 600, 610, 620, 630, 640, 645, 650, 660, 670, 680, 685, 690, 700, 710, 720, 730, 740, 800, 810, 820, 830, 840, 850, 860, 870, 880, 300, 310, 320, 330, 340, 350, 360, 370, 380, 390, 399, 400
Condominium	450, 550, 551, 552, 553, 554, 555
Agricultural	101, 102, 105, 106, 107, 100, 110, 111, 112, 115, 116, 117, 120, 121, 190, 199

- (q) “Stormwater Service Charge” means the schedule of user charges created by this Chapter to operate, maintain, and improve the system and for such other purposes as stated in this Chapter.

- (r) “Stormwater System” means the City’s system or network of storm and surface water management facilities including but not limited to inlets, conduits, manholes, channels, ditches, gullies, canals, lakes and ponds, curb and gutter, infiltration facilities, components (or allocated portions of components) of the City’s wastewater treatment system deemed necessary to treat wastewater containing stormwater, and other components as well as natural waterways.

(Ord. 15-164, Passed 6-9-15.)

918.03 CALCULATION OF STORMWATER UTILITY SERVICE CHARGE.

(a) Residential Property. There are established five rate tiers for Residential Property to account for the wide range of the amount of Impervious Area that exists on individual Residential Property in the City. The classification of Residential Property into the five tiers is made based on calculated impervious area. The five Residential Property tiers are as follows:

Residential Property Tier	Amount of Impervious Area
Tier No. 1	1 to 999 square feet of Impervious Area
Tier No. 2	1,000 to 1699 square feet of Impervious Area
Tier No. 3	1,700 to 2099 square feet of Impervious Area
Tier No. 4	2,100 to 3,399 square feet of Impervious Area
Tier No. 5	Over 3,399 square feet of Impervious Area

(b) For Residential Property, the monthly Stormwater Service Charge shall be based on the Residential Property Tiers described in 918.03(a) and the greater amount of impervious area derived from the following:

- (1) Multiplying the gross area of the property by the Runoff Coefficient, or
- (2) Measuring the Impervious Surface on the property.

(c) For Commercial, Condominium, and Agricultural Properties, the monthly Stormwater Service Charge shall be determined as follows:

- (1) Agricultural and Commercial Property. The monthly Stormwater Service Charge shall be based on the greater number of ESUs derived from the following:
 - A. The numerical factor obtained by multiplying the gross area of the property by the Runoff Coefficient and then dividing the above product by the calculated ESU. (This division shall be calculated to the second decimal place.)
 - B. The impervious Surface on the property divided by the ESU. (This division shall be calculated to the second decimal place.)
- (2) Condominium Property. The monthly Stormwater Service Charge shall be based on the ESU derived when the Impervious Surface in the Condominium Association is the dividend and the total number of parcels in the Condominium Association is the divisor. (This division shall be calculated to the second decimal place.)

(Ord. 15-164, Passed 6-9-15.)

918.04 STORMWATER UTILITY SERVICE CHARGES; ESU RATES.

For the purposes identified in Sections 918.01, there is levied and assessed upon all properties in the City and upon the owner of such premises, a stormwater utility service charge at rates to be in effect and payable as hereinafter provided, and in the amount, as applicable, determined as follows:

(a) Stormwater utility service charge on Residential Property within the City's corporate boundaries:

Monthly ESU Rate of \$3.25 - Effective January 1, 2025		
Tier	ESU	Monthly Service Charge
Tier No. 1	0.40	\$1.30/month
Tier No. 2	0.75	\$2.44/month
Tier No. 3	1.00	\$3.25/month
Tier No. 4	1.30	\$4.23/month
Tier No. 5	2.00	\$6.50/month

Monthly ESU Rate of \$3.50 - Effective January 1, 2026

Tier	ESU	Monthly Service Charge
Tier No. 1	0.40	\$1.40/month
Tier No. 2	0.75	\$2.63/month
Tier No. 3	1.00	\$3.50/month
Tier No. 4	1.30	\$4.55/month
Tier No. 5	2.00	\$7.00/month

(b) The Stormwater utility service charge on Non-Residential Property within the City's corporate boundaries is:

Effective January 1, 2025	\$3.25 per ESU per month
Effective January 1, 2026	\$3.50 per ESU per month

(c) Voluntarily accepted additional stormwater utility service charges: The charges pertaining to a property owner's allocated share of total costs to design, construct, and collect costs related to City constructed stormwater utility improvements benefiting the property and which a property owner has voluntarily accepted, in writing, as additional service charges. The voluntarily accepted additional stormwater utility service charges shall be billed to the customer receiving services at the property to which the voluntarily accepted additional service charges apply, regardless of changes in ownership, until paid in full.

(d) No stormwater utility service charge shall be imposed upon premises owned or operated by either the City of Springfield or by the Clark County Park District.

(Ord. 15-259, Passed 9-15-15; Ord. 15-336, Passed 12-22-15; Ord. 21-216, Passed 7-20-21, Ord. 24-245. Passed 8-27-24.)

918.05 STORMWATER UTILITY SERVICE CHARGE CREDITS.

(a) A 100-percent credit shall be allowed for Agricultural lands; with the exception that no credit shall be allowed for Agricultural lands operated under an NPDES permit nor for Agricultural lands which have a land use code of 102 or 112.

(b) Additional credits shall be allowed as provided for in stormwater utility charge credit policies adopted by the City Commission.

(Ord. 11-352, Passed 12-20-11; Ord. 13-59, Passed 3-5-13; Ord. 15-164, Passed 6-9-15.)

918.06 PAYMENT OF STORMWATER UTILITY SERVICE CHARGE.

(a) The stormwater utility service charge levied and assessed by this Chapter shall be payable in payment periods determined by the Finance Director, as applicable, in each calendar year; provided, that if the charge exceeds \$50.00 per month for a Property, the amount of the charge payable for its first payment period after service begins shall be determined on the basis of a per diem proration of the minimum charge herein established, otherwise there shall be no proration of monthly stormwater utility service charges.

(b) Notwithstanding all other provisions of the Chapter, public right-of-way [i.e. government-owned roads (whether or not dedicated), utility easements, sidewalks, bridges, bike trails, and the like] and railroad track right-of-way is exempt from the assessment of stormwater utility service charges and no stormwater utility service charge is required to be paid for such Property.

(c) It is the intent of this Chapter that the stormwater utility service charge be imposed only on property that is likely to contribute stormwater to the Stormwater System. There is a presumption that all properties in the City are likely to contribute stormwater to the Stormwater System; however, a property owner may rebut this presumption by providing evidence to the City's Stormwater Utility Coordinator proving that a property is unlikely under any circumstances to contribute stormwater to the Stormwater System. In the event a property owner is able to prove that the property owner's property is unlikely under any circumstances to contribute stormwater to the Stormwater System, then no stormwater utility service charge will be applicable to that property.

(Ord. 13-59, Passed 3-5-13; Ord. 15-164, Passed 6-9-15.)

918.07 COLLECTION OF STORMWATER UTILITY SERVICE CHARGE.

Each stormwater utility service charge levied pursuant to this Chapter shall be collected by the Finance Director, and the City Manager shall make and enforce such bylaws and regulations as may be deemed necessary for the safe, economical and efficient management and protection of the City stormwater system and the City's sewage treatment and disposal works, for the construction and use of house rainwater handling systems, drainage, sump pumps, sewers and connections to the City's sewage system and for the regulations, collection, rebating and refunding stormwater utility service charges.

(Ord. 13-59, Passed 3-5-13; Ord. 15-164, Passed 6-9-15.)

918.08 FAILURE TO PAY STORMWATER UTILITY SERVICE CHARGE.

(a) Unpaid Charges Made a Lien. Each stormwater utility service charge levied by or pursuant to this Chapter is hereby made a lien upon the corresponding lot, land or premises served by the City's stormwater system and, if the same is not paid within thirty days after it is due and payable, it shall be certified to the Auditor of Clark County, who shall place the same on the tax duplicate of the County, with the interest and penalties allowed by law and be collected as other taxes are collected.

(b) Payment Required Prior to Water Service Resumption. Where a bill for a stormwater utility service charge levied and assessed by this Chapter has not been paid as provided by the rules and regulations of the City Manager and the proper shutoff notice has been delivered, the water shall thereafter be shut off in accordance with these rules and regulations, it shall not thereafter be turned on again until all charges due and payable, including advance charges, if any, are fully paid.

(c) Application. This section shall apply whether or not there has been, in the meantime, a change of ownership or possession of the Property to which the stormwater utility service charge pertains, except as provided in subsections (d) and (e) hereof.

(d) Insolvent or Bankrupt Sewer User. Where premises in arrears for payment of stormwater utility service charges becomes subject to a bankruptcy or insolvency court, the City Manager may permit the supply of water to such premises to be continued or restored without previous payment of the stormwater utility service charge accrued under the bankrupt or insolvent owner.

(e) Foreclosure Proceedings Against Premises Supplied With City Storm-water Utility Services. Whenever the Department of Finance, Utilities Billing Division, has been given written notice that foreclosure proceedings have been instituted against Property supplied with City stormwater utility services, the Department shall arrange to require deposit payments or other suitable guaranties in advance for the stormwater utility services furnished to such premises until the premises have been sold or the proceedings otherwise terminated. If the Department receives notification in writing of the pendency of the foreclosure proceedings and the location of the Property affected thereby prior to such sale, the purchaser at the foreclosure sale shall be entitled to have stormwater utility services furnished to the Property without payment of charges accrued under the previous owner, for any period subsequent to the date of the receipt of notice of the pendency of foreclosure proceedings by the Department.
(Ord. 15-164, Passed 6-9-15.)

918.09 LATE PAYMENTS.

All stormwater utility service charges due from Property owners under the provisions of the Chapter and remaining unpaid after they have become due shall bear interest at the rate of one percent (1%) per month or part thereof.
(Ord. 15-164, Passed 6-9-15.)

918.10 STORMWATER UTILITY COORDINATOR; APPEALS.

(a) Stormwater Utility Coordinator. The City Manager shall designate a City employee who shall report to the Service Director or designee and who shall administer the City's stormwater utility, including;

- (1) Receiving reviewing and granting or denying applications for credits,
- (2) Determining the appropriate Stormwater Class for Properties based on GIS and land use information collected and maintained by the County Auditor,
- (3) Using any and all land use data, determining the Impervious Area measurement for Properties, and
- (4) Reviewing and granting or denying applications for reconsideration of ESU multiples, Stormwater Class determinations, determinations of impervious surface, determinations of whether a property is unlikely under any circumstances to contribute stormwater to the Stormwater System, the amount of a stormwater utility service charge assessed, and other determinations made by the Stormwater Utility Coordinator.

(b) Any person obligated under this Chapter to pay a stormwater utility service charge to the City may make application to the Stormwater Utility Coordinator, on application forms to be prescribed by the Stormwater Utility Coordinator, seeking a credit or seeking a determination of whether a property is unlikely under any circumstances to contribute stormwater to the Stormwater System or seeking reconsideration of a determination made by the Stormwater Utility Coordinator. The application shall be accompanied by a processing fee reasonably related to recovering the City's costs expected to be experienced in processing such applications, as determined by the Finance Director. The applicant shall attach to the application any affidavits and/or other documentary evidence the applicant relies upon to justify the request in the application and shall fully explain in writing in the application the applicant's reasons and support for the relief sought. The Stormwater Utility Coordinator shall grant or deny the application and issue a written explanation of the Stormwater Utility Coordinator's decision.

(c) Appeals. An applicant aggrieved by a decision of the Stormwater Utility Coordinator made on an application filed with the City, may file an appeal with the Service Director or designee along with a processing fee of \$100.00 for property with a Commercial or Industrial Stormwater Class designation and \$25.00 for property with an Agricultural, Condominium, Residential, or Vacant Stormwater Class designation; provided that the filing of the appeal is made within fourteen days after the Stormwater Utility Coordinator issues his/her decision granting or denying the application. The appeal shall be made to a panel comprised of the City Manager, the Finance Director and the Law Director, or their designees. The appeal panel shall consider the provisions of this Chapter, land use data establishing the actual conditions of the property, the application and its attachments, the decision of the Stormwater Utility Coordinator and the contents of the appeal document in reviewing the Stormwater Utility Coordinator's decision and shall affirm or reverse or reverse and remand the Stormwater Utility Coordinator's decision. The decision of the appeal panel shall be final. Further appeal shall be to the Court of Common Pleas.

(Ord. 13-59, Passed 3-5-13; Ord. 15-164, Passed 6-9-15. Ord. 19-289, Passed 12-10-19.)

918.11 ESTABLISHMENT AND USE OF STORMWATER UTILITY FUND.

The funds received from the collection of the stormwater utility service charges authorized by this Chapter shall be deposited daily with the City Treasurer and shall be accounted for and be known as the Stormwater Utility Revenue Fund and when appropriated by the City Commission, shall be used solely for the payment of the costs and expenses of design, coordination construction, management, operation, maintenance and replacement of stormwater management facilities, inspection and enforcement activities pertaining to the City's stormwater system and administration of the City's stormwater utility and any surplus in such Fund shall be used for the payment of the principal and interest on bonds issued or loans obtained and outstanding or which may be issued to provide funds with which to pay the City's portion of the costs of constructing components of such system, and to retire such bonds or loans when they mature, and for the enlargement or replacement of the stormwater system.

(Ord. 15-164, Passed 6-9-15.)

CHAPTER 919

Sanitary Services

- 919.01 Definitions.**
- 919.02 Solid waste containers.**
- 919.03 Placement of containers for collection.**
- 919.04 Frequency of collection.**
- 919.05 Unlawful accumulation of solid waste.**
- 919.051 Solid waste collection services; provided by owner.**
- 919.06 Disposal of solid waste, demolition matter and dangerous substances.**
- 919.07 Permitting vehicle to stand.**
- 919.08 Nuisance prohibited.**
- 919.09 Powers and duties of City Manager.**
- 919.10 Suitability of sanitation service public utility.**
- 919.11 Sanitary Service Fund.**
- 919.12 Notices.**
- 919.13 Violation citation tags.**
- 919.99 Penalty.**

CROSS REFERENCES

Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01

Employment of scavengers - see Ohio R.C. 3707.39

Vehicle loads dropping or leaking - see TRAF. 339.08
Shifting loads; loose loads - see TRAF. 339.09
Littering - see GEN. OFF. 521.08
Private refuse collectors - see S.U. & P.S. Ch. 921
Solid waste disposal regulations - see OAC Ch. 3745-27

919.01 DEFINITIONS.

As used in this chapter and in Chapters 921, 922 and 923:

- (a) "Solid waste" means garbage, rubbish and such other unwanted residual solid and semisolid materials as result from industrial, commercial, agricultural and domestic operations; but excludes dangerous substances and demolition matter.
For purposes of this definition, solid wastes includes bulky items such as automobiles, furniture, bed springs and large appliances. For purposes of this definition, "semisolid" means that the material in question, while cohesive and viscous, slowly flows or loses its shape when unconfined, and does not readily release liquids, under normal climatic conditions.
 - (b) "Garbage" means all waste matter, solid, liquid or mixed, which attends, exists, is created or accumulates within the City from the preparation, cleaning, cooking, use, storage or sale of or dealing in meats, fish, fowl, fruits, vegetables, cereals, grain or other animal, vegetable or mineral matter designed or intended as foodstuff for human consumption; but does not include dangerous substances.
 - (c) "Rubbish" means all natural refuse resulting from the use of any premises as a residence, such as furniture, appliances, parts of furniture or appliances, ashes, paper, tin cans, bottles, brush, grass, leaves or other similar substances, or containers, and also sweepings, dirt, paper and other debris resulting from the use of any premises as a mercantile establishment or place of business, but does not include any demolition matter or any dangerous substances.
 - (d) "Dangerous substance" means controlled substances, hazardous substances, excrement (human or animal), septic tank cleanings and all other substances that are harmful or inimical to public health.
 - (e) "Demolition matter" means those items affixed to a structure being constructed or demolished, such as brick, concrete, stone, glass, wallboard, framing and finishing lumber, roofing materials, plumbing, plumbing fixtures, wiring and insulation material.
 - (f) "Person" means an individual or group or association of individuals; a firm or any member thereof; a corporation, or any executive officer, manager, person in charge or employee thereof; and the use of a pronoun specifying the masculine gender shall include the feminine and neuter genders.
 - (g) "Premises" means real property, whether private or public, along with the structures thereon and that portion of any waterways thereon or contiguous thereto.
 - (h) "Owner" means the legal owner of a freehold estate in real property.
 - (i) "Calendar year" means a twelve month period beginning January 1 and ending December 31.
 - (j) "Year" means a period of twelve consecutive calendar months.
 - (k) "Quarter" or "quarterly" means a period of three consecutive calendar months in any given year.
 - (l) "Residential unit" means a dwelling within the corporate limits of the City occupied by an individual or group of individuals living together in common living quarters. A residential unit shall be deemed occupied when domestic water services are being supplied thereto.
 - (m) "Residential premises" means premises used as a dwelling within the corporate limits of the City and containing not more than six residential units.
 - (n) "Sanitation services" means the collection and disposal of solid waste and the sweeping of streets.
 - (o) "Sanitation services public utility" means an entity to which the City has granted a franchise to supply sanitation services to residential premises.
 - (p) "Rear door" means any point located behind the front line of a building on a residential premises.
 - (q) "Controlled substance" means any drug or other substances, or immediate precursor, which as a potential for abuse and:
 - (1) Abuse may lead to any physical or psychological dependence, or
 - (2) The drug or other substance has no currently accepted medical use in treatment in the United States and there is a lack of accepted safety for use of the drug or other substance under medical supervision. The term does not include distilled spirits, wine, malt beverages, or tobacco.
 - (r) "Hazardous substances" means any substance or mixture of substances which:
 - (1) Is toxic,
 - (2) Is corrosive,
 - (3) Is an irritant,
 - (4) Is a strong sensitizer,
 - (5) Is flammable or combustible,
 - (6) Is radioactive and has a capacity to produce personal injury or illness to man through ingestion, inhalation or absorption through any body surface, or
 - (7) Generates pressure through decomposition, heat or other means, if such substances or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.
 - (s) "Residential hauler" means an entity to which the City has issued a residential solid waste collectors license pursuant to Chapter 922.
 - (t) "Commercial hauler" means an entity to which the City has issued a private solid waste collectors license pursuant to Chapter 921.
 - (u) "City" means The City of Springfield, Ohio.
 - (v) "Tenant" means any person, other than an owner, occupying or with the right to occupy a premises by virtue of any form of tenancy recognized in Ohio.
- (Ord. 90-639. Passed 12-4-90.)

919.02 SOLID WASTE CONTAINERS.

Every person, being an owner or tenant of a premises, shall have all solid waste accumulating on such premises properly prepared for collection by depositing it in one or more metal or plastic, watertight containers, securely tied and of sufficient strength to support the weight of the contents. All containers shall at all times, except when necessarily removed for use of such container, be covered with a tight, closefitting lid or cover of a type sufficient to prevent animals or insects from having access thereto.

(Ord. 90-639. Passed 12-4-90.)

919.03 PLACEMENT OF CONTAINERS FOR COLLECTION.

Every person with the duty of properly preparing solid waste pursuant to Section 919.02 shall place the properly prepared solid waste at the line of the public street or service strip along the collection route at such times as are scheduled by the sanitation services public utility, the residential hauler, the commercial hauler serving the premises or the City. No person shall place any solid waste in the curb area prior to one hour before sunset on the day before the scheduled collection, nor shall any person, with the responsibility of properly preparing solid waste pursuant to Section 919.02, permit an empty container to remain at the line of the public street, alley or service strip after sunset on the day the collection is made.
(Ord. 87-740. Passed 12-29-87.)

919.04 FREQUENCY OF COLLECTION.

Except as otherwise provided in the City's Codified Ordinances, every person who is the owner or tenant of a premises shall have all solid waste, demolition matter and dangerous substances accumulating on his premises collected and disposed of, in accordance with the law, on at least a weekly basis; unless, solid waste collection by the sanitation services public utility, the residential hauler, the commercial hauler serving the premises or the City has been delayed during the week. No person who is an owner or tenant of a residential premises shall permit solid waste accumulating on his residential premises to be collected or disposed of by anyone other than a sanitation services public utility, the residential hauler serving the premises or the City. No person who is an owner or tenant of a premises shall allow any solid waste accumulating on his premises, other than residential premises, not collected and disposed of by a sanitation services public utility or the City to be collected and disposed of by any person other than a commercial hauler.
(Ord. 90-639. Passed 12-4-90.)

919.05 UNLAWFUL ACCUMULATION OF SOLID WASTE.

Except as otherwise provided in the City's Codified Ordinances, no owner or tenant of any premises shall knowingly allow solid waste, demolition matter or dangerous substances to accumulate in or on his premises, or upon any alley, street or other public way adjacent to his premises, for a period in excess of one week. Solid waste and demolition matter accumulated from engaging in clearing land, building, rebuilding or otherwise erecting or altering a building or other structure shall be removed by the person or licensed building contractor generating such solid waste, demolition matter or both; provided, however, that an owner or tenant of a residential premises may employ a residential hauler to remove and dispose of such solid waste and demolition matter and that a licensed building contractor or the owner or tenant of the premises, other than a residential premises may employ a commercial hauler to remove and dispose of such solid waste and demolition matter.
(Ord. 90-639. Passed 12-4-90.)

919.051 SOLID WASTE COLLECTION SERVICES; PROVIDED BY OWNER.

On and after January 1, 1997, no owner of real property within the City upon which living quarters are, or have been, maintained and in which garbage or refuse, or both, are created shall fail to assure the collection of all such garbage or refuse from the premises by solid waste collectors licensed by the City pursuant to Chapters 921 and 922 of the Codified Ordinances of The City of Springfield, Ohio.
(Ord. 96-319, passed 9-24-96; Ord. 16-83, passed 3-29-16.)

919.06 DISPOSAL OF SOLID WASTE, DEMOLITION MATTER AND DANGEROUS SUBSTANCES.

(a) Except as otherwise provided in this chapter, no person shall bury or otherwise dispose of any solid waste by depositing it or causing it to be deposited upon any property, public or private, other than those properties licensed by the State as a solid waste disposal site or facility pursuant to Ohio R.C. Chapter 3734.

(b) No person shall deposit their solid waste, demolition matter or dangerous substances upon the property of another for any purpose, including the purpose of having such solid waste, demolition matter or dangerous substances collected by a residential hauler or commercial hauler, except as otherwise provided in this chapter.

(c) No person shall dispose of any demolition matter by depositing it or causing it to be deposited upon any premises other than those designated by the City Manager as a demolition dump pursuant to Chapter 923.

(d) No person shall deposit solid waste accumulated from a private premises, in a public litter receptacle.

(e) No person other than a sanitation services public utility, residential hauler or the City shall collect and dispose of solid waste generated at a residential premises in the City, except as otherwise provided for in this chapter.
(Ord. 87-740. Passed 12-29-87.)

919.07 PERMITTING VEHICLE TO STAND.

No person shall cause or permit any vehicle containing solid waste to stand upon any street, alley or thoroughfare, or public or private property within the City for more than one hour, except when in actual use in receiving or loading solid waste.
(Ord. 90-639. Passed 12-4-90.)

919.08 NUISANCE PROHIBITED.

(a) No person shall maintain, collect, receive, remove, transport, convey or dispose of any solid waste, demolition matter or dangerous substances in such manner or by such means to constitute a public or private nuisance, or to constitute a source of injury or damage to the person or property of another.

(b) In the event the Board of Health determines that the public health, safety and welfare of the residents of the City will be threatened by the continuance of the condition of the public nuisance described in this section, and determines that the public nuisance must be removed immediately to prevent injury to the life or property, or both, of the residents of the City, the Board of Health shall cause the immediate abatement of such public nuisance at the expense of the property owner. The Board of Health shall conduct such nuisance abatement actions and shall recover the costs of such nuisance abatement actions in accordance with the provisions of Ohio R.C. Chapter 3707.

(c) The enforcement measures contained in this section shall be in addition to other methods of enforcing the provisions of Chapters 919, 921, 922 and 923, which the City may have.
(Ord. 87-740. Passed 12-29-87.)

919.09 POWERS AND DUTIES OF CITY MANAGER.

It shall be the duty of the City Manager to supervise, see to and provide for the control of the keeping, collection, removal and disposal of all solid waste, demolition matter and dangerous substances which accumulate within the City, and to enforce or cause the enforcement of the provisions of Chapters 919, 921, 922 and 923, and any rules, regulations and orders promulgated by him pursuant thereto. For the purpose of carrying out the spirit and intent of Chapters 919, 921, 922 and 923, and in furtherance thereof, the City Manager is authorized and directed to promulgate and record in his official journal such rules, regulations and orders, not inconsistent with the provisions of this chapter and on behalf of the City, relating to the keeping, collection, removal and disposition of solid waste, demolition matter and dangerous substances and the sweeping of the streets, as he shall deem necessary for the health, safety and sanitary requirements of the public. Such rules, regulations and orders, without limitations on the generality thereof, may include or relate to the subject matter of the places or points on or about premises where containers, bags or bundles prescribed by this chapter, may be kept or placed for collection purposes; schedules, whether daily or otherwise, for collection; types of containers which may be utilized for keeping solid waste, demolition matter and dangerous substances on any premises and types of vehicles and containers in which solid waste, demolition matter and dangerous substances may be collected and transported over the streets and public ways of the City, places and methods of disposal of solid waste, demolition matter and dangerous substances; the designation of solid waste dumps and the operation and maintenance thereof. Every such rule, regulation and order when recorded in his official journal by the City Manager shall have the same force and effect as if specifically set forth in Chapters 919, 921, 922 and 923.
(Ord. 90-639. Passed 12-4-90.)

919.10 SUITABILITY OF SANITATION SERVICE PUBLIC UTILITY.

Any prospective franchisee shall provide an officer's certificate to the City certifying, under oath, and documenting any and all adjudicated or pending actions or matters brought or filed against it or any of its affiliates or subsidiaries by any governmental authority, whether federal, state, administrative, local or otherwise, which involve compliance or noncompliance with environmental rules or regulations, the violation of which did or could result in criminal or civil penalties being assessed or settlements in excess of five thousand dollars (\$5,000), or of a criminal or civil nature filed by such a governmental authority which involves allegations including, but not limited to, antitrust matters, price-fixing, bid rigging, fraud or bribery, covering a period of five years prior to the first reading of the ordinance establishing the prospective franchisee as a sanitation services public utility.
(Ord. 87-240. Passed 7-17-87.)

919.11 SANITARY SERVICE FUND.

The funds received from the collection of the service charges authorized by this chapter shall be deposited daily with the Director of Finance and shall be accounted for and be known as the Sanitary Service Fund and when appropriated by the City Commission, subject to the provisions of any ordinance or indenture of mortgage authorizing issuance of any securing mortgage revenue bonds for the sanitary service system, shall be available for the payment of the costs and expenses of the management, maintenance and repair of the City sanitary service system and any surplus in such fund following such payment shall be used for the payment of the interest on bonds issued and outstanding or which may be issued to provide funds with which to pay the City's portion of the costs of construction of the sanitary service system, or part thereof, and to retire such bonds when they mature, and for costs incurred in the enlargement or replacement of the City's sanitary service system.
(Ord. 87-240. Passed 7-17-87.)

919.12 NOTICES.

Whenever the Health Commissioner determines that there has been a violation of any provision of this chapter, except where a violation citation tag has been issued pursuant to Section 919.13, he shall give notice of such violation to the person responsible therefor and order compliance with this chapter as hereinafter provided. Such notice and order shall:

- (a) Be put in writing on an appropriate form;
 - (b) Include a list of violations, refer to the section or sections of this chapter violated and order remedial action which, if taken, will effect compliance with the provisions of this chapter;
 - (c) Specify a reasonable time for performance;
 - (d) Be served on the owner or agent in person. However, this notice and order shall be deemed to be properly served upon the owner or agent if a copy thereof is sent by registered or certified mail to his last known mailing address, residence, or place of business, and a copy is posted in a conspicuous place in or on the dwelling affected. If a registered or certified mail envelope is returned with an endorsement showing that service was refused, the notice may be served by ordinary mail to his last known mailing address, residence, or place of business. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing. If the registered or certified mail envelope is returned with an endorsement showing that services was unclaimed, the notice may be served by ordinary mail to his last known mailing address, residence, or place of business. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery.
- (1) The notice and order may, in the alternative, be served by leaving it at his last known residence or place of business in the presence of a family member or other responsible person of suitable age and discretion who shall be informed of the general nature of the contents thereof.
 - (2) If service is not accomplished by any of the above means, then a notification of the existence of the notice and order may be published at least once in a local newspaper of general circulation.

(Ord. 90-626. Passed 11-27-90.)

919.13 VIOLATION CITATION TAGS.

The Health Commissioner is authorized and directed to provide inspectors with citation tags which may be used for the purpose of giving due notice and summons to the person responsible for violations of Sections 919.01 through 919.04 and 919.06 through 919.08 of this chapter.

- (a) Such citation tag shall be put in writing on an appropriate form, describe the offense charged, refer to the section of the chapter violated, order the defendant to appear at a stated time and place, and it shall be made on oath before any person authorized by law to administer oaths.
- (b) The citation tag shall be served on such person in accordance with the provisions of Section 919.12.
- (c) The citation tag shall inform the defendant that, in lieu of appearing at the time and place stated, he may, within that stated time, appear personally at the office of the Clerk of Municipal Court and on signing a plea of guilty and a waiver of trial pay a stated fine and stated costs, if any. The citation shall inform the defendant that he may be arrested if he fails to appear either at the Clerk's office or at the time and place stated in the citation.
- (d) When the defendant fails to appear within the stated time, a warrant may be issued for the arrest of that person.

- (e) When a defendant appears, but does not sign a guilty plea and waiver of trial, the court shall proceed in accordance with Rule 5 of the Ohio Rules of Criminal Procedure.
 - (f) The citation tag as herein provided shall be sufficient notice, summons and legal service thereof for the purpose specified thereon, provided that the use of such tags shall not prohibit the issuance of either additional citation tags or a legal notice of violation as provided by Section 919.12, in the event such violation is continued or repeated.
- (Ord. 90-626. Passed 11-27-90.)

919.99 PENALTY.

(a) Whoever violates Sections 919.06(a) through 919.06(c) shall be guilty of a misdemeanor of the first degree, punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not exceeding six months or both.

(b) Whoever violates any provision of Sections 919.02 through 919.05, 919.06(d), 919.06(e), 919.07, or 919.08 of this chapter or any rule, regulation, or order made by the City Manager pertaining to the enforcement of such sections shall be guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of any of the provisions of the sections set forth in this paragraph, or any rule, regulation, order made by the City Manager pertaining to the enforcement of such sections, a violation of any such section, rule, regulation, or order is a misdemeanor of the fourth degree.

(Ord. 96-137. Passed 4-16-96.)

(c) Whoever continues to violate Section 919.051 of this Chapter or any rule, regulation, or order made by the City Manager pertaining to the enforcement of such section, after having been provided with the notice required by Section 919.12, shall be guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of Section 919.051, or any rule, regulation, or order made by the City Manager pertaining to the enforcement of that section, a violation of such section, rule, regulation, or order is a misdemeanor of the fourth degree.

(Ord. 96-319, passed 9-24-96; Ord. 16-83, passed 3-29-16.)

CHAPTER 921

Private Solid Waste Collectors

- 921.01 License application.**
- 921.02 Issuance of license.**
- 921.03 License nontransferable; term; fee.**
- 921.04 Additional licenses.**
- 921.05 License revocation.**
- 921.06 License required before collection.**
- 921.07 Regulation of private solid waste collectors.**
- 921.99 Penalty.**

CROSS REFERENCES

Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01
Employment of scavengers - see Ohio R.C. 3707.39
Vehicle loads dropping or leaking - see TRAF. 339.08
Shifting loads; loose loads - see TRAF. 339.09
Littering - see GEN. OFF. 521.08
Solid waste collection generally - see S.U. & P.S. Ch. 919

921.01 LICENSE APPLICATION.

The City Manager is authorized to issue private solid waste collector licenses in such number and to such persons as he shall deem appropriate for the preservation of the public health, safety and welfare, or the economy of the City. Such license shall not be issued unless the person seeking the same shall file with the City Manager an application, under oath, setting forth the following items:

- (a) The name and address of the applicant and the location of any premises to be used by the applicant in conjunction with the license being applied for.
- (b) The type of vehicle to be used, which shall be equipped with either a watertight metal tank, or one or more watertight metal vessels for containing solid waste, either both or all of which shall be equipped with tight, close-fitting lids or covers. Except for removal thereof in the necessary use of such tank or vessel, the lids or covers shall be kept in place at all times, and none thereof, when containing any liquid substance, shall ever be filled to an extent greater than a point six inches from the top thereof. Vehicles used for the hauling of rubbish only may be any type which insures against the spilling, dropping or blowing of the contents thereof upon the streets, alleys or public ways of the City. All such vehicles shall be approved by the Service Department.
- (c) The location of premises to which solid waste collected by the applicant or his agent or employees shall be removed and disposed of by the applicant or his agent or employee.
- (d) A written statement by the applicant that he will comply with all applicable laws, ordinances, rules and regulations.
In addition, each application for a license shall be accompanied with proof that the following items have been secured and shall remain in effect during the term of such license:
- (e) Comprehensive general liability insurance and comprehensive automobile liability insurance in an amount of not less than one hundred thousand dollars (\$100,000) per occurrence and not less than three hundred thousand dollars (\$300,000) aggregate for bodily injury and not less than twenty-five thousand dollars (\$25,000) for property damage. Such insurance shall be subject to approval by the Director of Law and shall not be cancelled without ten days' advance written notice of such cancellation having been given to the City.
- (f) A certificate of Workers' Compensation insurance when the applicant employs one or more employees.
- (g) City income tax number.

(Ord. 82-542. Passed 11-23-82.)

921.02 ISSUANCE OF LICENSE.

Upon being satisfied that an applicant will comply with all the terms, conditions and requirements of Chapters 919 and 921 and any rules, regulations and orders issued pursuant thereto, the City Manager may grant a private solid waste collector's license to such applicant.

The City shall provide the licensee with an official tag, decal or symbol for each licensed vehicle which shall be securely fastened to the left front door of the licensed vehicle.

(Ord. 81-464. Passed 11-3-81.)

921.03 LICENSE NONTRANSFERABLE; TERM; FEE.

No private solid waste collector's license shall be transferable without the written approval of the City Manager. Every such license shall expire December 31 of the year in which the same was issued and, while in effect, shall be at all times in the possession of the licensee or his agent or employees acting thereunder. To defray the administrative costs incident to the granting thereof, no such license shall be issued until there shall be paid to the City Manager an annual license fee in the amount of twenty-five dollars (\$25.00) for a license to operate a single vehicle and an additional annual license fee of five dollars (\$5.00) for each additional vehicle. No such fee shall be prorated.

(Ord. 81-464. Passed 11-3-81.)

921.04 ADDITIONAL LICENSES.

Only a single license shall be required of any one private solid waste collector, regardless of the number of premises from which solid waste is to be collected and removed pursuant to such license.

(Ord. 81-464. Passed 11-3-81.)

921.05 LICENSE REVOCATION.

In the event of the failure of any such licensee or any employee or agent of such licensee to comply with any provision or requirement of Chapters 919, 921 and 923 or any rules, regulation or order put into effect by the City Manager, the City Manager is empowered to revoke the license of such licensee forthwith. The giving of notice of such effect by mail and addressed to such licensee at the address specified in the application for license shall be sufficient to accomplish such revocation.

(Ord. 81-464. Passed 11-3-81.)

921.06 LICENSE REQUIRED BEFORE COLLECTION.

No person except when being an agent, employee or solid waste collection contractor of or with the City, or the agent or employee of such contractor, or when being the owner of premises on which such solid waste has accumulated or has been created, shall collect, receive or remove any solid waste from any premises or transport, carry, cart or convey any solid waste over or upon any street, alley or highway, without having obtained a private solid waste collector's license in the manner prescribed in this chapter; provided, however, no person possessing a license issued pursuant to Chapter 922 shall be required to also obtain a license issued pursuant to this chapter for purposes of collecting, transporting and disposing of solid waste generated at a residential premises.

(Ord. 87-421. Passed 7-17-87.)

921.07 REGULATION OF PRIVATE SOLID WASTE COLLECTORS.

(a) No person shall transport solid waste, other than recyclable materials being transported to a recycling center, over the streets or other public ways in the City unless the solid waste is contained in a leak-proof vehicle licensed pursuant to this part. All vehicles used by private solid waste collectors shall be cleaned at sufficient frequency to prevent nuisance and insect breeding and shall be maintained in safe condition and repair.

(b) No person owning or having control of a vehicle used for transporting solid waste shall cause any of the solid waste being transported to be dumped, fall or to be scattered on any public way or in any place other than a premises licensed by the State as a solid waste disposal site or facility pursuant to Ohio R.C. Chapter 3734. The person having control of a vehicle shall immediately clean up any solid waste which has been discharged from his vehicle onto any place other than a premises licensed by the State as a solid waste disposal site or facility pursuant to Ohio R.C. 3734.

(Ord. 87-421. Passed 7-17-87.)

(c) No private solid waste collector shall engage in the business of a private solid waste collector by the curbside collection of solid waste or transportation of such solid waste so collected from or over the street or other public ways in the City at anytime prior to 6:00 a.m., nor after 8 p.m. of any day. No such private solid waste collector shall engage in the curbside collection of solid waste except pursuant to the daily collection schedule as it may be, from time to time, established by the City Manager pursuant to Section 919.09.

(Ord. 01-410. Passed 12-11-01.)

921.99 PENALTY.

Whoever violates any provision of this chapter or any rule, regulation or order made or effectuated by the City Manager pertaining to the maintenance, collection, removal or disposal of solid waste, demolition matter and dangerous substances shall be guilty of a misdemeanor of the third degree, punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment not exceeding sixty days, or both.

CHAPTER 922

Residential Solid Waste Collectors

922.01 License application.

922.02 Issuance of license.

922.03 License nontransferable; term; fee.

922.04 Contracts with service areas.

922.05 License revocation.

922.06 License required before collection.

922.07 Regulation of residential solid waste collectors.

922.99 Penalty.

CROSS REFERENCES

Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01

Employment of scavengers - see Ohio R.C. 3707.39
Vehicle loads dropping or leaking - see TRAF. 339.08
Shifting loads; loose loads - see TRAF. 339.09
Littering - see GEN. OFF. 521.08
Private refuse collectors - see S.U. & P.S. Ch. 921
Solid waste disposal regulations - see OAC Ch. 3745-27

922.01 LICENSE APPLICATION.

(a) The City Manager is authorized to issue residential solid collectors' licenses in such manner and to such persons as he shall deem appropriate for the preservation of the public health, safety and welfare, or the economy of the City. Such license shall authorize the holder thereof to collect solid waste, subject to the requirements of Chapter 919, on the day of the week specified in the license. Such license shall not be issued unless the person seeking the same shall file with the City Manager an application, under oath, setting forth the following items:

- (1) The name and address of the applicant and the location of any premises to be used by the applicant in conjunction with the license being applied for.
- (2) The type of vehicle to be used, which shall be equipped with either a watertight metal tank, or one or more watertight metal vessels for containing solid waste, either both or all of which shall be equipped with tight, close-fitting lids or covers. Except for removal thereof in the necessary use of such tank or vessel, the lids or covers shall be kept in place at all times, and none thereof, when containing any liquid substance, shall ever be filled to an extent greater than a point six inches from the top thereof.
Vehicles used for the hauling of rubbish only may be any type which insures against the spilling, dropping or blowing of the contents thereof upon the streets, alleys or public ways of the City. All such vehicles shall be approved by the Health Division.
- (3) The location of premises to which solid waste collected by the applicant or his agent or employees shall be removed and disposed of by the applicant or his agent or employee.
- (4) The day of the week, Monday through Friday, on which the applicant wishes to operate.
- (5) A written statement by the applicant that he will comply with all applicable laws, ordinances, rules and regulations.

(b) In addition, each application for a license shall be accompanied with proof that the following items have been secured and shall remain in effect during the term of such license:

- (1) Comprehensive general liability insurance and comprehensive automobile liability insurance in an amount of not less than one hundred thousand dollars (\$100,000) per occurrence and not less than three hundred thousand dollars (\$300,000) aggregate for bodily injury and not less than twenty five thousand dollars (\$25,000) for property damage. The insurance shall be subject to approval by the Director of Law and shall not be cancelled without ten days advance written notice of such cancellation having been given to the City.
- (2) A certificate of Worker's Compensation insurance when the applicant employs one or more employees.
- (3) City income tax number.

An applicant may apply for one or more residential solid waste collector's licenses for the purpose of collecting solid waste during one or more days of the week.

(Ord. 87-421. Passed 7-7-87.)

922.02 ISSUANCE OF LICENSE.

Upon being satisfied that an applicant will comply with all the terms, conditions and requirements of Chapters 919 and 922 and any rules, regulations and orders issued pursuant thereto, the City Manager, may grant a private solid waste collector's license to such applicant to collect solid waste generated only at a residential premises, such collection to be performed only during the day of the week, Monday through Friday, specified in the license.

The City Manager may divide the City into two or more districts and allow the collection of solid waste by licensed residential solid waste collectors within a district on only one day of the week.

The City shall provide the licensee with an official tag, decal or symbol for each licensed vehicle which shall be securely fastened to the left front door of the licensed vehicle.

(Ord. 87-421. Passed 7-7-87.)

922.03 LICENSE NONTRANSFERABLE; TERM; FEE.

No residential solid waste collector's license shall be transferable without the written approval of the City Manager. Every such license shall expire December 31 of the year in which the same was issued and, while in effect, shall be at all times in the possession of the licensee or his agent or employees acting thereunder. To defray the administrative costs incident to the granting thereof, no such license shall be issued until there shall be paid to the City an annual license fee in the amount of fifty dollars (\$50.00) per day of the week authorized by the license issued to a maximum of two hundred dollars (\$200.00) for authority to operate four or five days per week by a license or licenses to operate a single vehicle and an additional annual license fee of ten dollars (\$10.00) for each additional vehicle. No such fee shall be pro-rated; provided, however, during 1987 the initial vehicle license fee shall be twenty-five dollars (\$25.00) per day of the week authorized by the license issued to a maximum of one hundred dollars (\$100.00) for authority to operate four or five days per week.

(Ord. 87-421. Passed 7-7-87.)

922.04 CONTRACTS WITH SERVICE AREAS.

No licensed residential solid waste collector shall enter into a contract with any person for the collection of solid waste generated at a residential premises which contract is not cancelable upon thirty days notice without penalty to the contracting parties.

(Ord. 87-421. Passed 7-7-87.)

922.05 LICENSE REVOCATION.

In the event of the failure of any such licensee or any employee or agent of such licensee to comply with any provision or requirement of Chapters 919, 922, and 923, or any rule, regulation or order put into effect by the City Manager, the City Manager is empowered to revoke the license of such licensee forthwith. The giving of notice of such effect by mail and addressed to such licensee at the address specified in the application for license shall be sufficient to accomplish such revocation.

(Ord. 87-421. Passed 7-7-87.)

922.06 LICENSE REQUIRED BEFORE COLLECTION.

No person except when being an agent, employee or solid waste collection contractor of or with the City, or the agent or employee of such contractor, shall collect, receive or remove any solid waste from any residential premises or transport, carry, cart or convey any solid waste, generated at a residential premises, over or upon any street, alley or highway, without having obtained a residential solid waste collector's license in the manner prescribed in this chapter.
(Ord. 87-421. Passed 7-7-87.)

922.07 REGULATION OF RESIDENTIAL SOLID WASTE COLLECTORS.

(a) No person shall transport solid waste, other than recyclable materials being transported to a recycling center, over the street or other public ways in the City unless the solid waste is contained in a leak-proof vehicle licensed pursuant to this part. All vehicles used by residential solid waste collectors shall be cleaned at sufficient frequency to prevent nuisance and insect breeding and shall be maintained in safe condition and repair.

(b) No person owning or having control of a vehicle used for transporting solid waste shall cause any of the solid waste being transported to be dumped, fall or to be scattered on any public way or in any place other than a premises licensed by the State as a solid waste disposal site or facility pursuant to Ohio R.C. Chapter 3734.
(Ord. 87-421. Passed 7-7-87.)

(c) No residential solid waste collector shall engage in the business of a residential solid waste collector by the curbside collection of solid waste or transportation of such solid waste so collected from or over the street or other public ways in the City at anytime prior to 6:00 a.m., nor after 8 p.m. of any day. No such residential solid waste collector shall engage in the curbside collection of solid waste except pursuant to the daily collection schedule as it may be, from time to time, established by the City Manager pursuant to Section 919.09.
(Ord. 01-410. Passed 12-11-01.)

922.99 PENALTY.

Whoever violates any provision of this chapter or any rule, regulation or order made or effectuated by the City Manager pertaining to the maintenance, collection, removal or disposal of solid waste, demolition matter and dangerous substances shall be guilty of a misdemeanor of the third degree, punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not exceeding sixty days, or both.

CHAPTER 923

Demolition Dumps

923.01 Application.

923.02 Determination on application.

923.03 Designation of dump.

923.04 Yearly designation.

923.05 Withdrawal of designation.

923.06 Fee.

923.99 Penalty.

CROSS REFERENCES

Establishing dumping grounds - see Ohio R.C. 3707.39

Solid and hazardous wastes - see Ohio R.C. Ch. 3734

923.01 APPLICATION.

Any person desiring to have any premises designated as a demolition dump shall first file with the City Manager an application upon a form to be furnished and approved by the City Manager. The application shall contain information necessary to describe and locate the premises to be designated as a demolition dump together with such other information which the City Manager may require.
(Ord. 81-464. Passed 11-3-81.)

923.02 DETERMINATION ON APPLICATION.

The City Manager upon receipt of an application, shall cause an inspection of the premises described in the application to be made. Before any premises are designated as a demolition dump, the City Manager shall make a determination:

- (a) That the premises are suitable and adequate for the purpose of the disposal of demolition matter in a healthful, safe and sanitary manner;
- (b) That such premises contain "fillable" land between the grand line established in accordance with adjacent property and the natural terrain of the subject property;
- (c) That the terrain of the subject property is such that adequate means and methods of regulating the deposit of demolition matter can be established and maintained; and
- (d) That the applicant has complied with all applicable City ordinances and regulations.

(Ord. 81-464. Passed 11-3-81.)

923.03 DESIGNATION OF DUMP.

Upon making a determination that all applicable rules, regulations, requirements and conditions have been met, the City Manager shall designate the premises as a demolition dump.

(Ord. 81-464. Passed 11-3-81.)

923.04 YEARLY DESIGNATION.

The designation of any premises as a demolition dump shall be for a period of one year.

(Ord. 81-464. Passed 11-3-81.)

923.05 WITHDRAWAL OF DESIGNATION.

If upon the inspection of a demolition dump, it is determined that the rules, regulations, requirements or conditions imposed pursuant to this chapter have not been met or complied with, the City Manager shall withdraw his designation of the premises as a demolition dump. The City Manager shall notify the applicant of such action and thereafter no person shall deposit or permit the depositing of demolition matter upon such

premises.
(Ord. 81-464. Passed 11-3-81.)

923.06 FEE.

No premises shall be designated as a demolition dump by the City Manager until the applicant for such designation makes payment of a fee of fifty dollars (\$50.00) to the City. No such fee shall be prorated.
(Ord. 81-464. Passed 11-3-81.)

923.99 PENALTY.

Whoever violates any provision of this chapter or any rule, regulation or order made or effectuated by the City Manager pertaining to the maintenance, collection, removal or disposal of solid waste, demolition matter and dangerous substances shall be guilty of a misdemeanor of the third degree, punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not exceeding sixty days, or both.

CHAPTER 925

Collection and Disposal of Storm Waters

925.01 Storm water in sanitary sewer declared a nuisance.

925.02 Storm waters in sanitary sewers prohibited.

925.03 Existing conditions discontinued.

925.04 Inspection of premises.

925.99 Penalty.

CROSS REFERENCES

Sanitary sewer defined - see S.U. & P.S. 916.01

Storm sewer defined - see S.U. & P.S. 916.01

Discharge of storm water into public sewers - see S.U. & P.S. 916.02

Establishment and use of Sewer Fund - see S.U. & P.S. 917.06

Storm drain conductors and leaders - see OAC Ch. 4101:2-51-69

925.01 STORM WATER IN SANITARY SEWER DECLARED A NUISANCE.

The collection, depositing or placing of storm waters or accumulated surface waters in any sewer in the City sewage system which is, has or may be designed solely for the purpose of a sanitary sewer, is hereby declared to be a nuisance and detrimental to the public health, safety and welfare.
(Ord. 53-130. Passed 8-3-53.)

925.02 STORM WATERS IN SANITARY SEWERS PROHIBITED.

No person shall collect or deposit or cause to be collected or deposited, any storm waters or accumulated surface waters in any public sanitary sewerage system of the City. However, it may be permissible to do so in certain cases where the sanitary and storm sewerage systems are combined into one sewerage system, and where, in the opinion of the City Manager, the design of the sewer is such that there is no imminent danger of flooding basements which have connections into the combined sewer.

For the purpose of determining when any violation of this section occurs, such violation shall be deemed to occur either in the premises from which such storm or surface waters are collected and deposited into such sewerage system or at the point where such storm water entered the City sewerage system within the corporate limits of the City.
(Ord. 67-177. Passed 8-21-67.)

925.03 EXISTING CONDITIONS DISCONTINUED.

In all cases where the storm sewerage system and a sanitary sewerage system are separate or the combined sewer is not adequate, the owner of any premises from which the storm or surface waters are collected and channeled and caused by the construction of any building or yard therein, to be deposited in the sanitary or combined sewerage system shall take such measures as are necessary to disconnect such storm or surface water drainage from such sewerage system within sixty days after notice that such storm or surface water is, or has been draining into such sewer and creating a nuisance detrimental to the public health and welfare. Such notice shall be served by the City Manager or by his deputy appointed for such purpose, upon the owner of the premises personally or by registered mail.
(Ord. 67-177. Passed 8-21-67.)

925.04 INSPECTION OF PREMISES.

The City Manager is hereby authorized to cause an inspection to be made of any premises when he has reasonable ground to believe that a violation of Section 925.01 through 925.03 is being committed. The inspection herein provided for shall be limited solely to the steps necessary to determine whether or not a violation of such section exists.
(Ord. 53-130. Passed 8-3-53.)

925.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor.

CHAPTER 927

Utilities Serving New Condominium Developments

927.01 Application.

927.02 Water and sanitary sewer taps prohibited.

927.03 Procedure preliminary to development of a new condominium development.

927.04 Condominium municipal utility contract and utility infrastructure construction.

927.05 City Engineer's acceptance of utility infrastructure.

927.01 APPLICATION.

(a) This Chapter shall apply to Condominium Developments on land located within the corporate boundaries of the City and first submitted to the provisions of Chapter 5311 of the Ohio Revised Code by the execution and filing for record of a declaration pursuant to Section 5311.05 of the Ohio Revised Code for such land subsequent to January 1, 1997.

(b) The term "Condominium Development," as used in the Codified Ordinances, shall have the same meaning as the term "condominium development" defined in Section 5311.01 of The Ohio Revised Code.

(c) The term "New Condominium Development" means a Condominium Development which is subject to this Chapter.
(Ord. 97-148. Passed 4-29-97.)

927.02 WATER AND SANITARY SEWER TAPS PROHIBITED.

No permit to tap a City water main or a City sanitary sewer line to connect a New Condominium Development to the City's water and/or sewer utilities shall be issued until after the owner of the New Condominium Development has entered into a Condominium Municipal Utility Contract with the City pursuant to Section 927.04 of the Codified Ordinances.
(Ord. 97-148. Passed 4-29-97.)

927.03 PROCEDURE PRELIMINARY TO DEVELOPMENT OF A NEW CONDOMINIUM DEVELOPMENT.

When the owner of a tract of land wishes to develop a New Condominium Development thereon, such owner shall submit to the City Engineer for his review a water and sanitary sewer utility plan for the use and development of such tract of land. The City Engineer shall investigate and ascertain whether the water and sanitary sewer utility plan complies with the following conditions:

- (a) The water and sanitary sewer utility plan shall provide for the installation of water lines, sanitary sewer lines and necessary related appurtenances, as determined by the City Engineer, in accordance with construction specifications established in Chapter 931 of the Codified Ordinances.
- (b) The water and sanitary sewer utility plan shall include an accurate centerline survey for all water and sanitary sewer lines to be installed within the New Condominium Development. The water and sanitary sewer utility plan shall include extending all water lines and sanitary sewer lines within the New Condominium Development to the property lines of the development as the City Engineer shall determine is necessary so that municipal utility services can be provided to areas beyond the boundary of the New Condominium Development in the future.
- (c) The owner of the New Condominium Development shall submit along with the water and sanitary sewer utility plan a deed document conveying to The City of Springfield, Ohio a forty foot (40') wide easement, extending Twenty feet (20') on each side of the surveyed center line of the water lines and sanitary sewer lines described in the water and sanitary sewer utility plan, and conveying to The City of Springfield, Ohio good title in the water and sanitary sewer infrastructure which the City will operate and maintain upon acceptance of dedication thereof. The owner may request that the City Engineer permit a narrower easement in the event appurtenances (such as, by way of example, water meters or water shutoffs) will not be extended from both sides of a line or in the event a forty foot (40') width is not possible. The said deed document shall convey the easement and utility infrastructure to the City at no cost to the City, shall be in a form approved by the Law Director and shall warrant that the easement is free and clear of all encumbrances. Neither receipt of a water and sanitary sewer utility plan with an executed easement document included therewith nor approval of the water and sanitary sewer utility plan by the City Engineer shall constitute accepting dedication of the easement described in the easement document by the City.

(Ord. 97-148. Passed 4-29-97.)

927.04 CONDOMINIUM MUNICIPAL UTILITY CONTRACT AND UTILITY INFRASTRUCTURE CONSTRUCTION.

(a) The City Engineer shall examine and investigate each New Condominium Development water and sanitary sewer utility plan submitted to him and within Thirty days (30) of receiving such plan shall either approve the plan or advise the owner of the proposed New Condominium Development of any deficiencies the City Engineer finds in the water and sanitary sewer utility plan. If the City Engineer determines that there are deficiencies in a water and sanitary sewer utility plan, the owner of the proposed New Condominium Development may thereafter submit a corrected water and sanitary sewer utility plan for consideration of the City Engineer.

(b) If the City Engineer determines that a submitted New Condominium Development water and sanitary sewer utility plan is acceptable, he shall so inform the Law Director who shall prepare and tender to the owner of the New Condominium Development a Condominium Municipal Utility Contract that shall include the following covenants:

- (1) That the owner shall construct the water and sanitary sewer utility infrastructure on the lands included in the New Condominium Development in strict compliance with the approved New Condominium Development water and sanitary sewer utility plan;
- (2) That the owner shall convey the easement and utility infrastructure, described in the approved New Condominium Development water and sanitary sewer utility plan, to the City, at no cost to the City, by means of a deed document which shall be in a form approved by the Law Director and shall warrant that the easement is free and clear of all encumbrances;
- (3) That the City shall accept dedication of such easement and record such easement after the City Engineer has requested acceptance of the easement and the water and sanitary sewer infrastructure described in the deed document pursuant to Section 927.05 of this Chapter;
- (4) That the owner shall pay in advance to the City the inspection fees imposed under Subsection 1211.04(c)(3) of the Codified Ordinances;
- (5) That customers connected to the water and sanitary sewer utility infrastructure constructed in accordance with the Condominium Municipal Utility Contract may receive water and/or sewer services in accordance with the Codified Ordinances and the rules and regulations adopted by the City governing the provision of municipal water and sanitary sewer utility services; and
- (6) Such other terms and conditions as the Law Director may determine are necessary to protect the interests of the City.

(c) The City Manager is authorized to enter into Condominium Municipal Utility Contracts with owners of New Condominium Developments; provided, that no such contract requiring and expenditure on the part of the City in excess of the expenditure limit established in Section 42 of the Charter shall be entered into without first receiving the approval of the City Commission .

(d) After the owner has entered in to Condominium Municipal Utility Contract with the City, the owner of the New Condominium Development may petition the City Engineer for permission to deviate from the plan. The City Engineer may permit plan deviations which are not in conflict with other provisions of the Codified Ordinances, which are not in conflict with the construction specifications established in Chapter 931 of the Codified

Ordinances and which do not prevent the City from extending municipal utility services to customers beyond the boundary of the New Condominium Development without obtaining additional real property rights in the New Condominium Development lands.
(Ord. 97-148. Passed 4-29-97.)

927.05 CITY ENGINEER'S ACCEPTANCE OF UTILITY INFRASTRUCTURE.

After the water and sanitary sewer infrastructure has been constructed within the New Condominium Development, the owner of the New Condominium Development shall prepare and deliver to the City Engineer as-built drawings for the said water and sanitary sewer infrastructure and a deed of easement as approved in the Section 927.03 procedure, with necessary changes made due to approved plan deviations allowed by the City Engineer. If the City Engineer determines that the said water and sanitary sewer infrastructure has been constructed in compliance with the approved New Condominium Development water and sanitary sewer utility plan, the City Engineer shall certify his acceptance of the said water and sanitary sewer infrastructure to the City Commission and request acceptance of dedication of the easement and the water and sanitary sewer infrastructure described in the deed of easement. The City shall assume operation and maintenance responsibilities for the water and sanitary sewer infrastructure only:

- (a) upon acceptance of dedication of the easement and water and sanitary sewer described in the deed of easement,
- (b) upon the deed of easement being recorded, and
- (c) upon the City receiving from the owner's attorney his certification that the said easement is free and clear of all encumbrances and that all mechanic's liens which could attach to the easement and the water and sanitary sewer infrastructure located in the easement have been waived.

(Ord. 97-148. Passed 4-29-97.)

CHAPTER 929

Wellhead and Well Field Protection Regulations

- 929.01 Purpose and scope of chapter.**
- 929.02 Definitions.**
- 929.03 Designation of wellhead protection areas.**
- 929.04 Primary area regulations.**
- 929.05 Secondary area regulations.**
- 929.06 Additional hazardous activities prohibited.**
- 929.07 Reporting requirements.**
- 929.08 Nuisance determination; prohibition.**
- 929.09 Notice and abatement.**
- 929.10 Emergency abatement.**
- 929.11 Abatement of nuisance by the health commissioner.**
- 929.12 Notices.**
- 929.13 Violation citation tags.**
- 929.14 Appeal to City Manager.**
- 929.15 Backflow prevention.**
- 929.16 Secondary containment and release mitigation.**
- 929.17 Variances.**
- 929.99 Penalties.**

929.01 PURPOSE AND SCOPE OF CHAPTER.

(a) The purpose of this Chapter is to implement the City's powers conferred under Section 3750.11 of the Ohio Revised Code to provide for the protection of the City's ground water resources that serve as a source of drinking water for the City's public water system and that are located within the scientifically derived wellhead protection areas established by the City.

(b) The regulations adopted in this Chapter are adopted for the purpose of safeguarding the public health, safety and welfare of the community, the health, safety and welfare of the City's water customers and to protect the community's potable water supply against contamination from existing and future potential pollution sources by regulating nuisances and the storage, handling, use and/or production of those substances which could pose a threat to the City's wellheads and well field located along the Mad River in the Township of German, County of Clark, State of Ohio.

(c) Nothing in this Chapter should be construed to apply the provisions of this Chapter to facilities owned or operated by the City or to any of the City's operations.

(Ord. 99-52. Passed 2-16-99.)

929.02 DEFINITIONS.

For purposes of this Chapter, the following terms, phrases and words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as defined in this Section 929.02. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- (a) "Aboveground Storage Tank" means any one or combination of tanks (including aboveground pipes connected thereto) which is used to contain an accumulation of regulated substances and the volume of which (including the volume of underground pipes connected thereto) is less than ten (10) percent beneath the surface of the ground. Flow-through process tanks regulated by the Ohio Environmental Protection Agency or by the Ohio Fire Marshal are excluded from the definition of aboveground storage tank.
- (b) "Agricultural Chemicals" means pesticides and fertilizers.
- (c) "Aquifer" means a porous, water-bearing geologic formation composed of materials capable of yielding significant quantities of water.
- (d) "Best management practices" means activities, prohibitions or practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of Ohio. Best management practices also include treatment, operating procedures, and practices to control site runoff, spillage or leaks [ie. releases], sludge or waste disposal, or drainage from raw material storage.

- (e) "Certified Applicator" means any person certified to apply pesticides by Ohio's Director of Agriculture.
- (f) "Chapter" or "this Chapter" means this Chapter 929 of the Codified Ordinances of the City, as amended from time to time, and any Regulations adopted hereunder.
- (g) "City" means The City of Springfield, Ohio, or, as appropriate in the case of specific provisions of this Chapter, any board, bureau, authority, agency, commission, department, or any other entity of or acting on behalf of The City of Springfield, Ohio or any officer, official, employee, representative or agent thereof the designee of any of the foregoing, or any successor thereto.
- (h) "City Manager" means the City Manager of the City.
- (i) "Commission" means the City Commission of the City.
- (j) "Service Director" means the Director of Service Department of the City.
- (k) "Health Commissioner" means the Health Commissioner of the Clark County Combined Health District.
- (l) "Injection well" means a well into which fluids are or can be injected, as further described in Ohio Administrative Code Section 3745-34-04; provided that the term injection well shall not apply to the following:
 - (1) Air conditioning return flow wells used to return to the supply aquifer the water used for heating or cooling in a heat pump when there is no potential for the water used for heating and cooling to be contaminated with a regulated substance,
 - (2) Cooling water return flow wells used to inject water previously used for cooling when there is no potential for the water used for cooling to be contaminated with a regulated substance,
 - (3) Drainage wells used to drain primarily storm runoff, into a subsurface formation, and
 - (4) Recharge wells used to replenish the water in an aquifer.
- (m) "ISO-Travel Time Contour" means a locus of points from which water takes an equal amount of time to reach a given destination such as a well or well field.
- (n) "MSDS sheet" means a material safety data sheet prepared in compliance with 29 CFR 1910.1200 and written in English.
- (o) "Person" means any natural person or any association, firm, partnership, limited liability company, trust, joint venture, corporation or other legally recognized entity, whether for-profit or not-for-profit.
- (p) "Pesticide" means any substance or mixture of substances intended for either of the following:
 - (1) Preventing, destroying, repelling, or mitigating any pest;
 - (2) Use as a plant regulator, defoliant, or desiccant.
- (q) "Potable Water" means water that is satisfactory for drinking, culinary and domestic purposes, meeting current drinking water standards.
- (r) "Protected Public Water Supply" means a public water system which services at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents, and having a time-of-travel area(s) defined through appropriate hydrologic studies.
- (s) "Public nuisance" means any building, structure, excavation, basement, cellar, well, cistern, storage area or any part thereof, or any item of personal property or any activity located in the Primary or Secondary Areas which creates or poses a danger to the City's wellheads and/or well fields.
- (t) "Reduced pressure principle backflow prevention device" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closing shut-off valves located at each end of the device, and each device shall be fitted with properly located test cocks.
- (u) "Regulated Substances" means chemicals and mixtures of chemicals which are health hazards. Materials packaged for personal or household use as food or drink for man or other animals are not regulated substances. Regulated substances include:
 - (1) Chemicals for which there is scientific evidence that acute or chronic health effects may result from exposure including carcinogens, toxic and highly toxic agents, reproductive toxins, irritants, corrosives, sensitizers, hepatotoxins, nephrotoxins, neurotoxins, agents which act on the hematopoietic system, and agents which damage the lungs, skin, eyes, or mucous membranes.
 - (2) Mixtures of chemicals which have been tested as a whole and have been determined to be a health hazard.
 - (3) Mixtures of chemicals which have not been tested as a whole but which contain any chemical which has been determined to be a health hazard and which comprises one (1.0) percent or greater of the composition on a weight per unit weight basis, and mixtures of chemicals which include a carcinogen if the concentration of the carcinogen in the mixture is one tenth of one (0.1) percent or greater of the composition on a weight per unit weight basis.
 - (4) Ingredients of mixtures prepared within the Primary or Secondary Areas in cases where such ingredients are health hazards but comprise less than one tenth of one (0.1) percent of the mixture on a weight per unit weight basis if carcinogenic or less than one (1.0) percent of the mixture on a weight per unit weight basis if non- carcinogenic.
 - (5) Petroleum, petroleum-based products and non-solid petroleum derivatives (except non-polychlorinated biphenyl dielectric fluids).
 - (6) Antifreeze, transmission fluids, brake fluids and coolants.
 - (7) Solvents (raw or spent), including cleaning solvents, degreasing solvents, stripping compounds, dry cleaning solvents, painting solvents, and/or hydrocarbon of halogenated hydrocarbon solvents.
 - (8) Inks, printing and photocopying chemicals and waste rags used for solvent-based cleaning.
 - (9) Organic pigments.
 - (10) Liquid storage batteries.
 - (11) Non-aerosol, non-latex based paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds, paint sludges and paint filters.
 - (12) Corrosion and rust prevention solutions.
 - (13) Industrial and commercial cleaning supplies, including drain cleaners.
 - (14) Sanitizers, disinfectants, bactericides and algicides.
 - (15) Pesticides, herbicides, and fertilizers.
 - (16) Acids and bases with a pH less than or equal to 2 or greater than or equal to 12.5.
 - (17) Aqueous metals.
 - (18) Substances listed in the following regulations:
 - (A) 40 CFR Part 355, Appendix A [List of Extremely Hazardous Substances]
 - (B) 40 CFR Part 302, Table 302.4 [List of Hazardous Substances and Reportable Quantities for Releases]
 - (C) 40 CFR Part 372, Subpart D [Toxic Chemical Listing]
 - (D) Ohio Administrative Code Section 3745-100-10.
- (v) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a tank, container or other thing or area intended to confine a regulated substance, in an amount of five (5) gallons or of fifty (50) pounds or more into ground water, surface

water or subsurface soils or otherwise into the environment.

- (w) "Underground Storage Tank" means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances and the volume of which (including the volume of underground pipes connected thereto) is ten (10) percent or more beneath the surface of the ground. Flow-through process tanks regulated by the Ohio Environmental Protection Agency or by the Ohio Fire Marshal and septic tanks approved by the Clark County Combined Health District, as applicable, are excluded from the definition of underground storage tank.
 - (x) "Well Field" means a tract of land that contains a number of wells for supplying potable water used for human or animal consumption.
 - (y) "Zone of Influence" means a zone delineated by ISO-travel time contours around well fields. The zone is calculated, based on the rate of movement of groundwater in the vicinity of wells.
- (Ord. 99-52. Passed 2-16-99.)

929.03 DESIGNATION OF WELLHEAD PROTECTION AREAS.

(a) A One-Year Time of Travel Wellhead Protection Area, sometimes hereinafter called the "Primary Area," is hereby designated consisting of all lands within the one-year time of travel zone of influence for the City's wellheads, bounded and described as follows:

Situate in the State of Ohio, County of Clark and lying within the Townships of German and Moorefield and the City of Springfield and being part of Sections 2 and 3, Town 4, Range 10 and Sections 32 and 33, Town 5, Range 10, B.M.R.S. and being further described as follows;

Beginning at a point on the north line of said Section 2, said point bears N 8942'26" E, 508.13 feet from the northwest corner of said section 2;

thence N 1253'43" E, 322.22 feet to a point; thence N 2634'56" E, 435.83 feet to a point;
thence N 3514'17" E, 450.69 feet to a point; thence N 4823'17" E, 521.70 feet to a point;
thence N 6127'01" E, 530.21 feet to a point; thence N 6707'30" E, 652.79 feet to a point;
thence N 7254'34" E, 545.34 feet to a point; thence N 7917'41" E, 503.28 feet to a point;
thence N 8618'41" E, 415.19 feet to a point; thence N 8827'11" E, 494.71 feet to a point;
thence S 8350'04" E, 497.40 feet to a point; thence S 7740'12" E, 437.80 feet to a point;
thence S 7403'58" E, 389.19 feet to a point; thence S 7012'54" E, 355.10 feet to a point;
thence S 6143'02" E, 394.61 feet to a point; thence S 5208'46" E, 304.69 feet to a point;
thence S 4614'26" E, 444.13 feet to a point; thence S 3551'30" E, 296.62 feet to a point;
thence S 2837'43" E, 334.74 feet to a point; thence S 2009'01" E, 426.79 feet to a point;
thence S 1445'15" E, 262.41 feet to a point; thence S 1146'37" E, 327.42 feet to a point;
thence S 1232'17" E, 246.27 feet to a point; thence S 1119'06" E, 204.30 feet to a point;
thence S 2238'07" E, 173.64 feet to a point; thence S 3653'27" E, 200.39 feet to a point;
thence S 5121'41" E, 171.11 feet to a point; thence S 5800'51" E, 252.13 feet to a point;
thence S 4200'31" E, 179.74 feet to a point; thence S 3126'56" E, 281.79 feet to a point;
thence S 0928'10" E, 243.72 feet to a point; thence S 0424'07" W, 174.13 feet to a point;
thence S 3229'27" W, 174.17 feet to a point; thence S 4718'44" W, 236.38 feet to a point;
thence S 5717'04" W, 222.40 feet to a point; thence S 6143'02" W, 197.31 feet to a point;
thence S 7134'41" W, 253.57 feet to a point; thence S 8152'33" W, 189.01 feet to a point;
thence S 8317'43" W, 228.78 feet to a point; thence S 8339'52" W, 242.06 feet to a point;
thence S 8102'02" W, 257.09 feet to a point; thence S 7403'58" W, 194.59 feet to a point;
thence S 6812'49" W, 71.97 feet to a point; thence S 6649'02" W, 305.33 feet to a point;
thence S 5732'54" W, 174.23 feet to a point; thence S 5309'03" W, 334.05 feet to a point;
thence S 4730'40" W, 217.50 feet to a point; thence S 3514'17" W, 277.98 feet to a point;
thence S 3216'37" W, 158.76 feet to a point; thence S 4134'27" W, 164.84 feet to a point;
thence S 4251'38" W, 210.29 feet to a point; thence S 5019'20" W, 193.15 feet to a point;
thence S 5413'02" W, 210.90 feet to a point; thence S 6137'30" W, 235.90 feet to a point;
thence S 6742'32" W, 236.45 feet to a point; thence S 7244'47" W, 217.34 feet to a point;
thence S 7823'49" W, 209.02 feet to a point; thence S 8807'37" W, 207.00 feet to a point;
thence S 8856'24" W, 136.65 feet to a point; thence N 8805'32" W, 151.89 feet to a point;
thence N 8017'38" W, 284.93 feet to a point; thence N 7225'57" W, 268.05 feet to a point;
thence N 6457'56" W, 256.91 feet to a point; thence N 5903'19" W, 132.75 feet to a point;
thence N 5837'44" W, 174.84 feet to a point; thence N 4823'17" W, 243.66 feet to a point;
thence N 4750'13" W, 109.23 feet to a point; thence N 4319'13" W, 180.71 feet to a point;
thence N 3444'57" W, 270.78 feet to a point; thence N 2856'13" W, 138.03 feet to a point;
thence N 2710'02" W, 227.56 feet to a point; thence N 2716'23" W, 192.73 feet to a point;
thence N 3302'37" W, 123.85 feet to a point; thence N 3342'36" W, 112.33 feet to a point;
thence N 4018'49" W, 313.16 feet to a point; thence N 4056'09" W, 309.22 feet to a point;
thence N 3629'24" W, 148.51 feet to a point; thence N 3436'45" W, 182.91 feet to a point;
thence N 2656'43" W, 366.86 feet to a point; thence N 2148'59" W, 251.62 feet to a point;
thence N 1543'12" W, 345.14 feet to a point; thence N 0718'16" W, 182.24 feet to a point;
thence N 0413'02" W, 617.53 feet to a point; thence N 0247'41" W, 133.05 feet to a point;
thence N 0108'48" E, 162.10 feet to a point; thence N 0251'52" E, 129.82 feet to a point;
thence N 1108'40" E, 163.47 feet to the place of beginning; containing 892.520 acres, more or less.

(b) A Five-Year Time of Travel Wellhead Protection Area, sometimes hereinafter called the "Secondary Area," is hereby designated consisting of all lands within the five-year time of travel zone of influence for the City's wellheads, bounded and described as follows:

Situate in the State of Ohio, County of Clark and lying within the Townships of German and Moorefield and the City of Springfield and being part of Sections 1, 2, 3, 4, 8, 9 and 10, Town 4, Range 10 and Sections 26, 27, 28, 31, 32, 33 and 34, Town 5, Range 10, B.M.R.S. and being further described as follows:

Beginning at a point on the north line of said Section 8, said point bears N 8942'57" W, 225.54 feet from the northeast corner of said section 8;

thence N 0506'54" E, 214.73 feet to a point; thence N 0048'27" W, 209.87 feet to a point;
thence N 0126'48" W, 271.97 feet to a point; thence N 0431'03" W, 311.83 feet to a point;
thence N 0458'24" W, 377.73 feet to a point; thence N 0654'59" W, 271.94 feet to a point;

thence N 1102'57" W, 341.74 feet to a point; thence N 1402'47" W, 269.85 feet to a point; thence N 1523'14" W, 339.39 feet to a point; thence N 1630'58" W, 230.38 feet to a point; thence N 1938'17" W, 343.26 feet to a point; thence N 2238'07" W, 319.08 feet to a point; thence N 2358'43" W, 322.32 feet to a point; thence N 4112'27" W, 86.99 feet to a point; thence N 3245'17" W, 136.18 feet to a point; thence N 2513'05" W, 153.72 feet to a point; thence N 1437'53" W, 194.46 feet to a point; thence N 0243'42" W, 171.99 feet to a point; thence N 1007'56" E, 232.69 feet to a point; thence N 2148'59" E, 220.29 feet to a point; thence N 3810'42" E, 291.39 feet to a point; thence N 5511'45" E, 229.32 feet to a point; thence N 6812'49" E, 220.41 feet to a point; thence N 6941'28" E, 235.70 feet to a point; thence N 6327'08" E, 329.46 feet to a point; thence N 5852'49" E, 459.03 feet to a point; thence N 5122'04" E, 293.45 feet to a point; thence N 5538'24" E, 376.86 feet to a point; thence N 6057'50" E, 252.82 feet to a point; thence N 6623'11" E, 285.92 feet to a point; thence N 7055'12" E, 225.23 feet to a point; thence N 7254'34" E, 222.69 feet to a point; thence N 7841'54" E, 250.46 feet to a point; thence N 7942'10" E, 183.06 feet to a point; thence N 8525'45" E, 307.97 feet to a point; thence S 8805'32" E, 245.74 feet to a point; thence S 8704'00" E, 319.70 feet to a point; thence S 7923'18" E, 399.80 feet to a point; thence S 7229'13" E, 326.22 feet to a point; thence S 6707'30" E, 399.85 feet to a point; thence S 6039'39" E, 300.53 feet to a point; thence S 5835'23" E, 345.33 feet to a point; thence S 6016'26" E, 263.97 feet to a point; thence S 6758'44" E, 370.90 feet to a point; thence S 7157'08" E, 396.08 feet to a point; thence S 8016'47" E, 290.71 feet to a point; thence S 8326'51" E, 358.45 feet to a point; thence S 9000'00" E, 515.77 feet to a point; thence N 8821'53" E, 573.31 feet to a point; thence N 8557'55" E, 697.61 feet to a point; thence N 8246'07" E, 519.90 feet to a point; thence N 8133'04" E, 612.47 feet to a point; thence N 7751'53" E, 661.54 feet to a point; thence N 7503'06" E, 444.00 feet to a point; thence S 8433'50" E, 172.70 feet to a point; thence S 6039'38" E, 150.26 feet to a point; thence S 4501'18" E, 162.03 feet to a point; thence S 2414'39" E, 179.44 feet to a point; thence S 0251'52" E, 163.82 feet to a point; thence S 1739'46" W, 188.88 feet to a point; thence S 0107'27" W, 417.29 feet to a point; thence S 0356'55" E, 594.45 feet to a point; thence S 0442'08" E, 599.20 feet to a point; thence S 0748'22" E, 602.77 feet to a point; thence S 0918'01" E, 455.93 feet to a point; thence S 0557'05" E, 394.80 feet to a point; thence S 0217'32" W, 409.36 feet to a point; thence S 0810'07" W, 633.81 feet to a point; thence S 1232'16" W, 301.70 feet to a point; thence S 0736'01" W, 495.19 feet to a point; thence S 0604'37" W, 386.66 feet to a point; thence S 0052'07" W, 539.98 feet to a point; thence S 0159'58" E, 703.96 feet to a point; thence S 0624'09" E, 367.08 feet to a point; thence S 1826'53" E, 310.46 feet to a point; thence S 3939'56" E, 371.95 feet to a point; thence S 5933'12" E, 322.88 feet to a point; thence S 4614'26" E, 272.04 feet to a point; thence S 2543'37" E, 245.18 feet to a point; thence S 0212'16" E, 212.85 feet to a point; thence S 1756'26" W, 292.36 feet to a point; thence S 2925'33" W, 516.58 feet to a point; thence S 3629'24" W, 702.10 feet to a point; thence S 4409'28" W, 611.10 feet to a point; thence S 5409'03" W, 656.51 feet to a point; thence S 6009'35" W, 509.66 feet to a point; thence S 6840'40" W, 562.45 feet to a point; thence S 7337'20" W, 435.19 feet to a point; thence S 8128'32" W, 496.69 feet to a point; thence S 8634'08" W, 410.08 feet to a point; thence N 8727'25" W, 368.77 feet to a point; thence N 8300'14" W, 470.15 feet to a point; thence N 8125'22" W, 438.81 feet to a point; thence N 8716'33" W, 344.23 feet to a point; thence S 8833'29" W, 325.09 feet to a point; thence S 8105'30" W, 422.62 feet to a point; thence S 8331'18" W, 362.53 feet to a point; thence S 8555'03" W, 229.81 feet to a point; thence N 8849'54" W, 401.24 feet to a point; thence N 8448'34" W, 361.70 feet to a point; thence N 8105'30" W, 422.63 feet to a point; thence N 7440'40" W, 526.29 feet to a point; thence N 6832'17" W, 536.60 feet to a point; thence N 6327'08" W, 567.41 feet to a point; thence N 5509'57" W, 558.55 feet to a point; thence N 4937'17" W, 505.11 feet to a point; thence N 4300'43" W, 660.08 feet to a point; thence N 3650'57" W, 414.97 feet to a point; thence N 3031'08" W, 693.22 feet to a point; thence N 2212'20" W, 671.53 feet to a point; thence N 1509'54" W, 406.84 feet to a point; thence N 1104'42" W, 383.45 feet to a point; thence N 0756'58" W, 355.18 feet to a point; thence N 0229'29" W, 376.66 feet to a point; thence N 0124'57" W, 331.36 feet to a point; thence N 0742'07" E, 305.44 feet to a point; thence N 0245'34" E, 281.23 feet to the place of beginning, containing 2910.635 acres, more or less, and excluding therefrom the lands contained within the Primary Area.
(Ord. 99-52. Passed 2-16-99.)

929.04 PRIMARY AREA REGULATIONS.

(a) Prohibited Activities. The storage and production of regulated substances and the operation of sanitary landfills, landfills comprised of demolition debris, salvage yards and junkyards are prohibited within the Primary Area; unless such activity or facility has been granted a license by the State of Ohio to operate or unless a variance has been granted pursuant to Section 929.17.

(b) Use of regulated substances in conjunction with activities conducted within the Primary Area are limited as follows; unless a variance has been granted pursuant to Section 929.17:

- (1) The aggregate of regulated substances, other than agricultural chemicals, in use may not exceed fifty-five (55) gallons or four hundred forty (440) pounds at any one time.
- (2) The use of agricultural chemicals (labeled for use and sale by licensed personnel) shall be conducted by using best management practices.

(c) Notwithstanding other provisions of Subsection 929.04(a), underground storage tanks, which exist on the effective date of this Chapter, which are located within the Primary Area, which are fully compliant with all applicable laws and regulations pertaining to such tanks and which are used exclusively to store fuel and lubricants for vehicle operation are permitted to remain in use. Replacement of underground storage tanks is prohibited within the Primary Area with the exception of underground storage tanks regulated by the Ohio Fire Marshall, Bureau of Underground Storage Tank

Regulation (BUSTR) and with the exception of heating fuel tanks in residential use having a capacity equal to or less than five hundred fifty (550) gallons; provided that these exceptions shall apply only to tanks which are fully compliant with all applicable laws and regulations pertaining to such tanks.

(d) An exclusion from the provisions of Subsection 929.04(b) is applicable to regulated substances which are cleaning agents; provided, however that such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public and; provided further, that the aggregate inventory of such cleaning agents shall not exceed one hundred ten (110) gallons or eight hundred eighty (880) pounds at any time. In no case shall this exclusion apply to hydrocarbon or halogenated hydrocarbon solvents.

(e) An exclusion from the provisions of Subsection 929.04(b) is applicable to:

- (1) on-site use of building materials and paving materials in a mobile container temporarily on-site for purposes of installing or applying the building materials or paving materials and
- (2) on-site use and storage of agricultural chemicals in a mobile container temporarily on-site for purposes of applying the agricultural chemicals.

[NOTE: THIS REGULATION DOES NOT RESTRICT THE USE OF AGRICULTURAL CHEMICALS APPLIED IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES.]

(f) Unless regulated by the Ohio Fire Marshall aboveground storage tanks which are fully compliant with all applicable laws and regulations pertaining to such tanks and which are used exclusively to store fuel and lubricants for vehicle operation are permitted to remain in use provided they are protected by secondary containment in accordance with Section 929.16 to prevent releases to the City's well fields.

(g) Nothing in this Section should be construed to apply the provisions of this Section to regulated substances contained in a vehicle and in use for the proper functioning of such vehicle, including by way of example and not by way of limitation, fuels, lubricants, antifreeze and the contents of batteries. This exemption does not apply to cargo being transported or stored in such vehicle.

(Ord. 99-52. Passed 2-16-99.)

929.05 SECONDARY AREA REGULATIONS.

(a) Prohibited Activities. The operation of sanitary landfills, landfills comprised of demolition debris, salvage yards and junkyards are prohibited within the Secondary Area; unless such facility has been granted a license by the State of Ohio to operate or unless a variance has been granted pursuant to Section 929.17.

(b) Use, storage, handling and/or production of regulated substances within the Secondary Area are limited as follows; unless a variance has been granted pursuant to Section 929.17:

- (1) The aggregate of regulated substances, other than agriculture chemicals, in use, storage, handling and/or production may not exceed fifty-five (55) gallons or four hundred forty (440) pounds at any one time.
- (2) The use, storage, and handling of agricultural chemicals (labeled for use and sale by licensed personnel) shall be conducted by using best management practices.

(c) An exclusion from the provisions of Subsection 929.05(b) is applicable to regulated substances which are cleaning agents; provided however, such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and; provided further, that the aggregate inventory of such cleaning agents shall not exceed one hundred ten (110) gallons or eight hundred eighty (880) pounds at any time. In no case shall this exclusion apply to hydrocarbon or halogenated hydrocarbon solvents.

(d) An exclusion from the provisions of Subsection 929.05(b) is applicable to:

- (1) on-site use of building materials and paving materials in a mobile container temporarily on-site for purposes of installing or applying the building materials or paving materials and
- (2) on-site use and storage of agricultural chemicals in a mobile container temporarily on-site for purposes of applying the agricultural chemicals.

[NOTE: THIS REGULATION DOES NOT RESTRICT THE USE OF AGRICULTURAL CHEMICALS APPLIED IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES.]

(e) Notwithstanding other provisions of Subsection 929.05(b), underground storage tanks, which exist on the effective date of this Chapter, which are located within the Secondary Area, which are fully compliant with all applicable laws and regulations pertaining to such tanks and which are used exclusively to store fuel and lubricants for vehicle operation are permitted to remain in use. Replacement of underground storage tanks is prohibited within the Secondary Area with the exception of underground storage tanks regulated by the Ohio Fire Marshall, Bureau of Underground Storage Tank Regulation (BUSTR) and with the exception of heating fuel tanks in residential use having a capacity equal to or less than five hundred fifty (550) gallons; provided that these exceptions shall apply only to tanks which are fully compliant with all applicable laws and regulations pertaining to such tanks.

(f) Unless regulated by the Ohio Fire Marshall aboveground storage tanks shall be protected by secondary containment in accordance with Section 929.16 to prevent releases to the City's well fields. Notwithstanding other provisions of this Section 929.05, any underground storage tank may be replaced with an aboveground storage tank which complies with the provisions of this Chapter.

(g) Nothing in this Section should be construed to apply the provisions of this Section to regulated substances contained in a vehicle and in use for the proper functioning of such vehicle, including by way of example and not by way of limitation, fuels, lubricants, antifreeze and the contents of batteries. This exemption does not apply to cargo being transported or stored in such vehicle.

(Ord. 99-52. Passed 2-16-99.)

929.06 ADDITIONAL HAZARDOUS ACTIVITIES PROHIBITED.

(a) Handling of Regulated Substances. No person shall, on public or private property within the Primary or Secondary Areas, place, deposit, store, process, use, produce, dispose of, transport, or release; or permit to be placed, deposited, stored, processed, used, produced, disposed of, transported, or released any regulated substance in violation of any applicable law, statute, ordinance, rule or regulation.

(b) Vandalism. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, property, or equipment which is a part of or used in conjunction with water facilities of a protected public water supply, or which results in the violation of the provisions of this Chapter.

(c) Injection Wells. No person shall construct use, or operate an injection well within the Primary or Secondary Areas; unless such well has been licensed by the State of Ohio.

(Ord. 99-52. Passed 2-16-99.)

929.07 REPORTING REQUIREMENTS.

(a) Regulated Substance Activity Inventory:

(1) Applicability:

- (A) Each owner or occupant of any land in the Primary or Secondary Areas shall file a Regulated Substance Activity Inventory Report with the Health Commissioner. Said Report shall be filed on or before December 31 of each odd numbered year and shall be updated between reporting dates to report added/new regulated substances and increased amounts of regulated substances on the subject land.
- (B) Each new owner or occupant of any land in the Primary or Secondary Areas shall file a Regulated Substance Activity Inventory Report within one hundred eighty days after taking possession of such land and thereafter shall file Regulated Substance Activity Inventory Reports in compliance with Subsection 929.07(a)(1)(A). For purposes of this paragraph, "new" shall be defined as subsequent to the effective date of this Chapter.
- (C) Each person who owns, operates, or occupies more than one location, within the Primary or Secondary Areas shall file the Regulated Substance Activity Inventory Reports required under this Section for each location.
- (D) Each Certified Applicator applying agricultural chemicals within the Primary or Secondary Areas shall provide a copy of his/her applicator's current license issued by the Ohio Department of Agriculture to the Health Commissioner prior to applying any agricultural chemicals in either the Primary or Secondary Areas.
- (E) Regulated Substance Inventory Activity Reports shall disclose the following data:
 - (i) The identity of the reporting person and such information as the Health Commissioner may request to enable him/her to communicate with the reporting person.
 - (ii) A description of the area(s) where regulated substances will be stored and/or applied on the relevant site(s).
 - (iii) Such information as the Health Commissioner may require to identify the type and amounts of regulated substances stored and/or applied on the relevant site(s); including a copy of the MSDS sheet for each regulated substance stored on the relevant site(s) during the reporting period,
 - (iv) Total annual on-site storage of regulated substances for the relevant site(s).

(2) Exclusions from Activity Inventory Reporting:

- (A) Any exclusion set forth in this Subparagraph 929.07(a)(2) shall apply; provided that said exclusion does not substantially increase any risk or hazard to the public health or water supply, wells or well fields; and provided further that any release shall be subject to the provisions of Subsection 929.07(b). Any exclusions granted herein shall not remove or limit the liability and responsibility of any person.
- (B) An exclusion from Regulated Substance Activity Inventory reporting is hereby authorized for incidental uses of regulated substances provided the uses are limited as follows:
 - (i) The aggregate of regulated substances in use may not exceed twenty (20) gallons or one hundred and sixty (160) pounds at any one time and
 - (ii) The total use of regulated substances may not exceed fifty-five (55) gallons or four hundred forty (440) pounds during any period of twelve (12) consecutive months.
- (C) An exclusion from Regulated Substance Inventory Activity reporting is hereby authorized for regulated substances which are cleaning agents; provided, however, such cleaning agents are packaged for personal or household use or are present in the same form and concentration as a product packaged for use by the general public, and provided the aggregate inventory of such cleaning agents shall not exceed one hundred ten (110) gallons or eight hundred eighty (880) pounds at any time. In no case shall regulated substances to which this exclusion applies include hydrocarbon or halogenated hydrocarbon solvents.
- (D) An exclusion from Regulated Substance Inventory Activity reporting is hereby authorized for the transportation of regulated substances through the Primary or Secondary Areas; provided that the transportation vehicle is in compliance with applicable local, State, and Federal laws and regulations and provided that the transportation vehicle is in continuous transit, making delivery, or is stopped for a period of time not to exceed twenty-four (24) hours.
- (E) An exclusion from Regulated Substance Inventory Activity reporting is hereby authorized for owners and occupants of single or two family residences; provided however, the storage and use of regulated substances are related to the maintenance of the residence or vehicles under control of the occupant and provided regulated substances are appropriately disposed of to a permitted solid waste facility or a permitted publicly-owned wastewater treatment works.
- (F) An exclusion from Regulated Substance Inventory Activity Reporting is hereby granted to on-site storage within the Secondary Area of a maximum one-year supply of agriculture chemicals to be used for routine on-site agriculture operations.
- (G) An exclusion from Regulated Substance Inventory Activity Reporting is hereby granted to on-site storage of heating fuels for residential use stored in a tank having a capacity equal to or less than five hundred fifty (550) gallons.

(b) Release of Regulated Substances:

- (1) Any person with direct knowledge of a release of a regulated substance within the Primary or Secondary Areas shall, if such release escapes containment or contacts a non-imperious ground surface and is not immediately and completely remediated, give notice:
 - (A) to the City by dialing "911" and advising of the release and
 - (B) to the Services Director or to the operator on duty at the affected or potentially affected water treatment facility by telephone, within thirty (30) minutes. The notification shall include, at a minimum, the location of the incident, name and telephone number, date and time thereof, type of substance(s), concentration and volume, and control or corrective action taken. Such notification shall in no way alleviate or otherwise affect a person's obligations to comply with all other applicable local, State, and Federal laws and regulations.

(Ord. 00-456. Passed 12-19-00.)

- (2) The application of agricultural chemicals used in routine agricultural operations and applied using best management practices, shall not be considered a release subject to the reporting provisions of this Chapter.

- (3) Any person who releases said substance(s) shall be liable for any expense, loss or damages incurred by the owner of a protected public water supply and/or by the operator of a protected public water supply for damages resulting from such an incident, in addition to the amount of any fines imposed on account thereof under City, State and Federal law. Said entity or person shall document and maintain sufficient records so as to reflect accurately the circumstances related to any such incident and develop and implement procedures to substantially eliminate the likelihood of reoccurrence of such releases as soon as practicable following the incident, but no later than one hundred eighty (180) days after the incident.

(c) Falsifying Information. No person shall make any false statement, representation, or certification in any report or other document filed or required to be maintained pursuant to this Chapter.

(d) Retention of Records. Any reports or records compiled or submitted pursuant to this Chapter shall be maintained by the owner of such reports or records for a minimum of five (5) years or so long as enforcement or judicial proceedings are being pursued, whichever is longer.
(Ord. 99-52. Passed 2-16-99.)

929.08 NUISANCE DETERMINATION; PROHIBITION.

(a) When a reasonable basis to believe that a public nuisance exists in the Primary or Secondary Areas, the Health Commissioner shall inspect or cause the inspection of the premises on which such public nuisance is believed to exist.

(b) No owner or occupant of a premises in the Primary or Secondary Areas shall permit the existence of a public nuisance to continue on such premises.

(c) No person shall release, or permit to be released, treated or untreated sewage, the overflow drainage or contents of a sewage tank, or other putrescible, impure, or offensive wastes into an abandoned water supply, well, spring, or cistern or into a natural or artificial well, sink hole, crevice, or other opening extending into limestone, sandstone, shale, or other rock formation, or normal ground water table located in the Primary or Secondary Areas.

(d) No person shall release or cause to be released, treated or untreated sewage, the drainage or contents of a sewage tank, or other putrescible or offensive wastes onto the surface of the ground, into any street, road, alley, open excavation, underground drain, land drain ditch, adjoining property, water course, or body of water located in the Primary or Secondary Areas.

(e) No person shall release any liquid, solid or gas into a sewage disposal system, including, but not limited to, septic tanks, aerobic type treatment systems, filters, leaching tile fields, mound systems, constructed wetlands, rock plant filters, drywells, building sewers, and privies or parts thereof located in the Primary or Secondary Areas; unless such sewage disposal system has been inspected by the Health Commissioner within the preceding twelve months and has been determined by the Health Commissioner to be a properly functioning sewage disposal system.
(Ord. 99-52. Passed 2-16-99.)

929.09 NOTICE AND ABATEMENT.

(a) If, upon inspection, it is determined that a public nuisance exists, then the Health Commissioner shall send or deliver a written notice to abate such public nuisance to each owner or occupant, or both, who caused or permitted the public nuisance to exist. Such notice shall identify the public nuisance and require the owner or occupant, or both, to abate the public nuisance within seven (7) days of such notice. Failure to abate the public nuisance within seven (7) days of such notice, as provided herein, may cause the City to abate the public nuisance at the expense of the owner or occupant, or both, who caused or permitted such public nuisance to exist.

(b) The Health Commissioner shall prepare or cause the preparation of a written report, including photographs, of every public nuisance for which a notice to abate is issued. All such reports shall remain on file with the Health Commissioner until the public nuisance is abated.
(Ord. 99-52. Passed 2-16-99.)

929.10 EMERGENCY ABATEMENT.

In the event the Health Commissioner or Services Director determines that the City wellheads or well fields will be threatened by the continuance of a public nuisance and determines that the designated public nuisance must be removed immediately to prevent imminent potential injury to the City's wellheads or well fields, the Health Commissioner and Services Director shall report such facts to the City Manager, and the City Manager shall cause whatever immediate action is necessary to abate such public nuisance at the expense of the property owner for all accrued costs. When an emergency public nuisance has been determined by the aforesaid officers, the abatement shall be carried out without regard for the requirements of Sections 929.08, 929.09, and 929.11 through 929.14, except that the City Manager shall, to the extent reasonably permitted by the exigency of the circumstances, give the owners of the subject premises, written or personal notice of his intended action and an opportunity for hearing thereon.
(Ord. 00-456. Passed 12-19-00.)

929.11 ABATEMENT OF NUISANCE BY THE HEALTH COMMISSIONER.

(a) Should such public nuisance not be abated at the expiration time stated in such notice issued by the Health Commissioner or such additional time as the Health Commissioner may grant, the Health Commissioner shall be authorized, at any time thereafter to enter upon such premises and the owner and occupant shall permit him entry to abate the public nuisance by taking such action as may be required.

(b) In abating such nuisance the Health Commissioner may call upon any department of the City for whatever assistance may be necessary, or may, by private contract, obtain the abatement thereof.

(c) In abating a nuisance, whether under the emergency procedure of Section 929.10(a) or under the regular procedure set forth in this Chapter, the cost of the abatement action may be recovered from the owner in the following procedure:

- (1) The owner or owners may be billed directly for the cost of the abatement. If the owner or owners are billed, the bill for the cost of the abatement shall be paid within sixty (60) days after receipt of the bill.
- (2) If costs are not so recovered, then the City may cause the cost of the abatement to be levied as an assessment and recovered in accordance with law.
- (3) If such an abatement of a nuisance is at no cost to the City, or if the City is reimbursed for its costs, the property owner shall be relieved of any assessment.

929.12 NOTICES.

Whenever the Health Commissioner determines that there has been a violation of any provision of this Chapter, except where a violation citation tag has been issued pursuant to Section 929.13, he, or a law enforcement officer having jurisdiction, may give notice of such violation to the person responsible therefor and order compliance with this Chapter as hereinafter provided. Such notice and order shall:

- (a) Be put in writing on an appropriate form;
- (b) Include a list of violations, refer to the section or sections of this Chapter violated and order remedial action which, if taken, will effect compliance with the provisions of this Chapter;
- (c) Specify a reasonable time for performance;
- (d) Advise the owner, operator or occupant of the procedure for appeal, except emergency orders issued pursuant to Section 929.10;
- (e) Be served on the owner or occupant in person. However, this notice and order shall be deemed to be properly served upon the owner or occupant if a copy thereof is sent by registered or certified mail to his last known mailing address, residence, or place of business, and a copy is posted in a conspicuous place in or on the property affected. If a registered or certified mail envelope is returned with an endorsement showing that service was refused, the notice may be served by ordinary mail to his last known mailing address, residence, or place of business. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing. If the registered or certified mail envelope is returned with an endorsement showing that service was unclaimed, the notice may be served by ordinary mail to his last known mailing address, residence or place of business. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing; provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery.
- (1) The notice and order may, in the alternative, be served by leaving it at his last known residence or place of business in the presence of a family member or other responsible person of suitable age and discretion who shall be informed of the general nature of the contents thereof.
- (2) If service is not accomplished by any of the above means, then a notification of the existence of the notice and order may be published at least once in a local newspaper of general circulation.

(Ord. 99-52. Passed 2-16-99.)

929.13 VIOLATION CITATION TAGS.

The Health Commissioner is authorized and directed to provide inspectors with citation tags which may be used for the purpose of giving due notice and summons to the person responsible for violations of this Chapter.

- (a) Such citation tag shall be put in writing on an appropriate form, describe the offense charged, refer to the section of this Chapter violated, order the defendant to appear at a stated time and place, and it shall be made on oath before any person authorized by law to administer oaths.
- (b) The citation tag shall be served on such person in accordance with the provisions of Section 929.12.
- (c) The citation tag shall inform the defendant that, in lieu of appearing at the time and place stated, he may, within that stated time, appear personally at the office of the Clerk of the Municipal Court of Clark County, Ohio, and on signing a plea of guilty and a waiver of trial pay a stated fine and stated costs, if any. The citation shall inform the defendant that he may be arrested if he fails to appear either at such Clerk's office or at the time and place stated in the citation.
- (d) When the defendant fails to appear within the stated time, a warrant may be issued for the arrest of that person.
- (e) When a defendant appears, but does not sign a guilty plea and waiver of trial, the court shall proceed in accordance with Rule 5 of the Ohio Rules of Criminal Procedure.
- (f) The citation tag as herein provided, shall be sufficient notice, summons, and legal service thereof for the purpose specified thereon, provided that the use of such tags shall not prohibit the issuance of either additional citation tags or a legal notice of violation as provided by Section 929.12 in the event such violation is continued or repeated.

(Ord. 99-52. Passed 2-16-99.)

929.14 APPEAL TO CITY MANAGER.

(a) Except as otherwise provided in this Chapter, any owner of a property shall have the right to appeal from any determination of the Health Commissioner or of the Services Director, when administering this Chapter, to the City Manager and to appear before the City Manager at a time and place to be determined by the City Manager.

(Ord. 00-456. Passed 12-19-00.)

(b) Such notice of appeal shall be filed with the City Manager in writing within three (3) days after receipt of any notice given under the provisions of this Chapter.

(Ord. 99-52. Passed 2-16-99.)

929.15 BACKFLOW PREVENTION.

(a) No person shall install, use, operate, or maintain any hydrant, faucet, or any kind of outlet for any liquid connected to a well located within the Primary or Secondary Areas; unless a reduced pressure principle backflow prevention device is operating properly between such hydrant, faucet or any outlet for any liquid connected to a well, and the well.

(b) An approved reduced pressure principle backflow prevention device of the type designated shall be installed to protect the wells located on the premises of facilities located in the Primary and Secondary Areas; unless the Services Director determines that no real or potential health, pollutional or other hazard to the City's well fields exists.

(Ord. 00-456. Passed 12-19-00.)

(c) Any backflow prevention device installed pursuant to this Chapter shall be of a model or construction approved by the Services Director and the Ohio E.P.A. and shall be tested and be found to function properly and shall be certified by an inspector certified pursuant to Ohio R.C. 3703.04 and 3703.05 and Ohio Administrative Code Chapter 3701-37 before the device is put in use.

(Ord. 00-456. Passed 12-19-00.)

(d) Every backflow prevention device required under this Chapter shall be installed at a location and in a manner approved by the Services Director and shall be installed by and at the expense of the property owner.

(Ord. 00-456. Passed 12-19-00.)

(e) It shall be the duty of the property owner of any premises on which backflow prevention devices have been installed to have thorough inspections and operational tests made of the devices at such intervals and in such manner as may be required by the Services Director and by the Ohio E.P.A., but in no event shall such tests be made at greater than twelve month intervals. These inspections and tests shall be at the expense of the property owner and shall be performed by an inspector certified pursuant to Ohio R.C. 3703.04 and 3703.05 and Ohio Administrative Code Chapter 3701-37.

(Ord. 00-456. Passed 12-19-00.)

(f) Backflow prevention devices shall be repaired, overhauled or replaced at the expense of the property owner within fourteen days after they are found to be defective. Records of such inspections, tests, repairs and overhaul shall be kept by the property owner and made available to the Services Director and the Health Commissioner.

(Ord. 00-456. Passed 12-19-00.)

(g) Backflow prevention devices shall be tested during normal business hours. Manifold or dual settings of the devices should be considered for premises requiring uninterrupted water service. Backflow prevention devices set in manifold shall meet the minimum flow requirements of a single device of the proper size.

(h) Existing backflow prevention devices approved by the Services Director or the Ohio E.P.A. prior to the effective date of this regulation and which are properly maintained shall, except for inspection, testing, and maintenance requirements, be excluded from the requirements of subsections (c) and (d) hereof, if the Services Director and the Ohio E.P.A. are assured that the devices will satisfactorily protect the City's well field.

(Ord. 00-456. Passed 12-19-00.)

(i) The Health Commissioner shall maintain a current record of all backflow prevention devices which are a part of any water system connected to a well in the Primary or Secondary Areas.

(j) Persons performing inspections as required in this section shall, within fifteen days of performing such inspection, file with the Health Commissioner a test report. The test report shall include the following data:

- (1) Type of backflow prevention device.
- (2) Size of backflow prevention device.
- (3) Location of backflow prevention device.
- (4) Model designation of backflow prevention device.
- (5) Date backflow prevention device was installed.
- (6) Test results before backflow prevention device was repaired.
- (7) Description of repairs made.
- (8) Description of materials used in making repairs.
- (9) Results of a final test of the backflow prevention device after the repair or installation.
- (10) Inspector's signature.
- (11) Date of the inspection.
- (12) Certification by the owner of the premises on which the backflow prevention device is located certifying that the backflow prevention device has been in constant use at the location of the backflow prevention device during the entire proscribed interval between test periods and that during that period the backflow prevention device was not by-passed, made inoperative or removed without proper authorization.
- (13) Such other information as the Health Commissioner deems necessary.

The Health Commissioner may impose a reasonable filing fee for reports filed to recover administrative costs associated with receiving and processing such reports.

(k) The definitions of terms contained in Section 913.03 of the Codified Ordinances shall be applicable to this Section.

(Ord. 99-52. Passed 2-16-99.)

929.16 SECONDARY CONTAINMENT AND RELEASE MITIGATION.

(a) Secondary containment protection must be:

- (1) Designed, installed, and operated to prevent any migration of regulated substances or accumulated liquid out of a tank, container or other thing or area intended to confine a regulated substance and into soil, ground water, or surface water at any time during the use of the tank, container or other thing or area intended to confine a regulated substance; and
- (2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(b) To meet the requirements of paragraph (a) of this Section, secondary containment systems must be, at a minimum:

- (1) Constructed of or lined with material that are compatible with the regulated substance to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the regulated substance to which it is exposed, climatic conditions, and the stress of daily operation (including stresses from nearby vehicular traffic);
- (2) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;
- (3) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of regulated substance or accumulated liquid in the secondary containment system within twenty-four hours, or at the earliest practicable time if the owner or operator can demonstrate to the Service Director that existing detection technologies or site conditions will not allow detection of a release within twenty-four hours; and

(Ord. 00-456. Passed 12-19-00.)

- (4) Sloped or otherwise designed or operated to drain and remove liquids resulting from releases or precipitation. Released regulated substances and accumulated precipitation must be removed from the secondary containment system within twenty-four hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate

to the Services Director that removal of the released regulated substances or accumulated precipitation cannot be accomplished within twenty-four hours.

(Ord. 00-456. Passed 12-19-00.)

(c) Secondary containment for tanks must include one or more of the following devices:

- (1) A liner (external to the tank);
- (2) A vault;
- (3) A double-walled tank; or
- (4) An equivalent device as determined by the Services Director.

(Ord. 00-456. Passed 12-19-00.)

(d) In addition to the requirements of paragraphs (a), (b), and (c) of this Section, secondary containment systems must satisfy the following requirements.

(1) External liner systems must be:

- (A) Designed or operated to contain one hundred per cent of the capacity of the largest tank within its boundary;
- (B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event;
- (C) Free of cracks or gaps; and
- (D) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the regulated substance if the regulated substance is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the regulated substance).

(2) Vault systems must be:

- (A) Designed or operated to contain one hundred per cent of the capacity of the largest tank within its boundary;
- (B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event;
- (C) Constructed with chemical-resistant water stops in place at all joints (if any);
- (D) Provided with an impermeable interior coating or lining that is compatible with the stored regulated substance and that will prevent migration of regulated substances into the concrete;
- (E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the regulated substance being stored or treated is an ignitable regulated substance, or a reactive regulated substance and may form an ignitable or explosive vapor;
- (F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(3) Double-walled tanks must be:

- (A) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;
- (B) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and
- (C) Provided with a built-in, continuous leak-detection system capable of detecting a release within twenty-four hours, or at the earliest practicable time, if the owner or operator can demonstrate to the Services Director, and the Services Director concludes, that the existing detection technology or site conditions would not allow detection of a release within twenty-four hours.

(Ord. 00-456. Passed 12-19-00.)

(e) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of paragraphs (a) and (b) of this Section, except for:

- (1) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;
- (2) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;
- (3) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and
- (4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure-actuated shut-off devices) that are visually inspected for leaks on a daily basis.

(f) Release mitigation measures include the following:

- (1) Having on hand and readily available materials or devices to absorb liquid releases,
- (2) Having on hand and readily available decontaminating and/or neutralizing agents to mitigate release of a regulated substance,
- (3) Having an operable and effective mechanism to stop the addition of regulated substances to a leaking a tank, container or other thing or area intended to confine a regulated substance, and
- (4) Such other measures or devices as the Services Director may determine are effective and practical to mitigate a release of a regulated substance and prevent the released regulated substance from endangering the City's well field.

(Ord. 00-456. Passed 12-19-00.)

929.17 VARIANCES

(a) Persons regulated under this Chapter may obtain a variance from the requirements of Sections 929.04, 929.05, 929.15 and/or 929.16 of this Chapter if the Service Director finds, as a result of a demonstration by such regulated person, that alternative design and operating practices and/or release mitigation measures which, together with location characteristics, will prevent the migration of any regulated substance into the ground water or surface water at least as effectively as measures and limitations prescribed in this Chapter or that, in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to the City's well field.

(1) In deciding whether to grant a variance based on a demonstration of equivalent protection of ground water and surface water, the Service Director will consider:

- (A) The nature and quantity of the regulated substances;
- (B) The proposed alternate design and operation and/or release mitigation measures;
- (C) The hydrogeologic setting of the facility, including the thickness of soils present between the tank system and ground water; and
- (D) All other factors that would influence the quality and mobility of the regulated substances and the potential for them to migrate to ground

water or surface water.

- (2) In deciding whether to grant a variance based on a demonstration of no substantial present or potential hazard, the Service Director will consider:
- (A) The potential adverse effects on ground water and surface water, taking into account:
 - (i) The physical and chemical characteristics of the regulated substance in the tank system, including its potential for migration;
 - (ii) The hydrogeological characteristics of the facility and surrounding land;
 - (iii) The persistence and permanence of the potential adverse effects; and
 - (B) The potential adverse effects of a release on ground-water quality, taking into account:
 - (i) The quantity and quality of ground water and the direction of ground-water flow;
 - (ii) The proximity and withdrawal rates of ground-water users;
 - (iii) The current and future uses of ground water in the area; and
 - (iv) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality; and
 - (C) The potential adverse effects of a release on surface-water quality, taking into account:
 - (i) The quantity and quality of ground water and the direction of ground-water flow;
 - (ii) The patterns of rainfall in the region;
 - (iii) The proximity of the tank, container or other thing or area intended to confine a regulated substance to surface waters;
 - (iv) The current and future uses of surface waters in the area and any water quality standards established for those surface waters; and
 - (v) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality; and
- (3) The owner or operator of a tank, container or other thing or area intended to confine a regulated substance, for which a variance from secondary containment had been granted in accordance with the requirements of this Section, at which a release of a regulated substance has occurred from the primary tank, container or other thing or area intended to confine a regulated substance, must:
- (A) Cease use and prevent the flow or addition of regulated substances into the tank, container or other thing or area intended to confine a regulated substance. The owner or operator must immediately stop the flow of regulated substances into the tank, container or other thing or area intended to confine a regulated substance or secondary containment system and inspect the system to determine the cause of the release.
 - (B) Remove all regulated substances from the tank, container or other thing or area intended to confine a regulated substance or secondary containment system.
 - (i) If the release was from the tank, container or other thing or area intended to confine a regulated substance, the owner/operator must, within twenty-four hours after detection of the leak, or, if the owner/operator demonstrates that it is not possible, at the earliest practicable time, remove as much of the regulated substance as is necessary to prevent further release of regulated substances to the environment and to allow inspection and repair of the tank, container or other thing or area intended to confine a regulated substance to be performed.
 - (ii) If the material released was to a secondary containment system, all released materials must be removed within twenty-four hours or in as timely a manner as is possible to prevent harm to human health and the environment.
 - (C) Containment of visible releases to the environment. The owner/operator must immediately conduct a visual inspection of the release and, based upon that inspection:
 - (i) Prevent further migration of the leak or spill to soils or surface water; and
 - (ii) Remove, and properly dispose of, any visible contamination of the soil or surface water.
 - (D) Provision of secondary containment, repair, or closure.
 - (i) Unless the owner/operator satisfies the requirements of paragraphs (D)(ii) to (D)(iv) of this Subsection, the tank, container or other thing or area intended to confine a regulated substance must be closed.
 - (ii) If the cause of the release was a spill that has not damaged the integrity of the system, the owner/operator may return the system to service as soon as the released regulated substance is removed and repairs, if necessary, are made.
 - (iii) If the cause of the release was a leak from the primary tank, container or other thing or area intended to confine a regulated substance into the secondary containment system, the system must be repaired prior to returning the tank, container or other thing or area intended to confine a regulated substance to service.
 - (iv) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner/operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of Section 929.16 before it can be returned to service, unless the source of the leak is an aboveground portion of a tank, container or other thing or area intended to confine a regulated substance that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of paragraph (v) of this Subsection are satisfied. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank, container or other thing or area intended to confine a regulated substance), the entire component must be provided with secondary cotification of major repairs. If the owner/operator has repaired a tank, container or other thing or area intended to confine a regulated substance in accordance with this paragraph (D), and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank, container or other thing or area intended to confine a regulated substance must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, registered professional engineer in accordance with paragraph (D) of rule 3745-50-42 of the Ohio Administrative Code that the repaired system is capable of handling regulated substances without release for the intended life of the system. This certification must be submitted to the Service Director within seven days after returning the tank, container or other thing or area intended to confine a regulated substance to use.
 - (E) Prevent the migration of regulated substances to ground water or surface water, if possible, and decontaminate or remove contaminated soil.

(b) To request a variance under this Section the regulated person shall make application to the Service Director in writing by the regulated person for a variance under this Section explaining why a variance is needed and providing the Service Director with sufficient information to conclude that a variance may be granted pursuant to the requirements of this Section. If a variance is granted under this Section, the Service Director will require the recipient of the variance to construct and operate any tank system for which a variance is granted in the manner that was determined by the Service Director to meet the requirements for the variance.

- (c) The Service Director shall issue a written determination granting or denying the variance requested by a regulated person under this Section.

(d) Except as otherwise provided in this Chapter, an affected regulated person shall have the right to appeal from any determination of the Service Director, made in administering this Section, to the City Manager and to appear before the City Manager at a time and place to be determined by the City Manager.

(Ord. 00-456. Passed 12-19-00.)

(e) Such notice of appeal shall be filed with the City Manager in writing within three (3) days after receipt of the written determination issued pursuant to Subsection (c) of this Section.

(Ord. 99-52. Passed 2-16-99.)

929.99 PENALTIES.

(a) Any owner or occupant of property who fails to abate the existence of a public nuisance as required by Section 929.08 et seq. is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of any provision of this Chapter, a violation of any such provision is a misdemeanor of the fourth degree.

(b) Any person who violates Subsections 929.06 (b) or (c) is guilty of a misdemeanor of the first degree.

(c) Any owner of property who fails to comply with the requirements set forth in this Chapter may have their City water service shut off as described under Chapter 911.17 of the Codified Ordinances.

(Ord. 16-259. Passed 9-13-16.)

(d) In addition to any other penalties set forth in this Chapter, all civil remedies which shall be available to the City, including injunction.

(Ord. 99-52. Passed 2-16-99.)

TITLE FOUR—Engineering Regulations

Chap. 931. Public Infrastructure Improvements.

CHAPTER 931

Public Infrastructure Improvements

931.01 Engineering drawings.

931.02 Existing facilities.

931.03 Streets.

931.04 Storm sewers.

931.05 Sanitary sewers.

931.06 Water mains.

931.07 Street lights.

931.08 Grading plans.

931.01 ENGINEERING DRAWINGS.

(a) Preparation. Developers of private property shall submit to the Service Director or designee for preliminary and final approval, drawings of engineering details of all existing and proposed facilities and utilities which will become the property of, or maintained by, The City of Springfield, Ohio. Drawings shall be prepared by or under the supervision of a registered professional engineer in the State of Ohio and bear his signature and stamp of the seal prescribed by the State Board of Registration for Professional Engineers and Surveyors.

(b) Scale. The plan shall be drawn on a scale of one inch equals 50 feet or less, and the profile shall be drawn on the same scale horizontal with a ten to one exaggeration (example, one inch equals 50 foot horizontal, one inch equals five foot vertical). Details of intersections, cul-de-sacs, and miscellaneous special items shall be drawn at a scale of one inch equals 20 foot.

(c) Bench Marks. All elevations shall be on U.S.G.S. datum and a complete description, location, and elevation of at least two bench marks used shall be shown on the plans. Additional bench marks shall be required if spacing exceeds 1,500 foot. All bench marks disturbed during construction shall be re-established by the developer prior to final acceptance of the improvements by the City.

(d) Specifications and Standard Drawings. All construction and materials shall comply with the current City of Springfield specifications and standard drawings on file in the Service Department. City of Springfield specifications and standard drawings shall be referenced on engineering drawings.

(e) Construction. No construction may begin until the final plans are approved by the Service Director or designee and all fees are paid. The Service Department office shall be notified 48 hours in advance of any construction so that inspection may be provided. This notification policy shall be stated on engineering drawings.

(f) Gas Distribution Plan. A plan of the proposed gas distribution system, showing pipe sizes, location of valves and other facilities. The plan shall be approved by the public utility providing gas and the City before installation may be commenced.

(g) Telecommunications and Electric Distribution System. A plan of the proposed telecommunications (phone & cable) and electric distribution system, showing conduit sizes, and the location of junction boxes, transformers, pedestals and other facilities. The plan shall be approved by the public utility and the City before installation may be commenced.

(h) As-Built Drawings. After the development has been completed, "as-built drawings" shall be turned over to the Service Director or designee. The original engineer or surveyor of record shall certify the "as-built drawings". These plans shall show the following items in detail:

- (1) Water and sewer mains located in reference to the curb line.
- (2) Fire hydrants and water valves.
- (3) Water services.
- (4) Plan and profile of all main sewers including manhole locations.
- (5) House connections (sewer location at curb line referenced to the nearest street right-of-way line and measured along the curb line.)
- (6) Final curb elevations and stationing.
- (7) Grading plan including limits and grades of detention/retention areas.
- (8) Typical sections of all pavements.

These plans shall be submitted in a dwg file and pdf.

(Ord. 95-387. Passed 12-5-95; Ord. 19-289. Passed 12-10-19; Ord. 23-159. Passed 5-23-23.)

931.02 EXISTING FACILITIES.

The existing location of all utilities, buildings, driveways, streets, and topography connecting to the improvement for a distance of at least 200 feet adjacent to the improvement or to the point of connection to existing facilities shall be shown on the plan and profile.
(Ord. 95-387. Passed 12-5-95.)

931.03 STREETS.

(a) The plan shall show the stationing on the centerline of all streets and the station and angle of all intersecting streets. The profile shall show the elevations of the existing ground, the proposed centerline, and the sewer grade as well as the location of all existing and proposed utilities.

(b) All streets within the development shall be improved the full width and length of the proposed street right-of-way to the plat line, and a typical cross section of the new streets shall be shown.

(c) Changes in grade shall be made by vertical curves of minimum length subject to the design standards in the Ohio Department of Transportation Location and Design Manual, latest edition. The point of curvature and point of tangency of all vertical curves shall be stationed, and elevations shall be shown on 25-foot stations along the entire length of the vertical curve.

(d) All street grades shall be centerline grades, and details of drainage and elevations at street intersections shall be shown.

(e) Minimum rate of grade on streets shall be .5 percent or 6 inches per 100 feet on streets with curb and gutter.

(f) Concrete curb, gutter, and sidewalk where required shall be constructed in accordance with the standard drawings and specifications on file in the Service Department.

(g) Manholes and water valves must be adjusted to the finished street surface after the placing of the leveling course but prior to the placing of the finished asphalt course.

(h) The entire right-of-way of all streets shall be graded full width regardless of whether or not sidewalks are required. The design shall be based upon the requirements set forth in the Ohio Department of Transportation Pavement Design and Rehabilitation Manual. Design calculations, including boring logs shall be submitted to the Service Department. All calculations shall be signed and sealed by a professional Engineer registered in the State of Ohio. The asphalt concrete paving shall not be done until all utilities have been installed including all house services. The surface course shall not be paved until all utilities have been accepted by the City.

(i) Cross sections shall be shown every 50 feet and shall be drawn to one inch equals ten foot horizontal and one inch equals five foot vertical. Cross sections are only necessary where three (3) feet or more of structural fill is to be placed.

(j) Signing and pavement markings shall be installed at all appropriate locations. Plans shall be submitted which are designed in accordance with the Uniform Manual Of Traffic Control Devices, latest edition. Street name signs conforming to City of Springfield standards shall be placed at all intersections.

(Ord. 95-387. Passed 12-5-95.)

(k) All traffic signal support devices shall be mast-arm type installations unless deemed impractical by the Service Director or designee.
(Ord. 03-174. Passed 4-29-03; Ord. 19-289. Passed 12-10-19; Ord. 23-159. Passed 5-23-23.)

931.04 STORM SEWERS.

(a) The engineer for the developer shall lay out the street to follow natural drainage as much as possible and avoid low points or pockets between street intersections. If low points between intersections cannot be avoided, drainage easements through the lots shall be provided.

(b) All sewers shall be laid within the street right-of-way wherever possible.

(c) Street storm sewers shall be designed for a ten-year design storm. Storm water management and erosion control for the entire development shall be provided in accordance with Chapter 961. Minimum storm sewer size shall be twelve inch.

(d) Storm sewers shall be constructed at a depth sufficient to serve all the area within the watershed which may drain through the area being developed and deep enough to allow for construction of water mains and sanitary sewers.

(e) Manholes shall be constructed at the junction of two or more sewers at the termini, at all changes in size, alignment, and grade, and at a distance not to exceed 400 feet. For storm sewers 42 inches in diameter and larger, spacing may be increased to 500 feet.

(f) Catch basins shall be constructed on the upstream side of the crosswalks, at all low points in the street, at points where drainage ditches enter the area being developed, at intersections, and on streets at distances not to exceed 400 feet. Cross street drains shall not be used at intersections.

(g) Storm sewers, manholes, catch basins, and appurtenances shall be constructed in accordance with the standard drawings and specifications on file in the Service Department.

(Ord. 95-387. Passed 12-5-95; Ord. 19-289. Passed 12-10-19.)

931.05 SANITARY SEWERS.

(a) Sanitary sewers shall be designed to flow half full. The quantity of sewage shall be determined by use of 100 gallon per day per capita for the entire service or drainage area which may drain through the area being developed, plus wastewater flow from industrial plants and major institutional and commercial facilities. Water use data, or other justification upon which a better flow estimate is based, may be submitted for consideration. In addition, a peaking factor shall be applied which can be calculated using the ratio of peak hourly flow to design average flow chart provided in the *Recommended Standards For Wastewater Facilities*, latest edition. All sanitary sewers shall be designed to have a minimum velocity of two feet per second.

(b) The minimum size of a main sewer shall be eight inches in diameter and shall be constructed in accordance with the specifications for installation of sanitary and storm sewers on file in the Service Department. The minimum size house connection shall be four inch.

(c) Sanitary sewers shall be constructed at a depth sufficient to serve all the tributary area which may drain through the area being developed. The sanitary sewer mains shall be constructed not less than five feet deep and shall be deep enough to provide clearance for storm sewers and water mains and to provide not less than three feet of fall between the hydraulic gradient of the sewer and the basement, but in no case shall the top of the main sewer be less than five feet below the finished street grade.

(d) House connections shall be connected to the main sewer by use of four inch by eight inch, or four inch by twelve inch "Y" branches on eight-inch and twelve-inch sewers and by four inch stubs on sewers larger than twelve inches.

(e) House connections shall be laid on a minimum slope of two percent.

(f) Where a pipe enters a manhole two feet or more above the manhole invert, a drop manhole is necessary. The drop manhole shall have an outside drop connection as shown in the City's standard drawings. Where the difference in elevation between the incoming sewer and manhole invert

is less than two feet, the invert shall be filleted to prevent solids deposition.

(g) Standard manholes shall be constructed at all junctions of two or more sewers, at all changes in size of pipe, at all changes in grade, at all changes in alignment, at the ends of all main sewers, and at intervals not to exceed 400 feet.

(h) Manholes, sewers, and appurtenances shall be constructed in accordance with the standard drawings and specifications on file in the Service Department.

(i) All sanitary sewer plans shall be submitted to the Environmental Protection Agency (EPA) for approval. The developer shall prepare all forms and pay all fees necessary for submission of the plans to the EPA. All sanitary sewer plans shall be prepared in accordance with the Recommended Standards For Wastewater Facilities, latest edition.
(Ord. 95-387. Passed 12-5-95; Ord. 19-289. Passed 12-10-19.)

931.06 WATER MAINS.

(a) Water mains shall be designed in accordance with this section. Water main materials shall conform to City of Springfield Construction and Material Specifications, latest edition, on file in the Service Department. The developer shall consult the City's master water plan before preparing plans.

(b) All streets in the development shall be provided with water mains, valve boxes, and fire hydrants. All single-family residential developments shall be provided with house services and meter boxes. Curb boxes, meter boxes, and valve boxes shall be installed at finished grade and in accordance with City standard drawings.

(c) All water mains shall be sized a minimum of eight inches in diameter as well as to meet usage and fire flow demands unless otherwise specified as follows:

- (1) Lines may be required to be larger than eight inch if identified in the City's master water or facilities plan. Lines may also be required to be larger if an identified need can be documented based on flow or pressure deficiencies or if the City desires to enter into an oversize agreement.
- (2) If a line segment is to be installed that completes a loop, grid, or extends lines of uniform size and no current deficiencies for pressure or flow can be identified, a like diameter pipe size will be installed.
- (3) Should it be determined by the Service Department that inadequate cycling of the water would occur, thus resulting in nonconformance with water quality standards and regulations, alternative line sizing and connection configurations will be identified by the Service Director or designee. The Service Director or designee shall cooperate with the fire official in determining the main size to ensure adequate fire flow demands.
- (4) Waterlines in one- and two-family residential subdivisions may be six-inch diameter if interconnected and looped in segments unless a segment of a main functions as a transmission or supply main through the subdivision.

(d) All water mains and water services shall have a minimum of 48 inches of cover.

(e) All water distribution systems in a subdivision shall be designed with looping for proper water flow. Dead end lines shall be approved by the Service Director or designee, after consultation with the fire official, only if the developer can show no feasible means to loop the lines.

(f) Fire hydrants shall be installed as designated by the City's Fire Division based on the following guidelines:

- (1) Installed along public and/or private water mains at distances no greater than 400 feet apart, as measured along the main, except in areas of one- and two-family residential buildings. Such distances shall be no greater than 500 feet. All fire hydrants shall be placed on lot lines.
- (2) Installed at the end of six-inch lines or greater.
- (3) Installed at street corners ten foot from end of radius.
- (4) Installed as required for maintenance and operational purposes.
- (5) All cul-de-sacs shall have a fire hydrant at the end for fire flow demands.

(g) All water main plans shall be submitted to the Environmental Protection Agency for review. The developer shall prepare all forms and pay all fees necessary for submission of the plans to the Environmental Protection Agency.
(Ord. 95-387. Passed 12-5-95; Ord. 00-456. Passed 12-18-00; Ord. 19-289. Passed 12-10-19.)

931.07 STREET LIGHTS.

(a) A street lighting plan shall be submitted with final construction drawings for any development. The lighting plan may be a separate drawing, or the proposed layout may be shown on the overall plan drawing.

- (1) Street lighting shall be provided on all public roadways in the development.
- (2) Lighting shall be installed to provide for the following lighting levels.
 - (A) Major and Secondary: 1.0 minimum maintained foot-candles.
 - (B) Collector Streets: 0.6 minimum maintained foot-candles.
 - (C) Local Streets: 0.35 minimum maintained foot-candles.
- (3) All lighting plans must be designed and/or approved by the public utility which shall provide power to illuminate and maintain the luminaire, who will assume ownership of the street lighting system after construction.
- (4) Approval of the lighting layout must be secured from the Service Department prior to installation and after approval of the street lighting construction plans by the public utility.

(Ord. 95-387. Passed 12-5-95; Ord. 19-289. Passed 12-10-19; Ord. 23-159. Passed 5-23-23.)

931.08 GRADING PLANS.

(a) A grading plan shall be developed for all proposed developments.

(b) The grading plan shall show the proposed grading of every lot as well as the proposed finished floor elevations of buildings. This may be shown in one of the following ways:

- (1) Proposed elevations shown on lot corners with drainage swales shown where applicable.
- (2) Proposed contours.

(c) If the entire lot will not be disturbed, show a work limit line.

(d) Grading plans shall be one-inch-equals-50-foot scale or less.

(Ord. 95-387. Passed 12-5-95.)

TITLE FIVE—Other Public Services

Chap. 955. Fire Protection Outside City Limits.
Chap. 959. Springfield-Beckley Municipal Airport.

CHAPTER 955

Fire Protection Outside City Limits

- 955.01 Contracts: suburban fire protection services.**
- 955.02 Contracts: suburban emergency medical services.**
- 955.03 Not liable for damages.**
- 955.04 Deposit of money, bonds, or insurance policy.**
- 955.05 Charge for fire service.**
- 955.06 Determining time of service.**
- 955.07 Liability when contracting party a governmental unit.**
- 955.08 Extension of Fire Division services to other subdivisions.**
- 955.09 Charge for emergency medical service.**
- 955.10 City to judge equipment it can furnish.**

CROSS REFERENCES

Fire protection contracts—see Ohio R.C. 9.60

955.01 CONTRACTS: SUBURBAN FIRE PROTECTION SERVICES.

For the purpose of enabling a person or persons, groups of persons, firm or corporation owning property outside the territorial limits of the City but within the territorial limits of the County, to secure stand-by or additional fire protection for such property, the City Manager, as Director of Public Safety, is herewith authorized and directed from time to time to enter into a contract or contracts for a period not to exceed three years from the date of any contract or contracts with any person, group of persons, firm or corporation desiring such service, all of which contracts shall include the following terms and conditions, which covenants, terms and conditions shall not be superseded or nullified by any other terms and conditions which may be included therein, and all of such terms shall be a part of every contract entered into pursuant to the authority herein granted, as follows:

- (a) As consideration for such contract the person or persons, groups of persons, firm or corporation applying for such stand-by or additional fire protection shall pay to the City a fee of one hundred fifty dollars (\$150.00) per year for each year the contract is in effect on a premises containing only a one or two family dwelling and a fee of five hundred dollars (\$500.00) per year for each year the contract is in effect on all other premises or renewal thereof. However, such contract fee shall not be applicable to any such agreement between the City and other political subdivision.
- (b) Each contract shall be terminable upon thirty days' advance notice given by the City to the person contracting with the City.
(Ord. 86-755. Passed 12-16-86.)

955.02 CONTRACTS: SUBURBAN EMERGENCY MEDICAL SERVICES.

For the purpose of enabling a person or persons, groups of persons, firm or corporation occupying property outside the territorial limits of the City but within the territorial limits of the County, to secure stand-by or additional emergency medical services for such property, the City Manager, as Director of Public Safety, is herewith authorized and directed from time to time to enter into a contract or contracts for a period not to exceed three years from the date of any contract or contracts with any such person, group of persons, firm or corporation desiring such service, all of which contracts shall include the following terms and conditions, which covenants, terms and conditions shall not be superseded or nullified by any other terms and conditions which may be included therein, and all of such terms shall be a part of every contract entered into pursuant to the authority herein granted, as follows:

- (a) As a consideration for such contract, the person or persons, groups of persons, firm or corporation applying for such stand-by or additional emergency medical services shall pay to the City a fee of one hundred fifty dollars (\$150.00) per year for each year the contract is in effect on a premises. However, such contract fee shall not be applicable to any such agreement between the City and any other political subdivision.
- (b) Each contract shall be terminable upon thirty days' advance notice given by the City to the person contracting with the City.
(Ord. 87-47. Passed 2-3-87.)

955.03 NOT LIABLE FOR DAMAGES.

The City shall in no case be liable for damages for failure to answer any fire call or emergency medical service call or for lack of speed in answering any such call or for any inadequacy of equipment, negligent operation of apparatus, failure to extinguish any fire or for any cause whatsoever, growing out of contract entered into pursuant to this chapter and use of Fire Division equipment and personnel in connection with any service proposed to be performed hereunder.
(Ord. 87-47. Passed 2-3-87.)

955.04 DEPOSIT OF MONEY, BONDS OR INSURANCE POLICY.

Any such property owner shall deposit with the Director of Finance the sum of two-hundred and fifty dollars (\$250.00) in cash or U.S. bonds with the application hereinafter referred to; or shall furnish the City with the application hereinafter referred to, the certificate of some proper fire insurance company authorized to do business within the State, wherein it is agreed that the obligation on the part of such property owner to pay for fire-fighting service to be rendered, shall, up to not less than three full hours of service be paid to the City by such company, in the event the City apparatus is called into service during the period or term of such contract; provided, however, that the foregoing shall not be required of the State of Ohio or any county or township of the State.

In the event the property owner deposits money as herein permitted, the Director of Finance shall accept the same, give his receipt therefor, and shall hold the same conditioned on such property owner complying with the terms of Section 955.05.

Moneys so received shall be deposited by the Director of Finance in the City Treasury to the credit of such property owner. At the termination of the contract, such moneys so deposited shall be returned to the property owner who deposited same, after deducting any charges due the City.
(Ord. 82-118. Passed 3-23-82.)

955.05 CHARGE FOR FIRE SERVICE.

Any owner entering into a contract with the City pursuant to Section 955.01 shall agree to pay to the City the following sums for suburban fire protection services:

Each Paramedic Ambulance	\$300.00 per hour or fraction thereof
Each Fire Apparatus	\$300.00 per hour or fraction thereof
Each Chief Officer	\$100.00 per hour or fraction thereof

The decision as to the amount of firefighting apparatus required on any given fire call shall rest with the Fire Chief. Such amounts are to be paid upon vouchers submitted to the owner by the City within forty-five (45) days after any such call.

(Ord. 06-68. Passed 2-28-06.)

955.06 DETERMINING TIME OF SERVICE.

The time involved in any fire call or emergency medical service call shall be determined upon departure of the apparatus from its respective station or stations in the City, and shall continue until such apparatus has returned to the quarters.

(Ord. 87-47. Passed 2-3-87.)

955.07 LIABILITY WHEN CONTRACTING PARTY A GOVERNMENTAL UNIT.

In no event shall the City be liable for damages to any such property owner, property occupant, nor to the inhabitants at any such township, village or city, in the event such contracting party is a township, village, or city, for failure to answer any fire or emergency medical service call, or for lack of speed in answering any such call, or for any inadequacy of equipment, incompetent operation of apparatus, failure to extinguish any fire, or for any cause whatsoever, growing or arising out of any agreement entered into by virtue of the authority herein granted, or by reason of the use of the fire equipment, emergency medical service equipment and personnel of the City.

(Ord. 87-47. Passed 2-3-87.)

955.08 EXTENSION OF FIRE DIVISION SERVICES TO OTHER SUBDIVISIONS.

In order to provide fire protection, or to provide additional fire protection in times of emergency, the services of the Fire Division of the City may be extended to any other political subdivision of the State, the decision as to the necessity and feasibility of the extension of such service in response to a particular call or request therefor to be made by the Chief of the Fire Division, or, in his absence, by the Assistant Chief or other officer in charge at the time such call or request is received.

(Ord. 71-203. Passed 11-2-71.)

955.09 CHARGE FOR EMERGENCY MEDICAL SERVICE.

Any occupant entering into a contract with the City pursuant to Section 955.02 shall agree to pay to the City the following sums for emergency medical service rendered:

Each Paramedic Ambulance	\$300.00 per hour or fraction thereof
Each Fire Apparatus	\$300.00 per hour or fraction thereof
Each Chief Officer	\$100.00 per hour or fraction thereof

The decision as to the amount of emergency medical service equipment and personnel required on any given call shall rest with the Fire Chief. Such amounts are to be paid upon vouchers submitted to the occupant by the City within forty-five (45) days after any such call.

(Ord. 06-68. Passed 2-28-06.)

955.10 CITY TO JUDGE EQUIPMENT IT CAN FURNISH.

The City shall be the sole judge of the number and type of fire equipment, the amount of emergency medical service equipment, and of the number of personnel it can furnish at any fire or emergency medical service call as provided for herein.

(Ord. 06-68. Passed 2-28-06.)

CHAPTER 959

Springfield-Beckley Municipal Airport

(EDITOR'S NOTE: The regulations in Sections 959.01 to 959.99 were adopted by Ordinance 99-229, passed July 13, 1999.)

959.01 Purpose.

959.02 References.

959.03 Definitions.

959.04 Renting airport space.

959.05 Standards for commercial aeronautical activities.

959.06 Applications format and procedures.

959.07 Minimum requirements.

959.08 Minimum activity requirements.

959.09 Mandatory lease clauses.

959.10 Minimum insurance requirements.

959.11 Specialty commercial aeronautical activities requirements.

959.12 General Fixed Base Operator.

959.13 Other aeronautical-related commercial activities.

- 959.14 Prohibition.**
- 959.15 Injunction.**
- 959.16 Fuel flowage fees.**
- 959.99 Penalty.**

CROSS REFERENCES

Endangering aircraft - see Ohio R.C. 2909.08
 Aeronautics - see Ohio R.C. Ch. 4561
 Airports - see Ohio R.C. Ch. 4563
 Airports and temporary fields - see OAC Ch. 5501:1-1
 Heliports - see OAC Ch. 5501:1-5

959.01 PURPOSE.

This chapter establishes the minimum standards for the conduct of civil commercial aeronautical activities at the Springfield-Beckley Municipal Airport, Ohio.

These standards provide, through the granting of certain privileges, the minimum activities of general aviation airport services required by the public of a metropolitan area. Through the granting of these privileges and establishment of the requirements, it is felt that the Springfield-Beckley Municipal Airport will best be able to ensure availability and continuance of service in a safe and efficient manner. To conduct an activity at the Springfield-Beckley Municipal Airport, it shall be necessary to meet the criteria and requirements, as set forth by the City for those activities as specifically required by these rules and regulations.

959.02 REFERENCES.

The following publications were used in the development of this chapter:

- (a) Federal Aviation Agency (FAA) Advisory Circular (AC) No. AC150/5190-1A; Minimum Standards for Commercial Aeronautical Activities on Public Airports, December 16, 1985.
- (b) Federal Aviation Agency (FAA) Advisory Circular (AC) No. AC150/5190-2A; Exclusive Rights at Airports, April 4, 1972.
- (c) FAA Handbook ASP 5190.6 "Airports Compliance Requirements".
- (d) Springfield Municipal Airport Master Plan; Phase 2 - July 1980.
 (Ord. 01-299. Passed 8-21-01.)

959.03 DEFINITIONS.

As used herein, the following terms shall have the meanings indicated:

- (a) "Standard(s)" means one or more qualifications which may be established as minimum requirements to be met as a condition for the right to conduct an activity at the Municipal Airport.
- (b) "Commercial aeronautical activity" means any aeronautical activity conducted in or from Airport property which involves the operation, maintenance or servicing of aircraft where either:
 - (1) The activity is performed for money or other valuable consideration, or
 - (2) The activity is performed by a for profit corporation, partnership, company, trust or other legal entity, or
 - (3) The activity is performed on an aircraft not owned or leased by the performer of the activity.
 Aeronautical activity shall include, but not be limited to all activities commonly conducted in airports, such as charter operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, flying clubs, aerial advertising and surveying, air carrier operations, aircraft sales, aircraft maintenance (which term includes aircraft inspections which must be performed by a FAA licensed inspector and made pursuant to applicable Federal Aviation Regulations), sale of aircraft fuels and consumables, and the servicing/installation of aircraft components. However, the following are activities which by themselves do not constitute aeronautical activities: professional services where any aircraft operation is only incidental to the service (FAA medical examination, engineering activities involving airport siting and zoning, and legal services involving aircraft operation), food preparation and sales (including catering for in-flight meals) and sales of aeronautical accessories either by mail or over-the-counter (installation of these accessories may be an aeronautical activity).
- (c) "Airport" and "Municipal Airport" mean the Springfield-Beckley Municipal Airport, Ohio.
- (d) "City" means the City of Springfield, Ohio.
- (e) "Board" means the Springfield Municipal Airport Advisory Board.
- (f) "Commission" means the Springfield City Commission.
- (g) "Division of Aviation" means the division within the City government established by public law to manage the aeronautical activities of the Municipal Airport.
- (h) "Airport Manager" means the person appointed by the City's City Manager to be the Manager of the Springfield-Beckley Municipal Airport.
- (i) "Airport layout plan" means the currently approved, scaled dimensional layout of the entire Airport properties, indicating current and proposed usage for each identifiable segment as approved by the Commission and amended from time to time.
- (j) "Person" means any person, firm, general or limited partnership, limited liability company, corporation, trust or association making application for, leasing or using any land or facility at the Airport.
- (k) "General Fixed Base Operator" (GFBO) means a person, firm or corporation subject to the provisions of a lease and a nonexclusive license engaging in:
 - (1) three or more specialty commercial aeronautical activities; or
 - (2) two or more specialty commercial aeronautical activities with fuel dispensing operations.
- (l) "Specialty Fixed Base Operator" (SFBO) means a person, firm or corporation subject to the provisions of a lease and a nonexclusive license engaging in two or fewer specialty commercial aeronautical activities.
- (m) "Specialty commercial aeronautical activities" means those activities identified in these regulations as being activities which may be used to receive credit for designation as a General Fixed Base Operator.
- (n) "Other aeronautical related commercial activities" means a person, firm or corporation subject to the provisions of a nonexclusive license engaging in commercial activities which do not by themselves constitute an aeronautical activity but may support aeronautical activities; however, the term does not include pilot examinations performed by a pilot examiner who is certified pursuant to Federal Aviation Regulations and who does not occupy facilities located on the Airport, such services being unregulated by this Chapter.
- (o) "Commercial operator" means a person who provides for compensation or hire goods or services to others in or from the Airport.
- (p) "Fuel dispensing operations" means dispensing fuel for sale, either directly or indirectly, to the public, as distinguished from dispensing fuel exclusively for use in a fixed base operator's owned or leased aircraft or vehicles.

959.04 RENTING AIRPORT SPACE.

Any person engaged in aviation activities at the Municipal Airport who leases or rents from the City either an aircraft tiedown space or an aircraft hangar space solely for the storage of his/her aircraft is prohibited from conducting any commercial aeronautical activity and/or other aeronautical related commercial activity from the space leased or rented unless he/she is in compliance with these standards.

959.05 STANDARDS FOR COMMERCIAL AERONAUTICAL ACTIVITIES.

The City has established standards for commercial aeronautical activities at the Airport. The following space requirements are to be used in determining the space needs for the activities listed below:

- (a) Office: Not less than fifty square feet per employee.
- (b) Public restrooms: In conformance with applicable building code.
- (c) Off-street parking: 1.5 parking spaces per employee.
- (d) Briefing and/or classroom: Not less than 124 square feet.
- (e) Lobby area: Not less than 124 square feet.
- (f) Aircraft storage: Sized for aircraft submitted in the proposal.
- (g) Aircraft maintenance and/or repair area: Not less than 4,800 square feet with the repair/maintenance area having an interior clear span height of not less than seventeen feet except for structures existing on or before July 1, 1982.

The requirements for items (a) to (e) above shall be in addition to the space requirements for aircraft storage and/or the maintenance and/or repair area.

Any detached occupied building constructed shall contain not less than 1,000 square feet.

All structures shall be designed and built as permanent structures.

All plans for the improvements of land and buildings shall be submitted with the certification of either a registered architect and/or registered engineer.

The City shall be solely responsible to determine if the site improvements conform to the standards set forth in these regulations.

In the event two or more activities require the same space needs (e.g., restrooms) the City may allow the space to be combined to meet each activity's space requirements. If the applicant wishes to do this, the application shall reflect this combined space approach.

Fuel dispensing operations may only be engaged in by a GFBO.

(Ord. 01-299. Passed 8-21-01.)

959.06 APPLICATIONS FORMAT AND PROCEDURES.

Applications for leases of ground and/or facilities in the Airport, or for permission to carry on any commercial aeronautical activity or any other aeronautical related commercial activity in the Airport, with the necessary permits and licenses, shall be filed with the Airport Manager in writing along with an application processing fee of Twenty-Five Dollars (\$25.00). The applicant shall submit all information and material necessary, or requested, to establish to the satisfaction of the City that the applicant will qualify and will comply with these rules and regulations. The application shall be signed and submitted by a party authorized to sign for the business. A listing of names, including all interested parties, shall be submitted with the application.

- (a) Minimum Application Information/Format. The City shall not accept or take action on a request until after the interested party submits, in writing, a proposal which sets forth the scope of the proposed operation(s). The application shall include:

- (1) The legal name and address of the applicant.
- (2) The proposed land use, facility and/or activity.
- (3) The names and qualifications of the personnel to be involved in conducting such activity.
- (4) The financial responsibility and ability of the applicant and operator to perform and provide the activity sought for a minimum of three months.
- (5) The tools, equipment, services and inventory, if any, proposed to be furnished in connection with such activity.
- (6) The requested or proposed date for commencement of the activity and the term of conducting the same.
- (7) The estimated cost of any structure or facility to be furnished, the proposed specifications for the same and the means or method of financing such.
- (8) The specific types and amounts of insurance proposed in accordance with minimum requirements for the activity.
- (9) Names and a financial statement of proposed guarantors of the lease.
- (10) Submission of a pro forma operating statement for first year.

- (b) Supporting Documents. The applicant shall submit the listed supportive documents to the Airport Manager. Other documents and information may be requested by the Airport Manager.

- (1) Financial statement: A current financial statement certified or prepared by a certified public accountant.
- (2) Assets: A written listing of the assets owned or proposed to be purchased which will be used in the business in the airport.
- (3) Credit report: A current credit report covering all areas in which the applicant has done business up to the past ten years.
- (4) Authorization for release of information: A written authorization for the FAA and CAB and all aviation or aeronautic commissions, administrators or departments of all states in which the applicant has engaged in aviation business to supply the Airport Manager with all information in their files relating to the applicant or his operation. The applicant shall execute such forms, releases and discharges as may be requested by any of these agencies.
- (5) Aircraft: Copies of aircraft registration(s) and/or lease agreement(s) showing the type and number of aircraft to be used by the applicant in his/her proposed activities.

- (c) Action by City Manager. The City Manager shall convene a committee comprised of the Airport Manager, the Chairman of the Airport Advisory Board, a city attorney and such other persons as the City Manager deems advisable to consider the application, negotiate the terms of a lease and/or license and thereafter make a recommendation to the City Manager.
- (d) The City may lease any Airport property now or hereafter owned by the City on such terms and conditions as the City may prescribe by negotiation, public auction or sealed bids. All leases made pursuant to public auction or sealed bids shall be made to a responsible bidder at the highest and best rental bid, in accordance with normal bid procedures.
- (e) The City shall be the sole authority in determining the financial capability and capacity of persons proposing activities on the Airport.
- (f) If the City Manager is able to determine that an applicant meets all requirements and standards pertaining to the type of commercial activity for which a license is sought, the City Manager shall issue a license to the applicant; otherwise no license shall issue to the applicant. Licenses issued pursuant to this Chapter shall expire on the expiration date of the lease entered into between the City and the applicant related to the license. In the event the City terminates a lease entered into pursuant to this Chapter, the license related to such

terminated lease shall expire at the same time such lease termination becomes effective.

959.07 MINIMUM REQUIREMENTS.

No person shall be granted an exclusive right to conduct any commercial aeronautical activity or any other aeronautical related commercial activity in the Airport. No person shall be permitted to use any land or structure to conduct any commercial aeronautical activity or any other aeronautical related commercial activity or the solicitation of business unless in accordance with the standards herein established.

Prior to the leasing of any space, whether ground or building, and prior to commencing any operation or business in the Airport, a prospective lessee shall present evidence satisfactory to the City that the prospective lessee meets the minimum standards established herein for engaging in such business in the Airport. The City, as owner of the Airport, may engage in such activities as it deems to be appropriate and in its best interest.

- (a) The lessee shall, prior to exercising the privileges of the lease, obtain and during the term of his lease, keep current all State, Federal and local licenses required for each phase of his/her Airport activity and comply at all times during the term of his/her lease with all Federal, State and local laws and regulations.
- (b) Upon execution of the lease agreement, and before the applicant is given possession of the leasehold, the applicant shall post a performance bond of eighty percent (80%) of the amount of the total estimated construction cost of all leasehold capital improvements to be erected by the applicant, guaranteeing the construction of all such facilities in accordance with the plans and specifications thereon within the time specified under the lease. If such construction or improvements are valued at less than ten thousand dollars (\$10,000), no performance bond is required.
- (c) Before the applicant is given possession of the leasehold, the applicant shall provide the City with a surety bond in the amount equal to two months of the annual lease guaranteeing payment of rentals reserved under the lease.
- (d) Each lessee is expressly prohibited from conducting any activity at the Airport other than as provided for by the lease.
- (e) If the nature of the activity to be conducted by the lessee requires an environmental impact statement, the lessee, at his/her expense, shall prepare and submit such a statement to measure the effect of the activity to be conducted on the ecology of the area which may be impacted.
- (f) Each activity to be conducted by the lessee shall be conducted and located in conformity with the Airport Master Plan, Airport Operations Manual and the Airport Layout Plan, in effect at this time and as may be amended from time to time.
- (g) All leasehold improvements shall be constructed in accordance with detailed construction plans and specifications which shall be submitted to the Airport Manager and have approval of the City. All construction shall meet the building code requirements of all applicable governing bodies.
- (h) The prospective lessee shall disclose if the applicant has previously been held in default of any lease agreement, contract, license or permit relating to the operation of a business by a court of law or other cognizant legal authority.
- (i) The prospective lessee shall have a satisfactory credit rating. Refusal to submit necessary information for making a credit appraisal shall disqualify the applicant from further consideration.
- (j) The prospective lessee shall demonstrate a current financial net worth showing that he/she holds unencumbered current assets in a total amount equaling at least three months' estimated maintenance and operating expenses. Applicant shall also demonstrate that he/she has the capital required or unconditional financial backing sufficient to construct all leasehold improvements required by these standards and shall unconditionally commit to such construction within a specified period of time. If commitments of the lease are not followed, the City may, at its option, take necessary steps to foreclose on the performance bond.
- (k) All structures and improvements hereafter erected or placed on the leasehold shall require the lessee to obtain the prior written approval thereof from the FAA. For approval by the FAA, the lessee shall submit thereto, in triplicate, "Notice of Construction or Alteration" on FAA Form 7460-1, properly completed and accompanied by a map or sketch, prepared at a scale large enough to permit evaluation of the proposed buildings or structures with respect to airspace utilization and FAA Technical Standard Ord. N-18 and showing the height and dimensions of such buildings or structures and their relationship to the Airport.

959.08 MINIMUM ACTIVITY REQUIREMENTS.

(a) Term of Lease. A ground lease with no leasehold improvements existing at the time of the lease shall only be for a period of time sufficient for the lessee to amortize his/her cost of fixed capital improvements such as, but not limited to, construction of buildings, improvements and paving of parking lots or tiedown areas. The term of the lease shall be commensurate with the value of the leasehold improvement. If no leasehold improvement is made, the term of the lease shall be negotiable.

(b) Condition of Lease. In all leases where the lessee constructs improvements or alters existing improvements to the leased premises, including but not limited to buildings, parking lots, hangars and parking aprons, such improvements shall become the property of the City at the termination of the lease unless the City determines that it would not be in its best interest to own such improvements. In that event, the lessee shall remove such improvements within sixty days of the termination of the lease at the lessee's sole expense.

(c) City Buy-out of Improvements. The City, at its option, may purchase any and all leasehold improvements or alterations to existing improvements to the leased premises. The purchase by the City shall be at a negotiated price and be included in the lease. Such prices shall be on a pro-rated basis defined in the lease during the term of the lease.

(d) General.

- (1) Building space requirements may be provided in one building, attached buildings or separate buildings.
- (2) All applicants and their employees who are required to hold licenses and permits shall maintain such licenses and permits during the course of the lease agreement.
- (3) All persons offering any of the services or combinations thereof may do so only under written lease or agreement with the Airport owner.

(e) Rates and Charges. All leases shall be subject to negotiations with the City. Such leases may include but not be limited to the following financial arrangements:

- (1) A standard rate: All lessees may pay to the City a standard rate which shall be determined by the fair market value of the properties leased by the City to the lessee and remuneration for ancillary services and privileges provided by the City to the lessee.
- (2) Percentage rental: In all leases except leases for nonrevenue producing commercial activities, the lessee may pay to the City, in addition to the standard rate, such percentage of the gross revenue of the lessee's activities conducted at the Airport as is mutually agreed to by both parties.
- (3) In addition, the City may impose upon the lessee, by lease, such other charges and fees as may be appropriate under the circumstances.

(f) The provisions of these minimum standards shall in no way negate or cause to be null or void existing leases with the Fixed Base Operators and Airport tenants at the Municipal Airport. No new leases or renewals shall be executed with persons at the Airport, nor shall amendments to existing leases be executed unless they are made subject to the provisions of these minimum standards.

(g) Any commercial aeronautical activity not listed under SFBO or GFBO activities shall be reviewed and approved on its own merit as the occasion or need arises and shall then be included in these minimum standards.

959.09 MANDATORY LEASE CLAUSES.

(a) Lessee agrees to operate the premises leased for the use and benefit of the public:

- (1) To furnish good, prompt and efficient service, adequate to meet all the reasonable demands for its service at the Airport.
- (2) To furnish such service on a fair, equal and nondiscriminatory basis to all users thereof.
- (3) To charge fair, reasonable and nondiscriminatory prices for each unit of sale or service, provided that the lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions.

(b) The lessee, his/her agents and employees shall not discriminate against any person or class of persons by reason of race, color, creed, sex, national origin, or sexual orientation in providing any service or in the use of any of its facilities provided for the public, in any manner prohibited by part 152 of the Federal Aviation Regulations. The lessee further agrees to comply with such enforcement procedures as the United States might demand that the lessor take in order to comply with the sponsor's assurances.

(c) The lessor shall be responsible for the payment of all property taxes for the areas leased to it. The lessee shall be responsible for the payment of all other taxes whether City, State or Federal which arise or may arise as a result of its operation conducted on the leased premises.

(d) It is understood and agreed that nothing contained in the lease shall be construed to grant or authorize the granting of an exclusive right of service.

(Ord. 18-24. Passed 1-30-18.)

959.10 MINIMUM INSURANCE REQUIREMENTS.

The lessee shall be fully responsible and assume all risks from fire, storms and accidents to their own employees or the general public and shall take out and maintain appropriate insurance coverage as agreed to in the lease. Such insurance coverage shall be maintained during the term of the lease agreement. The City shall be named as an additional insured on each policy and shall be provided evidence of the existence of stipulated insurance in the form of copies of insurance policies or certificates of insurance. The City shall be given at least thirty days' written notice of policy alterations, cancellations or deletions.

The lessor reserves the right to increase or decrease the amount of minimum coverage required, commensurate with the type and extent of service to be performed.

The lessee shall protect the public and the City from any and all lawful damages, claims or liability caused by its operations at the Airport; and at its sole cost and expense, provide premises liability in the minimum amount of one million dollars (\$1,000,000) combined single-limit, bodily injury and property damage. In addition, the City may require the lessee to provide product liability insurance in a minimum amount of one million dollars (\$1,000,000) combined single-limit, bodily injury and property damage.

Where applicable, the lessee shall be required to provide and keep in force, during the term of the lease, hangarkeepers liability insurance with the minimum amount being one hundred thousand dollars (\$100,000) per aircraft for each occurrence.

959.11 SPECIALTY COMMERCIAL AERONAUTICAL ACTIVITIES.

The following specialty commercial aeronautical activities that are offered and/or provided, for compensation, in or from the Airport shall comply with the requirements set forth below. These activities are credited to the person in fulfillment of General Fixed Base Operator requirements. Any person engaging in two or fewer of the below listed activities shall be considered a "Specialty Fixed Base Operator". If a person engages in three or more of the below listed activities or two with a fuel dispensing operation, then the person shall comply with the regulations for a General Fixed Base Operator.

(a) Aircraft Sales and/or Aircraft Rental. Any person wanting to engage in the sale or lease of new or used aircraft shall lease and/or provide as a minimum the following:

- (1) Land. The leasehold shall contain sufficient space for building(s), aircraft storage and off-street parking.
- (2) Building(s). Lease or construct properly lighted and heated space for office, lobby area, and public restrooms.
- (3) Personnel. One person having a valid FAA pilot certificate with ratings appropriate for the types of aircraft offered for sale or lease.
- (4) Services. Provide for adequate servicing of aircraft and accessories during warranty periods (new aircraft only).
- (5) Hours of operation. The normal operating hours shall be at the operator's discretion. However, operator shall be open not less than twenty hours per week and should be reasonably available to the public.

(Ord. 01-299. Passed 8-21-01.)

(b) Flight Instruction. Any person wanting to engage in pilot flight instruction, including ground school, and/or aircraft rental shall provide as a minimum the following:

- (1) Land. The leasehold shall contain sufficient space for building(s), aircraft storage, and off-street parking.
- (2) Buildings. Lease or construct properly lighted and heated space for classroom and/or briefing room, lobby area, office, and public restroom facilities.
- (3) Personnel. One person holding a valid commercial pilot certificate with ratings appropriate for the types of aircraft offered for rent. If flight instruction is offered, that person should hold a current flight instructor certificate with ratings appropriate to the type of training offered.
- (4) Aircraft. Not less than one properly certificated aircraft owned or leased in writing to the lessee. If flight instruction is offered, such aircraft shall be equipped for flight instruction.
- (5) Hours of operation. The normal operating hours shall be at the operator's discretion, but he/she should be reasonably available to the public.

(Ord. 01-299. Passed 8-21-01.)

(c) Charter Operations. Any person wanting to engage in charter operations shall hold an FAA Air Taxi/Commercial Operator (ATCO) certificate (issued under FAR Part 135) or an Air Carrier/Commercial Operator certificate (issued under FAR Parts 121 or 127) with operations specifications covering the services offered and all certificates required by the Civil Aeronautics Board. The following shall be provided at a minimum:

- (1) Land. The leasehold shall contain sufficient space for building(s), aircraft storage and off-street parking.
- (2) Building(s). Lease or construct properly lighted and heated space for office, lobby area and public restrooms.
- (3) Aircraft. At least one properly certified four-place aircraft or aircraft with not less than 500 pounds payload capacity owned or leased by the person.
- (4) Hours of operation. Normal operating hours open not less than five days a week. Hours of operation for commercial operators are at the lessee's discretion.
- (d) Airframe and Powerplant Repair. Any person wanting to engage in airframe and power plant repair service shall provide as a minimum the following:
 - (1) Land. The leasehold shall contain sufficient space for building(s), aircraft storage and off-street parking.
 - (2) Buildings. Lease or construct properly lighted and heated space for aircraft maintenance area, office, lobby area and public restrooms. The aircraft maintenance area shall meet State and local industrial code requirements.
 - (3) Personnel. Not less than one person currently certified by FAA with ratings appropriate for work being performed.
 - (4) Equipment. Sufficient equipment, supplies and availability of parts to perform maintenance in accordance with manufacturer's recommendations or equivalent for the work being performed.
 - (5) Hours of operation. Normal operating hours open not less than five days a week.
 - (e) Aircraft Accessories Installation and Repair. Any person wanting to engage in the installation or repair of aircraft accessories, including avionics and aircraft instruments, shall provide as a minimum the following:
 - (1) Land. The leasehold shall contain sufficient space for building(s), and off-street parking.
 - (2) Buildings. Lease or construct properly lighted and heated space for work area, office, lobby area, and public restrooms. The work area shall meet State and local industrial code requirements.
 - (3) Personnel. Not less than one person with ratings, licenses and permits appropriate for work being performed.
 - (4) Equipment. Sufficient equipment, supplies and availability of parts to perform maintenance in accordance with manufacturer's recommendations or the equivalent for the work being performed.
 - (5) Hours of operation. Normal operating hours open not less than five days a week.

959.12 GENERAL FIXED BASE OPERATOR.

A General Fixed Base Operator shall be a primary business commercial operator providing:

- (a) Three or more of the above SFBO activities; or
- (b) Two or more of the above SFBO activities plus aircraft fueling services, who shall be authorized to do business or to provide goods or services for compensation at the Airport. If a person offers three or more of the SFBO activities, the person has the option of engaging in fuel dispensing operations; provided, the GFBO complies with the requirements contained in division (d) of this section.
- (c) Any business wanting to be an GFBO shall meet the minimum requirements set out below:
 - (1) Land. The leasehold for multiple activities shall contain space to provide for use area requirements established for the service to be offered (use spaces need not be additive where combination use can be reasonably and feasibly established).
 - (2) Building(s). Lease or construct a building(s) to provide properly lighted and heated space for office, public lounge, public telephone, briefing and/or classroom and public restrooms. All SFBO activities used to meet GFBO status shall conform to the space and use requirements of the specific SFBO activity engaged in.
 - (3) Personnel. The personnel required for each SFBO operation shall be required. However, multiple responsibilities may be assigned qualified personnel to meet these personnel requirements.
 - (4) Aircraft. All requirements for the specific SFBO activities shall be met. Multiple use of aircraft, where appropriate, can be used to meet these requirements. However, if aircraft are required for any of the SFBO operations used to obtain GFBO status, then a minimum of two properly certificated aircraft shall be owned or under the direct control by lease and based on the lessee's leasehold.
 - (5) Equipment. All equipment specifically required for each activity shall be provided.
 - (6) Services. All services specifically required for each activity shall be provided during the hours of operation.
 - (7) Hours of operation. The hours of operation shall be eight hours a day, five days a week.
- (d) If the GFBO proposes to provide fuel dispensing operations, the person shall provide as a minimum the following services and facilities in addition to the requirements of the SFBO activities undertaken to obtain GFBO status:
 - (1) Land. The leasehold shall contain sufficient space to provide for buildings, aircraft parking area equipped with six tiedowns and aviation fueling equipment.
 - (2) Personnel. One properly trained person shall be on duty during operating hours.
 - (3) Aircraft service equipment. Shall comply with fueling precautions and procedures of the Municipal Airport.
 - (4) Flight line services. The following services shall be provided by the GFBO at a minimum:
 - A. Fuel, park, and tiedown of aircraft.
 - B. Wash aircraft.
 - C. Inflate tires.
 - D. Sell lubricating oil.
 - E. Sell fuel anti-ice fluid.
 - F. Provide transportation for aircraft occupants from parking ramp to office.
 - (5) Fueling facilities. Applicant shall construct or lease two metered filter-equipped fuel storage tanks for dispensing aviation gasoline and jet fuel on the Airport premises in areas designated by the Airport Layout Plan. The storage tanks shall have a minimum capacity of 8,000 gallons for aviation gasoline and 10,000 gallons for jet fuel. If mobile dispensing trucks are used, each truck shall have a minimum capacity of 1,000 gallons for gasoline and 1,000 gallons for jet fuel. Separate dispensing pumps and meters for each grade of fuel is required.
 - (6) Hours of operation. Fueling service shall be provided seven days per week, a minimum of twelve hours per day.
 - (7) Fuel commitment. Persons wanting to fuel aircraft shall demonstrate that they have a commitment from a fuel supplier to supply all fuel. Such commitment shall be in writing from the fuel supplier and shall specify the types and volumes of fuel available to the applicant.
 - (8) Fuels required. One of the following aviation gasoline grades shall be provided:
 - 100/130 octane avgas
 - 100 octane low-lead avgas (100 LL)
 One of the following jet fuel grades shall be provided:
 - JP-4
 - JP-5

Jet-A

If fuels other than those required in this section are offered, then the requirements pertaining to tank capacity need not apply to these additional fuels.

959.13 OTHER AERONAUTICAL RELATED COMMERCIAL ACTIVITIES.

(a) Any person wanting to engage in the other aeronautical related commercial activities other than those listed as specialty commercial aeronautical activities or dispensing of fuel and which support aeronautical activities shall comply with these requirements listed in this section. Activities which fall under this definition may include the following:

- (1) Banner towing and aerial advertising;
- (2) Aerial photography or survey;
- (3) Firefighting or fire patrol;
- (4) Power line or pipeline patrol;
- (5) Agricultural aerial applications;
- (6) Professional services where aeronautical activity is more than incidental to the services;
- (7) Aircraft inspections which must be performed by a FAA licensed inspector and made pursuant to applicable Federal Aviation Regulations.

(b) These commercial activities shall not be credited toward General Fixed Base Operator or Specialty Fixed Base Operator status.

(c) Each applicant wanting to engage in other commercial aeronautical activities shall make application pursuant to Section 959.06 and provide to the Airport Manager in writing the following:

- (1) A full description of the proposed other aeronautical related commercial activity;
- (2) If needed, a copy of any waiver to any FAR's required or used in the proposed operations;
- (3) If needed, a copy of any restrictions placed on any aircraft not certificated in the standard airworthiness category.

(d) The space and terms of the lease shall be negotiated between the applicant and the City. However, it is the City's intent to control commercial activities in or from the Airport to assure that such activities are in the best interest of the public.

959.14 PROHIBITION.

No person shall perform commercial aeronautical activities or other aeronautical related commercial activities on the premises of the Springfield-Beckley Municipal Airport unless such activities are performed under the authority of a valid license issued pursuant to Section 959.06 of this Chapter.

959.15 INJUNCTION.

In addition to other remedies which the City may have to enforce this chapter, the City may also seek a court injunction against continued violation of this chapter and any order issued pursuant thereto.

959.16 FUEL FLOWAGE FEES.

General Fixed Base Operators and Specialty Fixed Base Operators shall pay to the City a Fuel Flowage Fee of ten cents (10¢) per gallon on each gallon of fuel pumped from a fuel tank owned by the City and leased to the General Fixed Base Operator or the Specialty Fixed Base Operator. The City Manager may promulgate regulations specifying times for payment of the Fuel Flowage Fee, for reporting of fuel flowage by the General Fixed Base Operators and the Specialty Fixed Base Operators and for audits of such reports. All fuel measuring devices used by General Fixed Base Operators and the Specialty Fixed Base Operators in connection with pumping fuel from a fuel tank owned by the City and leased to the General Fixed Base Operator or the Specialty Fixed Base Operator must be certified accurate in compliance with all applicable laws and regulations.

(Ord. 08-222, Passed 7-15-08; Ord. 16-282, Passed 10-11-16.)

959.99 PENALTY.

Except as otherwise provided, whoever violates any provision of this chapter, or any rule, regulation or order issued thereunder, shall be guilty of a misdemeanor of the third degree, punishable by a fine of not more than five hundred dollars (\$500.00) or by imprisonment not exceeding sixty days, or both such fine and imprisonment.

TITLE SIX - Stormwater Regulations

Chap. 961. Regulations. (Rewritten in its entirety by Ord. 15-87.)

Chap. 963. Administration. (Repealed by Ord. 15-87.)

Chap. 971. Floodplain Regulations.

CHAPTER 961

Comprehensive Stormwater Management

961.01 Purpose and scope.

961.02 Definitions.

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961.05 Comprehensive stormwater management plan - development plan.

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961.08 Compliance with state and federal regulations.

961.09 Comprehensive stormwater management plans - plan content.

961.10 Performance standards.

- 961.11 Maintenance and final inspection approval.**
- 961.12 Amendments to the comprehensive stormwater management plan.**
- 961.13 Fees.**
- 961.14 Violations.**
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961.01 PURPOSE AND SCOPE.

(a) The purpose of this regulation is to establish technically feasible and economically reasonable stormwater management standards to achieve a level of stormwater quality and quantity control that will minimize damage to property and degradation of water resources and will promote and maintain the health, safety, and welfare of the citizens of the City of Springfield.

(b) This regulation prohibits illicit connections to the stormwater system and requires owners who develop or redevelop their property within the City of Springfield to:

- (1) Control stormwater runoff from their property and ensure that all stormwater management practices, facilities and improvements are properly designed, constructed, and maintained.
- (2) Reduce water quality impacts that may be caused by new development or redevelopment activities.
- (3) Control the volume, rate, and quality of stormwater runoff originating from their property so that surface water and ground water are protected and flooding and erosion potential are not increased.
- (4) Minimize the need to construct, repair, and replace subsurface storm drain systems.
- (5) Preserve natural infiltration and ground water recharge, and maintain subsurface flow that replenishes water resources, except in inappropriate soils.
- (6) Incorporate stormwater quality and quantity controls into site planning and design at the earliest possible stage in the development process.
- (7) Maximize use of stormwater management practices that serve multiple beneficial purposes including, but not limited to, flood control, erosion control, fire protection, water quality protection, recreation, and habitat preservation.
- (8) Design sites to minimize the number of water resource crossings and the width of associated disturbance in order to minimize future expenses to the public related to the maintenance and repair of water resource crossings.
- (9) Maintain, promote, establish and re-establish conditions necessary for naturally occurring stream processes that assimilate pollutants, attenuate flood flows, and provide a healthy water resource.

(c) This regulation shall apply to all parcels used or being developed, redeveloped or demolished, either wholly or partially, for new or relocated projects involving highways and roads; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; and redevelopment activities and grading.

(d) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

(e) This regulation does not require a Comprehensive Stormwater Management Plan for linear construction projects, such as pipeline or utility line installation, that do not result in the installation of impervious surface. Such projects must be designed to minimize the number of stream crossings and the width of disturbance. Linear construction projects must comply with the requirements of the latest edition of the Ohio Department of Natural Resources Rainwater and Land Development Manual or other erosion control guideline approved by the City.
(Ord. 19-289. Passed 12-10-19.)

961.02 DEFINITIONS.

For the purpose of this Chapter 961, the following terms shall have the meaning herein indicated:

- (a) "As-built survey" means a survey shown on a plan or drawing prepared by a Registered Surveyor in Ohio indicating the actual dimensions, elevations, and locations of any structures, underground utilities, swales, detention facilities, and sewage treatment facilities after construction has been completed.
- (b) "Comprehensive Stormwater Management Plan" means the written document and plans meeting the requirements of Chapter 961 that describes and specifies practices, facilities and improvements to minimize stormwater runoff from a development area, to safely convey or temporarily store and release post-development runoff at a rate that minimizes flooding and stream bank erosion, and protects or improves stormwater quality and stream channels.
- (c) "Development area" means a parcel or contiguous parcels in a common ownership and operated as one development unit, and which is the site of construction or alteration activities that changes runoff characteristics.
- (d) "Development drainage area" means a combination of each hydraulically unique watershed with individual outlet points on the development area.
- (e) "Drainage" means the removal of surface water or groundwater from land by surface or subsurface drains.
- (f) "Erosion" means the process by which the land surface is worn away by the action of wind, water or other liquid, ice, gravity, or any combination of those forces.
- (g) "Final stabilization" means all soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% coverage for the area has been established or equivalent stabilization practices, such as the use of mulches or geotextiles, have been employed.
- (h) "Grading" means the process in which the topography of the land is altered to a new slope.
- (i) "Illicit discharge" means any discharge to the Stormwater System not composed entirely of stormwater except the following: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration [as defined at 40 CFR 35.2005(b)(20)], uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual car washing, charity car wash events, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, home sewer treatment systems that discharge in accordance with Clark County Combined Health District Codes and permits, and discharges or flows from fire fighting activities.
- (j) "Impervious surface" means any surface meeting the definition of impervious surface in Chapter 918.02 of these Codified Ordinances.
- (k) "Infiltration" means a stormwater management practice that reduces discharge during the precipitation event, requiring collected runoff to either infiltrate into the groundwater and/or be consumed by evapotranspiration, thereby retaining stormwater pollutants in the facility.
- (l) "Large common plat of development" means a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.

- (m) "NPDES" means National Pollutant Discharge Elimination System. A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.
- (n) "Post-development" means the conditions that exist following the completion of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of stormwater runoff.
- (o) "Predevelopment" means the conditions that exist prior to the initiation of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of stormwater runoff.
- (p) "Professional Engineer" means a professional engineer registered in the State of Ohio.
- (q) "Redevelopment" means a construction project on land where impervious surface has previously been developed and where the new land use will not increase the runoff coefficient. If the new land use will increase the runoff coefficient, then the project is considered to be a new development project rather than a redevelopment project.
- (r) "Runoff" means the portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually returned to water resources.
- (s) "Sediment" means the soils or other surface materials that can be transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
- (t) "Site owner" or "property owner" means any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof that is responsible for the overall construction site.
- (u) "Soil disturbing activity" means clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, increased stormwater quantity and/or decreased stormwater quality.
- (v) "Stormwater management facility" means a structural or non structural device, basin, infiltration cell, or other system approved by the City of Springfield to collect, convey, and/or manage surface runoff.
- (w) "Stormwater system" means the City's system or network of storm and surface water management facilities as defined in Chapter 918 of these codified ordinances.
- (x) "Water resource" means any public or private body of water; including wetlands; the area within the ordinary high water level of lakes and ponds; as well as the area within the ordinary high water level of any ditch, brook, creek, river, or stream having a defined bed and bank (either natural or artificial) which confines and conducts continuous or intermittent flow.
- (y) "Watershed" means the total drainage area contributing stormwater runoff to a single point.
- (z) "Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (See 40 CFR 232.2, as amended).

961.03 DISCLAIMER.

(a) Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or any particular parcel of property.

(b) By approving a Comprehensive Stormwater Management Plan under this regulation, the City of Springfield does not accept responsibility for the design, installation, and operation and maintenance of stormwater management practices, facilities and improvements.

961.04 CONFLICTS, SEVERABILITY, NUISANCES, AND RESPONSIBILITY.

(a) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions shall prevail.

(b) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

(c) This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.

(d) Failure of the City of Springfield to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Springfield, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

961.05 COMPREHENSIVE STORMWATER MANAGEMENT PLANS - PLAN DEVELOPMENT.

(a) This regulation requires that a Comprehensive Stormwater Management Plan be developed and implemented according to the requirements set forth in the most recent version of the Ohio Environmental Protection Agency's General Permit Authorization for Stormwater Discharges Associated with Construction Activity Under the National Pollutant Discharge Elimination System:

- (1) for soil disturbing activities disturbing one or more acres of total land or less than one (1) acre if the disturbing activities are part of a larger common plan of development or redevelopment disturbing one or more acres of total land
- (2) for soil disturbing activities disturbing less than one (1) acre of land when the City determines that development and implementation of a Comprehensive Stormwater Management Plan is necessary to serve the purposes of this Chapter, and
- (3) for soil disturbing activities which are part of any regulated activity described in Section 961.01(c). The City may require the development and implementation of a Comprehensive Stormwater Management Plan for soil disturbing activities disturbing less than one acres of land and which are not part of a larger common plan of development, when necessary to accomplish the purposes described in Section 961.01.

(b) The City of Springfield through the Service Department shall administer this regulation, shall be responsible for determination of compliance with this regulation, and shall issue notices and orders as may be necessary.
(Ord. 19-289. Passed 12-10-19.)

961.06 PROHIBITIONS.

(a) No person or entity shall discharge or cause to be discharged any illicit discharge to the stormwater system.

(b) No person or entity shall engage in non-agricultural, earth-disturbing activities performed on lands located within the City of Springfield's corporate boundaries, and which are lands not subject to the jurisdiction of a state or federal governmental agency which regulates the matters governed by this Chapter, when a Comprehensive Stormwater Management Plan is required to be developed and implemented under Section 961.05 of this Chapter; unless a Comprehensive Stormwater Management Plan has been submitted to and approved by the Service Director or designee for the non-agricultural, earth-disturbing activities.

(c) No person or entity shall engage in non-agricultural, earth-disturbing activities or install stormwater management facilities or improvements which are inconsistent with the applicable approved Comprehensive Stormwater Management Plan.

(d) No person or entity shall engage in stormwater management practices which are inconsistent with the applicable approved Comprehensive Stormwater Management Plan.
(Ord. 19-289. Passed 12-10-19.)

961.07 COMPREHENSIVE STORMWATER MANAGEMENT PLANS - APPLICATION PROCEDURES.

(a) Pre-Application Meeting. Applicants for permissions granted under the Chapter 961 are encouraged to meet with the Service Director or designee to discuss the proposed project, review the requirements of this and other pertinent regulations, identify unique aspects of the project that must be addressed during the review process, and establish a preliminary review and approval schedule in advance of tendering an application to the City.

(b) Comprehensive Stormwater Management Plan. The applicant shall submit one (1) set of a Comprehensive Stormwater Management Plan and supporting documents to the City in conjunction with the submittal of the final plat, improvement plans, or application for a building, off street parking, or demolition permit for the site. The Comprehensive Stormwater Management Plan shall meet the requirements of Section 961.09 and must be approved by the City Engineer before the applicant performs soil disturbing activities.

(c) Review and Comment. The Service Director or designee shall review the Comprehensive Stormwater Management Plan submitted, and shall either approve the plan or return the plan with comments and recommendations for revisions.

(d) Approval Necessary. No person shall begin land clearing and/or soil-disturbing activities unless the City has approved the related Comprehensive Stormwater Management Plan.

(e) Valid for One Year. Approvals issued in accordance with this regulation shall be void one (1) year from the date of approval unless soil disturbing activities have commenced.

(Ord. 19-289. Passed 12-10-19.)

961.08 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other federal, state, and/or county agencies and other public entities having regulatory jurisdiction. Applicants may be required to show compliance with all applicable regulatory requirements.

961.09 COMPREHENSIVE STORMWATER MANAGEMENT PLANS - PLAN CONTENT.

(a) Comprehensive Stormwater Management Plan Required. The applicant shall develop a Comprehensive Stormwater Management Plan describing how the quantity and quality of stormwater will be managed during and after construction is complete. The Comprehensive Stormwater Management Plan shall be prepared by a Professional Engineer and shall include supporting calculations, plan sheets and design details. The Plan will illustrate the type, location, and dimensions of every stormwater management practice incorporated into the site design. The chosen stormwater management practices, facilities and improvements must address runoff within the site as well as flooding that may be caused by the development upstream and downstream of the site. The chosen stormwater management practices, facilities and improvements must also minimize impacts to the physical, chemical, and biological characteristics of on-site and downstream water resources and avoid predictable degradation of water resources.

(b) Contents of Comprehensive Stormwater Management Plan. The Comprehensive Stormwater Management Plan shall meet the requirements of the latest edition of Ohio EPA's General Permit Authorization For Stormwater Discharges Associated With Construction Activity Under The National Pollutant Discharge Elimination System and shall provide the following information:

(1) Plans must include the following notes:

- A. At the end of construction, all stormwater pipes, basins, channels, etc. shall be cleaned out of all sediment accumulation and restored to the original design as shown per these plans.
- B. Forty-eight hours prior to any earth disturbance work, the Contractor shall notify the City of Springfield, Service Department.
- C. All mud/dirt tracked onto roads from the site, due to construction, shall be promptly removed at the end of each day.
- D. No construction shall commence until all City of Springfield permits and connection fees have been issued as required.
- E. Stormwater control facilities composed of straw are not permitted.
- F. Clearing, grading, and equipment storage is prohibited within twenty-five (25) feet of all water resources unless otherwise approved by the Service Director or designee.
- G. Where construction activity is necessary within ten (10) feet of a water resources high water mark, perimeter protection using Filtrexx erosion control socks or similar material shall be used.
- H. Construction projects scheduled to last six (6) months or more shall not use silt fence as perimeter protection; instead, Filtrexx erosion control sock or similar material shall be used.
- I. Dewatering discharges shall not be directed into the City of Springfield's stormwater system without the prior approval of the Service Director or designee.

(2) Location of all existing easements, covenants and restrictions impacting each stormwater management practice, facility, or improvement.

(3) An Inspection and Maintenance Plan designed to ensure that all pipes and channels built to convey stormwater to the stormwater control facility, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the stormwater discharged from the facility serves its designed purpose through its expected period of use shall be submitted as a stand-alone document for review and approval by the Service Director or designee during the Plan approval process. At a minimum, the Inspection and Maintenance Plan shall include a method and frequency for the following activities:

- A. Inspection of all permanent structures,
- B. Debris/clogging control through appropriate removal and disposal,
- C. Vegetation control (mowing, harvesting, eradication of undesirable plants),
- D. Erosion repair,
- E. Non-routine maintenance should include pollutant and sediment removal and the "rejuvenation" or replacement of filters and appropriate soils, and
- F. Disposal of collected pollutants, sediments, and filter media in accordance with local, state, and federal regulations.
- G. Inspection and Maintenance Plans shall include language affirming the following:
 - (i) The City of Springfield has the authority and right to enter upon the development area to conduct inspections as necessary to verify that the stormwater management practices are being maintained and operated in accordance with this regulation.
 - (ii) Notice that the City of Springfield maintains public records of the results of site inspections for the period of time specified in the City of Springfield's record retention schedule, shall inform the site owner(s) or organization responsible for maintenance (by written notice served on the tax mailing address for the subject land) of the inspection results, and shall specifically indicate any corrective actions required to bring the stormwater practices into proper working condition.
 - (iii) If the City of Springfield notifies the site owner(s), or other entity responsible for maintenance, of maintenance deficiencies that require correction, the specific corrective actions shall be taken within thirty (30) days of the service of the notice; unless the City grants an extension of time to complete correcting deficiencies due to the impracticality of completing the correction of deficiencies within thirty (30) days.
 - (iv) Maintenance deficiencies not corrected within thirty (30) days may be declared a public nuisance in accordance with Chapter 1323 of these codified ordinances.

(v) The method of funding long-term maintenance and inspections of all stormwater management practices, facilities and improvements.

(4) Calculations required. The applicant shall submit calculations for projected stormwater runoff flows, volumes, and timing into and through all stormwater management facilities for flood control, channel protection, water quality, and the condition of the habitat,

stability, and incision of each water resource and its the floodplain, as required in Section 961.10 of this regulation. These submittals shall be completed for both pre- and post-development land use conditions and shall include the underlying assumptions and hydrologic and hydraulic methods and parameters used for these calculations. The applicant shall also include critical storm [See Section 961.10(c)] determination and demonstrate that the runoff from upper watershed areas have been considered in the calculations. Redevelopment projects shall only submit calculations at the request of the City.

- (5) The Comprehensive Stormwater Management Plan shall include a time schedule for completing all elements of the work to construct Comprehensive Stormwater Management Plan facilities and achieve final stabilization.
- (6) Detention exemption. When the total detention required on a development area is under 1,000 cubic feet, the City may, upon the request of the developer, waive the detention requirements of this chapter; provided, however that the City shall not grant a waiver if it is determined that storm water drainage would be a threat to adjacent properties if no detention were to be provided or if it is determined that the public sewer system downstream of the development area is not adequate to handle the increased storm flow.
 - A. Residential development of three units or less that are not part of a larger common plan of development or redevelopment are exempt from the detention requirements of this chapter; provided, however that the City shall not determine that storm water drainage would be a threat to adjacent properties if no detention were to be provided or if it is determined that the public sewer system downstream of the development area is not adequate to handle the increased storm flow.
- (7) The Comprehensive Stormwater Management Plan shall conform to the performance standards specified in Section 961.10.
(Ord. 19-289. Passed 12-10-19.)

961.10 PERFORMANCE STANDARDS.

(a) General. Each Comprehensive Stormwater Management Plan shall include stormwater management facilities for storage, treatment and control, and conveyance; shall be designed to prevent structure flooding during a 100-year, 24-hour storm event; shall maintain predevelopment flow rates and discharge volumes; and shall meet the following criteria:

- (1) Exemption. The site where soil-disturbing activities are conducted shall be exempt from the requirements of Section 961.10 if it can be shown to the satisfaction of the City that the site is part of a larger common plan of development where the stormwater management requirements for the site are provided by an existing stormwater management practice, facility or improvement.
 - (2) Maintenance. All stormwater management facilities shall be maintained in accordance with the approved Inspection and Maintenance Plans prepared pursuant to Section 961.09. All stormwater management facilities whether mandated by this ordinance or not shall maintain their facility in accordance with standard best practices or may be declared a public nuisance as described in Section 961.08 of these codified ordinances.
 - (3) Velocity dissipation. Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall to provide non-erosive flow velocity from the structure to a water resource so that the natural physical and biological characteristics and functions of the water resource are maintained and protected.
- (b) Stormwater Quality Control.
- (1) Criteria applying to all stormwater management facilities. Each facility shall be designed to facilitate sediment removal, vegetation management, debris control, and other maintenance activities defined in the Inspection and Maintenance Plan for the site. Approved practices are listed in the Ohio DNR Rainwater and Land Development Manual (Third Edition, 2006). The City may approve other proposed facilities if the applicant can demonstrate to the City's satisfaction that these facilities meet the objectives of this regulation.
 - (2) Additional criteria applying to infiltration facilities.
 - A. All runoff directed into an infiltration basin must first flow through a pretreatment facility as described in the Ohio DNR Rainwater and Land Development Manual, (Third Edition, 2006).
 - B. Pursuant to Chapter 1153 of these Codified Ordinances, a site owner required to provide off street parking can receive a reduction of required parking spaces for the use of stormwater practices described therein.
 - C. The City may require a soil engineering report to be prepared for the site to demonstrate that a proposed infiltration facility meets these performance standards.
 - (3) Additional criteria for above-ground stormwater management facilities.
 - A. A forebay and micropool, as described in the Ohio DNR Rainwater and Land Development Manual, (Third Edition, 2006) shall be a part of all above ground stormwater management facilities.
 - B. Above ground stormwater management facilities shall be designed to spread stormwater across its floor and promote infiltration and filtering of pollutants. Low flow concrete channels are strictly prohibited.

(c) Stormwater Quantity Control. The Comprehensive Stormwater Management Plan shall describe how the proposed stormwater management practices are designed to meet the following requirements for stormwater quantity control for each watershed in the development:

- (1) The Critical Storm for each specific development drainage area shall be determined according to the Ohio Stormwater Control Guidebook (ODNR, 1980).
- (2) Critical Storm calculations shall meet the following standards:
 - A. Calculations shall include the lot coverage assumptions used for full build out as proposed.
 - (i) Calculations shall be based on the entire contributing watershed to the development area.
 - (ii) Curve numbers for the pre-development condition may reflect any curve number from 10 years preceding application.
- (3) The peak discharge rate of runoff from the Critical Storm and all more frequent storms occurring under post-development conditions shall not exceed the peak discharge rate of runoff from a 1-year, 24-hour storm occurring on the same development drainage area under pre-development conditions.
- (4) The peak discharge rate of runoff from storms of less frequent occurrence (longer return periods) than the Critical Storm, up to the 100-year, 24-hour storm shall have peak runoff discharge rates no greater than the peak runoff rates from equivalent size storms under pre-development conditions. The 1-, 2-, 5-, 10-, 25-, 50-, and 100-year storms shall be considered in designing a facility to meet this requirement.

(Ord. 19-289. Passed 12-10-19.)

961.11 MAINTENANCE AND FINAL INSPECTION APPROVAL

To receive final inspection and a determination by the City that the approved Comprehensive Stormwater Management Plan and the requirements of this regulation have been complied with in performing a construction project, the following must be completed:

- (a) All permanent stormwater management facilities must be installed, free of debris, and made functional per the approved Comprehensive Stormwater Management Plan.
- (b) An as-built survey, sealed, signed and dated by a Professional Surveyor and a written certification by a Professional Engineer certifying that permanent stormwater management facilities, as designed and installed, meet the requirements of the approved Comprehensive Stormwater Management Plan shall be delivered to the City. The as-built survey must provide the location, dimensions, details, volume, and bearing of such facilities. In evaluating this certification, the City may require the submission of a new set of stormwater

calculations if the City determines that the design was altered materially from the approved Comprehensive Stormwater Management Plan.
(Ord. 19-289. Passed 12-10-19.)

961.12 AMENDMENTS TO THE COMPREHENSIVE STORMWATER MANAGEMENT PLAN.

Proposed amendments to an approved Comprehensive Stormwater Management Plan shall be made to the City within seven (7) working days of the site owner identifying said need. The site owner shall provide the City with any requested calculations, drawings, or other information requested in order to determine if the proposed amendment satisfies the requirements of this chapter.
(Ord. 19-289. Passed 12-10-19.)

961.13 FEES.

The Comprehensive Stormwater Management Plan review and inspection fees are part of a complete submittal and shall be paid to the City of Springfield at the issuance of the applicable permit. The inspection fee is specified in Chapter 1313.

961.14 VIOLATIONS.

No person shall violate or cause or knowingly permit to be violated any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.

961.15 APPEALS.

A person adversely affected by a final determination or order made under this Chapter 961 may appeal such determination or order as provided in Ohio Revised Code Chapter 2506.

CHAPTER 963

Administration

REPEALED BY ORD. 15-87, PASSED MARCH 31, 2015

CHAPTER 971

Floodplain Regulations

Chapter 971 enacted by Ordinance No. 09-318; passed December 8, 2009

971.01 General provisions.

971.02 Definitions.

971.03 Administration.

971.04 Use and development standards for flood hazard reduction.

971.05 Appeals and variances.

971.06 Enforcement.

971.99 Violations and Penalties.

971.01 GENERAL PROVISIONS.

(a) **Purpose for Adoption and Authorization.** ARTICLE XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt police power regulations for promoting the health, safety, and general welfare of its citizens. The City Commission of The City of Springfield, Ohio, has adopted these Floodplain regulations to preserve and protect the public health, safety general welfare and to comply with Federal regulations at 44 CFR §§ 59.22 and 60.3 and requirements of the Ohio Department of Natural Resources imposed under ORC Chapter 1521, compliance with which is necessary to secure to the citizens of Springfield, Ohio the benefits of having available flood insurance through the Federal Emergency Management Agency's National Flood Insurance Program.

(b) **Findings of Fact.** The City of Springfield has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these Floodplain Regulations are adopted.

(c) **Statement of Purpose.** It is the purpose of these Floodplain Regulations to promote the public health, safety and general welfare, and to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (8) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (10) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (12) Meet community participation requirements of the National Flood Insurance Program.

(d) **Methods of Reducing Flood Loss.** In order to accomplish its purposes, these Floodplain Regulations include methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging

increases in flood heights or velocities;

- (2) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(e) **Lands to Which These Regulations Apply.** These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Springfield as identified in the maps adopted in Subsection 971.01(f) including any additional areas of special flood hazard annexed by Springfield.

(f) **Basis for Establishing the Areas of Special Flood Hazard.** For the purposes of these Floodplain Regulations, the following studies and / or maps are adopted:

- (1) *Flood Insurance Study Clark County, Ohio and Incorporated Areas* and *Flood Insurance Rate Map Clark County, Ohio and Incorporated Areas* both effective February 17, 2010.
- (2) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the City of Springfield, as required by Subsection 971.04(c) Subdivisions and Large Scale Developments.
(Ord. 19-289. Passed 12-10-19.)
- (3) Any revisions to the aforementioned maps and / or studies are hereby adopted by reference and declared to be a part of these regulations.
Such maps and/or studies are on file at the Community Development Department, City Hall, 2nd Floor, 76 East High Street, Springfield, Ohio

(g) **Abrogation and Greater Restrictions.** These regulations are not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these Floodplain Regulations and any other ordinance, the more restrictive regulation shall govern.

(h) **Interpretation.** In the interpretation and application of these Floodplain Regulations, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed to accomplish the purposes of these Floodplain Regulations; and,
- (3) Deemed neither to limit nor repeal any other powers granted under the Ohio Constitution, the Springfield City Charter or under state statutes.
Where a provision of these Floodplain Regulations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these Floodplain Regulations.

(i) **Warning and Disclaimer of Liability.** The degree of flood protection required by these Floodplain Regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Springfield, any City Commissioner, officer, member of a City board or employee of the City of Springfield, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these Floodplain Regulations or any administrative decision made thereunder. The City of Springfield retains unto itself, its City Commissioners, officers, City board members and employees all immunities provided under ORC Chapter 2744.

(j) **Severability.** Should any section or provision of these Floodplain Regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

971.02 DEFINITIONS.

Unless specifically defined below, words or phrases used in these Floodplain Regulations shall be interpreted so as to give them the meaning they have in common usage and to give these Floodplain Regulations the most reasonable application.

- (a) "Accessory Structure" means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (b) "Appeal" means a request for review of the Floodplain Administrator's interpretation of any provision of these Floodplain Regulations or a request for a variance.
- (c) "Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.
- (d) "Base (100-Year) Flood Elevation" (BFE) means the water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).
- (e) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- (f) "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (g) "Enclosure Below the Lowest Floor" -- See "Lowest Floor."
- (h) "Executive Order 11988 (Floodplain Management)" means the order issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.
- (i) "Federal Emergency Management Agency" (FEMA) means the Federal agency with the overall responsibility for administering the National Flood Insurance Program.
- (j) "Fill" means a deposit of earth material placed by artificial means.
- (k) "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.
- (l) "Flood Hazard Boundary Map" (FHBM) means the map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, and adopted by the City of Springfield depicting approximate special flood hazard areas, and which has been adopted by the City of Springfield.

- (m) "Flood Insurance Rate Map" (FIRM) an official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.
- (n) "Flood Insurance Risk Zones" means zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:
 - (1) Zone A: Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.
 - (2) Zones A1-30 and Zone AE: Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.
 - (3) Zone AO: Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.
 - (4) Zone AH: Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.
 - (5) Zone A99: Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.
 - (6) Zone B and Zone X (shaded): Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.
 - (7) Zone C and Zone X (unshaded): Areas determined to be outside the 500-year floodplain.
- (o) "Flood Insurance Study" (FIS) means the official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.
- (p) "Flood Protection Elevation" (FPE) means the base flood elevation plus one [1] foot of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.
- (q) "Floodway" means 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.
- (r) "Freeboard" means a factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.
- (s) "Historic structure" means any structure that is:
 - (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
 - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office; or
 - (4) Individually listed on the inventory of historic places maintained by City of Springfield's historic preservation program, which program is certified by the Ohio Historic Preservation Office.
- (t) "Hydrologic and hydraulic engineering analysis" means an analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.
- (u) "Letter of Map Change" (LOMC) means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:
 - (1) Letter of Map Amendment (LOMA): A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.
 - (2) Letter of Map Revision (LOMR): A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.
 - (3) Conditional Letter of Map Revision (CLOMR): A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.
- (v) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these Floodplain Regulations for enclosures below the lowest floor.
- (w) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these Floodplain Regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.
- (x) "Manufactured home park" (as specified in the Ohio Administrative Code 3701-27-01) means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.
- (y) "National Flood Insurance Program" (NFIP) means a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.

- (z) "New construction" means structures for which the "start of construction" is commenced on or after the initial effective date of the City of Springfield Flood Insurance Rate Map, December 4, 1985, and includes any subsequent improvements to such structures.
- (aa) "Person" means any individual or group of individuals, corporation, partnership, association, trust or any other legal entity, including state and local governments and agencies. An agency is further defined in the Ohio Revised Code Section 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.
- (bb) "Recreational vehicle" means a vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the longest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (cc) "Registered Professional Architect" means a person registered to engage in the practice of architecture under the provisions of sections 4703.01 to 4703.19 of the Ohio Revised Code.
- (dd) "Registered Professional Engineer" means a person registered as a professional engineer under Chapter 4733 of the Ohio Revised Code.
- (ee) "Registered Professional Surveyor" means a person registered as a professional surveyor under Chapter 4733 of the Ohio Revised Code.
- (ff) "Special Flood Hazard Area" (also known as "Areas of Special Flood Hazard") means the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.
- (gg) "Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.
- (hh) "Structure" means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.
- (ii) "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (jj) "Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:
 - (1) Any improvement to a structure that is considered "new construction,"
 - (2) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit to the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - (3) Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure".
- (kk) "Variance" means a grant of relief from the standards of these Floodplain Regulations consistent with the variance conditions established in these Floodplain Regulations.
- (ll) "Violation" means the failure of a structure or other development to be fully compliant with these Floodplain Regulations.

971.03 ADMINISTRATION.

(a) **Designation of the Floodplain Administrator.** The City Manager shall designate a Floodplain Administrator to administer and implement these Floodplain Regulations.

(b) **Duties and Responsibilities of the Floodplain Administrator.** The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (1) Evaluate applications for permits to develop in special flood hazard areas.
- (2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (3) Issue permits to develop in special flood hazard areas when the provisions of these Floodplain Regulations have been met, or refuse to issue the same in the event of noncompliance.
- (4) Inspect buildings and lands to determine whether any violations of these Floodplain Regulations have been committed.
- (5) Make and permanently keep all records for public inspection necessary for the administration of these Floodplain Regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these Floodplain Regulations.
- (6) Enforce the provisions of these Floodplain Regulations.
- (7) Provide information, testimony, or other evidence as needed during variance hearings.
- (8) Coordinate map maintenance activities and FEMA follow-up.
- (9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these Floodplain Regulations.

(c) **Floodplain Development Permits.** It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Subsection 971.01(f), until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these Floodplain Regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these Floodplain Regulations have been met.

(d) **Application Required.** An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent (herein referred to as the “applicant”) prior to the actual commencement of such construction. The application shall be made on a form furnished by the Floodplain Administrator for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development’s location. Such applications shall include, but not be limited to:

- (1) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- (2) Elevation of the existing, natural ground where structures are proposed.
- (3) Elevation of the lowest floor, including basement, of all proposed structures.
- (4) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these Floodplain Regulations.
- (5) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
 - A. Floodproofing certification for non-residential floodproofed structure as required in Subsection 971.04(e).
 - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Subsection 971.04(d)(5) are designed to automatically equalize hydrostatic flood forces.
 - C. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Subsection 971.04(i)(3).
 - D. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Subsection 971.04(i)(2).
 - E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Subsection 971.04(i)(1).
 - F. Generation of base flood elevation(s) for subdivision and large-scale developments as required by Subsection 971.04(c).
- (6) A floodplain development permit application fee of \$25.00.

(e) **Review and Approval of a Floodplain Development Permit Application.**

(1) **Review.**

- A. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these Floodplain Regulations have been met. No floodplain development permit application shall be reviewed until all information required in Subsection 971.03(d) has been received by the Floodplain Administrator.
- B. The Floodplain Administrator shall review all floodplain development permit applications to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

- (2) **Approval.** Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

(f) **Inspections.** The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

(g) **Post-Construction Certifications Required.** The following as-built certifications are required after a floodplain development permit has been issued:

- (1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a *Federal Emergency Management Agency Elevation Certificate* completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner’s representative.
- (2) For all development activities subject to the standards of Subsection 971.03(j)(1), a Letter of Map Revision.

(h) **Revoking a Floodplain Development Permit.** A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section 971.05 of these Floodplain Regulations.

(i) **Exemption from Filing a Development Permit.** An application for a floodplain development permit shall not be required for:

- (1) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.
- (2) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.
- (3) Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
- (4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
- (5) Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management.

Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these Floodplain Regulations.

(j) **Map Maintenance Activities.** To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that City of Springfield flood maps, studies and other data identified in Subsection 971.01(f) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(1) **Requirement to Submit New Technical Data.**

- A. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - i. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - ii. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;

- iii. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
- iv. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Subsection 971.04(c).
- B. It is the responsibility of the applicant to have technical data, required in accordance with Subsection 971.03(j)(1), prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
- C. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - i. Proposed floodway encroachments that increase the base flood elevation; and
 - ii. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
- D. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Subsection 971.03(j)(1)(A).
- (2) **Right to Submit New Technical Data.** The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the City Manager of the City of Springfield, and may be submitted at any time.
- (3) **Annexation / Detachment.** Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Springfield have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Springfield Flood Insurance Rate Map accurately represent the City of Springfield boundaries, the Floodplain Administrator shall include within such notification a copy of a map of the City of Springfield suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Springfield has assumed or relinquished floodplain management regulatory authority.
- (k) **Data Use and Flood Map Interpretation.** The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:
 - (1) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
 - (2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
 - (3) When Preliminary Flood Insurance Rate Maps and / or Flood Insurance Study have been provided by FEMA:
 - A. Upon the issuance of a Letter of Final Determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these Floodplain Regulations.
 - B. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and /or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and / or appeal to FEMA.
 - (4) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 971.05, Appeals and Variances.
 - (5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, *etc.*) shall prevail.
 - (l) **Substantial Damage Determinations.** Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, *etc.* After such a damage event, the Floodplain Administrator shall:
 - (1) Determine whether damaged structures are located in special flood hazard areas;
 - (2) Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
 - (3) Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the City Manager may instruct the Floodplain Administrator to implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

971.04 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Subsections 971.01(f) or 971.03(k)(1):

- (a) **Use Regulations.**
 - (1) **Permitted Uses.** All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by City of Springfield are allowed provided they meet the provisions of these Floodplain Regulations.
 - (2) **Prohibited Uses.**
 - A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Section 3701 of the Ohio Revised Code.
 - B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Section 3734 of the Ohio Revised Code.
- (b) **Water and Wastewater Systems.** The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:
 - (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;
 - (2) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and

discharge from the systems into flood waters; and,

- (3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

(c) Subdivisions and Large Developments.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these Floodplain Regulations;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
- (5) The applicant shall meet the requirement to submit technical data to FEMA in Subsection 971.03(j)(1)(A)(iv) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Subsection 971.04(c)(4).

(d) Residential Structures.

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements of this Subsection 971.04(d) for anchoring and construction materials resistant to flood damage are satisfied.
- (2) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
- (3) New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. Where flood protection elevation data are not available, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.
- (5) New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:
 - A. Be used only for the parking of vehicles, building access, or storage; and
 - B. be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
 - C. have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (6) Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- (7) Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Subsection 971.04(d).
- (8) In AO Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

(e) Nonresidential Structures.

- (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Subsections 971.04(d)(1) through (3) and (5) through (8).
- (2) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
 - A. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
 - B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - C. Be certified by a registered professional engineer or architect, through the use of a *Federal Emergency Management Agency Floodproofing Certificate*, that the design and methods of construction are in accordance with Subsections 971.04(e)(2)(A) and (B).
- (3) Where flood protection elevation data are not available, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.

(f) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:

- (1) They shall not be used for human habitation;
- (2) They shall be constructed of flood resistant materials;
- (3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
- (4) They shall be firmly anchored to prevent flotation;
- (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
- (6) They shall meet the opening requirements of Subsection 971.04(d)(5)(C).

(g) Recreational Vehicles. Recreational vehicles must meet at least one of the following standards:

- (1) They shall not be located on sites in special flood hazard areas for more than 180 days, or

- (2) They must be fully licensed and ready for highway use, or
- (3) They must meet all standards of Subsection 971.04(d).

(h) **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.

(i) **Assurance of Flood Carrying Capacity.** Pursuant to the purpose and methods of reducing flood damage stated in these Floodplain Regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:

(1) **Development in Floodways**

- A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
- B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - i. Meet the requirements to submit technical data in Subsection 971.03(j)(1);
 - ii. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 - iii. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
 - iv. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
 - v. Concurrence of the City Manager of the City of Springfield and the Chief Executive Officer of any other communities impacted by the proposed actions.

(2) **Development in Riverine Areas with Base Flood Elevations but No Floodways.**

- A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,
- B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - i. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 - ii. Subsection 971.04(i)(1)(B), items (i) and (iii)-(v).

(3) **Alterations of a Watercourse.** For the purpose of these Floodplain Regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the *USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique* or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:

- A. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a registered professional engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
- B. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
- C. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with City of Springfield specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
- D. The applicant shall meet the requirements to submit technical data in Subsection 971.03(j)(1)(A)(iii) when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

971.05 APPEALS AND VARIANCES.

(a) **Appeals Board Established.**

- (1) The persons appointed to the City of Springfield Board of Zoning Appeals shall also serve as the Appeals Board for these Floodplain Regulations.
- (2) Records of the Appeals Board shall be kept and filed in City Hall at 76 East High Street Springfield, Ohio.

(b) **Powers and Duties.** The Appeals Board shall:

- (1) hear and decide appeals of the Floodplain Administrator's determinations where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these Floodplain Regulations, and
- (2) authorize or disapprove variances in accordance with Subsection 971.05(d) of these Floodplain Regulations.

(c) **Appeals.** Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within 20 days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board. Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for hearing the appeal, give notice of the time for hearing the appeal in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

(d) **Variances.** Any person believing that the use and development standards of these Floodplain Regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these Floodplain Regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these Floodplain Regulations would result in unnecessary hardship.

(1) **Application for a Variance.**

- A. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
- B. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.
- C. All applications for a variance shall be accompanied by a variance application fee set by the following schedule of fees:

Commercial and Multi-Family Property	\$ 285
One-, Two-, and Three-Family Residential Property	\$ 57

(2) **Public Hearing for the Appeal.** At the public hearing for the appeal, the applicant may present the applicant's material and relevant evidence and arguments to the Appeals Board. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these Floodplain Regulations and the following factors:

- A. The danger that materials may be swept onto other lands to the injury of others.
- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- D. The importance of the services provided by the proposed facility to the community.
- E. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
- F. The necessity to the facility of a waterfront location, where applicable.
- G. The compatibility of the proposed use with existing and anticipated development.
- H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- I. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- J. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(3) **Variances shall only be issued upon:**

- A. A showing of good and sufficient cause.
- B. A determination that failure to grant the variance would result in unnecessary hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these Floodplain Regulations does not constitute an unnecessary hardship to the applicant.
- C. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these Floodplain Regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
- D. A determination that the structure or other development is protected by methods to minimize flood damages.
- E. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these Floodplain Regulations, the Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of these Floodplain Regulations.

(4) **Other Conditions for Variances.**

- A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Subsections 971.05(d)(2)(A) to (K) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- C. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(e) **Procedure at Hearings.**

- (1) All testimony shall be given under oath.
- (2) A complete record of the proceedings shall be kept, except for confidential deliberations of the Appeals Board, but including all documents presented and a verbatim record of the testimony of all witnesses.
- (3) The applicant shall proceed first to present evidence and testimony in support of the appeal (or variance request).
- (4) The Floodplain Administrator may present evidence in opposition to the appeal (or variance request).
- (5) All witnesses shall be subject to cross-examination by the adverse party or their counsel.
- (6) Evidence that is not admitted may be proffered and shall become part of the record for later appeal to a court.
- (7) The Appeal Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
- (8) The Appeals Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

(f) **Appeal to the Court.** Those aggrieved by the decision of the Appeals Board may appeal such decision to the Clark County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.

971.06 ENFORCEMENT.

(a) **Compliance Required.**

- (1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without

full compliance with the terms of these Floodplain Regulations and all other applicable regulations which apply to uses within the jurisdiction of these Floodplain Regulations, unless specifically exempted from filing for a development permit as stated in Subsection 971.03(i).

- (2) Failure to obtain a floodplain development permit shall be a violation of these Floodplain Regulations and shall be punishable in accordance with Subsection 971.06(c).
- (3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these Floodplain Regulations and punishable in accordance with Subsection 971.06(c).

(b) **Notice of Violation.** Whenever the Floodplain Administrator determines that there has been a violation of any provision of these Floodplain Regulations, he/she shall give notice of such violation to the person responsible therefore and order compliance with these Floodplain Regulations as hereinafter provided. Such notice and order shall:

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, referring to the section or sections of these Floodplain Regulations that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of these Floodplain Regulations;
- (3) Specify a reasonable time for performance;
- (4) Advise the owner, operator, or occupant of the right to appeal;
- (5) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

971.99 VIOLATIONS AND PENALTIES

Violation of the provisions of these Floodplain Regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these Floodplain Regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Springfield from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Springfield shall prosecute any violation of these Floodplain Regulations in accordance with the penalties stated herein.

CODIFIED ORDINANCES OF SPRINGFIELD

PART ELEVEN - ZONING CODE

NOTE: THE 2025 ZONING CODE AS ADOPTED IN ITS ENTIRETY BY ORDINANCE NO. 25-121 ON APRIL 2, 2025.

TITLE ONE - Introductory Standards

- Chap. 1101. Legal Provisions.
- Chap. 1102. General Provisions.
- Chap. 1103. Using the Code.

TITLE TWO - Use Standards

- Chap. 1104. General Provisions.
- Chap. 1105. Land Use terms and Definitions.
- Chap. 1106. Use-Specific Standards.
- Chap. 1107. Accessory Uses and Features Standards.

TITLE THREE - District Standards

- Chap. 1108. General Provisions.
- Chap. 1109. Residential Districts.
- Chap. 1110. Commercial Districts.
- Chap. 1111. Industrial Districts.
- Chap. 1112. Public and Institutional Districts.
- Chap. 1113. Special Districts.

TITLE FOUR - Site Development Standards

- Chap. 1114. General Provisions.
- Chap. 1115. Dimensional Regulations.
- Chap. 1116. Parking and Loading.
- Chap. 1117. Landscaping.
- Chap. 1118. Site Lighting.
- Chap. 1119. Signs.
- Chap. 1120. Screening and Fencing.
- Chap. 1121. Waste Management.
- Chap. 1122. Urban Design.
- Chap. 1123. Infill.
- Chap. 1124. Animal Regulations.
- Chap. 1125. Performance Standards.

TITLE FIVE - Procedural Standards

- Chap. 1126. General Provisions.
- Chap. 1127. Common Procedures.
- Chap. 1128. Entitlement and Pre-Development Procedures.
- Chap. 1129. Site Development Procedures.
- Chap. 1130. Relief Procedures.

TITLE SIX - Nonconforming Standards

Chap. 1131. General Provisions.

TITLE SEVEN - Enforcement Standards

Chap. 1132. General provisions.

Chap. 1133. Violation Noticing.

Chap. 1134. Penalties, Fines, and Remedies.

TITLE EIGHT - Administrative Bodies.

Chap. 1135. General Provisions

Chap. 1136. Quasi-Legislative Bodies and Personnel.

Chap. 1137. City Administrative Bodies and Personnel.

TITLE NINE - Definitions.

Chap. 1138. General Provisions.

Chap. 1139. General Terms and Definitions.

TITLE ONE - Introductory Standards.

Chap. 1101. Introductory Standards.

Chap. 1102. General Provisions.

Chap. 1103. Using the Code.

CHAPTER 1101

Legal Provisions

1101.01 Title.

1101.02 Effective date.

1101.03 Purpose and intent.

1101.04 Applicability.

1101.05 Severability.

1101.06 Conflicting Provisions.

1101.01 TITLE.

This Part shall be known and may be cited as the "Zoning Code of the City of Springfield, Ohio", or as the "Zoning Code".

1101.02 EFFECTIVE DATE.

This Zoning Code shall become effective on Date¹ 2025.

(¹ Placeholder for effective date.)

1101.03 PURPOSE AND INTENT.

This Zoning Code is being enacted for the following reasons:

- (a) To promote and protect the public health, safety, comfort, and welfare of the residents of the City of Springfield;
- (b) To protect the property rights of all individuals by assuring the compatibility of uses and practices within districts;
- (c) To facilitate the provision of public utilities and public services;
- (d) To provide for mixed use corridors and promote walkability;
- (e) To promote and enhance existing neighborhoods;
- (f) To produce affordably priced housing;
- (g) Lower barriers to development and redevelopment;
- (h) To promote safe streets where all modes are welcomed and safe; and
- (i) To achieve the goals of the City of Springfield's Charter, the Ohio Revised Code, or under common law rulings.

1101.04 APPLICABILITY.

(a) Interpreted as Minimum Requirements. In their interpretation and application, the provisions of this Zoning Code shall be held to be minimum requirements (unless a maximum standard is established).

(b) Compliance Required. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or altered, except in conformity with all of the regulations herein specified for the district in which it is located.

1101.05 SEVERABILITY.

Should any article, section, or provision of this Zoning Code be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of this Zoning Code as a whole, or any part this Zoning Code other than the part so declared to be unconstitutional or invalid.

1101.06 CONFLICTING PROVISIONS.

(a) Repeal and Effect of Repeal. All Zoning Resolutions, maps, or parts thereof in conflict with the provisions of this Zoning Code are hereby repealed. Except as expressly provided in this Zoning Code, such repeal shall not affect or impair any act done, offense committed or right accrued, or liability, penalty, forfeiture, or punishment incurred prior to the time such repeal takes effect; the same may be enjoyed, asserted, enforced, prosecuted, or inflicted, as fully and to the same extent as if such repeal had not been affected.

(b) Conflict with State or Federal Regulations. If the provisions of this Zoning Code are inconsistent with those of the state or federal government, the more restrictive provision will control, to the extent permitted by law.

(c) Conflict with other City Regulations. If the provisions of this Zoning Code are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances, regulations of the City, or any proffers or conditions of approval, the more restrictive provision will control unless otherwise expressly stated.

(d) Conflict with Private Agreements and Covenants. This Zoning Code is not intended to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties. The City does not enforce private covenants.

CHAPTER 1102

General Provisions

1102.01 Rules and interpretation.

1102.01 RULES OF INTERPRETATION.

- (a) All references in this Zoning Code to other regulations or manuals refer to the most current version and citation for those regulations or manuals, unless expressly indicated otherwise. When the referenced regulations or documents have been repealed and not replaced by other regulations or manuals, requirements within this Zoning Code for compliance are no longer in effect.
- (b) Illustrations, diagrams, and flowcharts are included in this Zoning Code to illustrate the intent and requirements of the text. In the case of a conflict between the text and any illustration, diagram, or flowchart, the text controls.
- (c) Section headings are provided for ease of use and organization and shall not be interpreted as regulatory.

CHAPTER 1103

Using the Code

1103.01 Overview.

1103.02 Using the Code

1103.01 OVERVIEW.

The following Section describes how information and regulations of this Zoning Code are presented. They provide a guide to the naming convention for zoning districts and a step-by-step guide for how to navigate and find information in the Zoning Code.

1103.02 USING THE CODE.

(a) Step 1: Determine the Zoning District

- (1) Obtain the subject property's zoning from the Official Zoning Map hosted on the City's website.
- (2) Take note of the zoning of properties abutting the subject property.

(b) Step 2: Find the Development Context

- (1) Zoning districts are organized and grouped into district categories according to development context in the Zoning Code.
- (2) The first letter of the zoning district naming convention indicates the applicable district category (development context).
- (3) The two letters following the hyphen in the zoning district naming convention indicate the summarizing characteristics, nature, or overarching development pattern of the zoning district.
- (4) For example, if the subject property is zoned R-LD, the first letter, "R" in the zoning district naming convention indicates the applicable development context - in this case, the Residential district category. The two letters following the hyphen, "LD" in the zoning district naming convention indicates the overarching development pattern - in this case, low density residential development.

(c) Step 3: Understand the Zoning District

- (1) Gain further understanding of the subject property's applicable zoning by reviewing the zoning district purpose statement found in TITLE Three - District Standards.
- (2) For example, read link (Section 1109.02 Low Density Residential (R-LD) District), for a description of the R-LD district.

(d) Step 4: Identify Use Allowances

- (1) To find what uses are allowed on the subject property, select the interactive link to the Table 1104.03.1: Use Table found in subsection (b) of the applicable zoning district.
- (2) Once in Table 1104.03.1: Use Table, find whether a use is permitted by-right by staff (stylized as "P"), permitted as a limited use by staff (stylized as "L"), allowed as a conditional use via approval by the Board of Zoning Appeals (stylized as "C"), or prohibited in the applicable zoning district (stylized as blank).
- (3) All uses are listed in the first column of Table 1104.03.1: Use Table and the zoning district categories and zoning districts are listed in the first two rows for the next 13 columns.
- (4) Allowed primary and accessory and temporary uses and the relevant parking requirements are listed in the first column of Table 1104.03.1: Use Table and zoning districts are listed across the remaining table columns.
- (5) Table cell entries for each use indicate whether the use is allowed in the zoning district or allowed subject to specific limitations, and/or subject to a specific review.
- (6) The last column of Table 1104.03.1: Use Table references the user to a particular use's applicable use-specific regulations. These regulations are contained within the CHAPTER 1106 - Use-Specific Standards of TITLE Two - Use Standards. In some cases, use limitations reference their applicability to certain zoning districts.

(e) Step 5: Review the Applicable Dimensional Standards

- (1) To find out the dimensional standards (setbacks, height, lot size, etc.) on the subject property, review the dimensional standards table provided in subsection (c) of the applicable zoning district.

(f) Step 6: Review the Site Development Standards

- (1) Review TITLE Four - Site Development Standards which includes standards that are generally applicable to all new development, regardless of the applicable zoning district.
- (2) These standards address parking and loading, landscaping, site lighting, signs, urban design, basic performance standards, and similar standards to ensure development is constructed to the applicable zoning district's intent and scale.
- (3) For example, the Parking and Loading chapter provides different parking configurations for certain development types (i.e., residential, commercial, etc.).

(g) Step 7: Understand the Procedural Standards and Enforcement

- (1) Review TITLE Five - Procedural Standards to gain an understanding of all development procedures applicable to new development as required by this Zoning Code.
- (2) The Title first identifies and summarizes all the review and decision-making bodies and their respective roles pertaining to a given development procedure as established in this Zoning Code.
- (3) The Title then describes common steps to all development procedures (i.e., noticing requirements, provision for pre-application conference, etc.), and then describes the steps required for each type of development procedure (i.e., site plan, conditional use permit, rezonings, variances, etc.).

(h) Step 8: Understand When Nonconforming Standards Apply

- (1) TITLE Six - Nonconforming Standards contains the rules for nonconforming and compliant uses, structures, signs, and lots.
- (2) If a development is nonconforming, any redevelopment or new development must adhere to the standards of this Title.

(i) Step 9: Know the Enforcement Protocol

- (1) Finally, TITLE Seven - Enforcement Standards contains general enforcement provisions, including what constitutes a violation of the Zoning Code and the associated penalties.

(j) Step 10: Clarify any Uncertainty with the Definition Title

- (1) If there are any terms or phrases that are unclear, consult TITLE Nine - Definitions.

TITLE TWO - Use Standards

Chap. 1104. General Provisions.

Chap. 1105. Land Use terms and Definitions.

Chap. 1106. Use-Specific Standards.

Chap. 1107. Accessory Uses and Features Standards.

CHAPTER 1104

General Provisions

1104.01 Purpose and Applicability.

1104.02 Organization.

1104.03 Use Table.

1104.01 PURPOSE AND APPLICABILITY.

Table 1104.03.1: Use Table lists the uses permitted within all zoning districts. All uses are defined in CHAPTER 1105 - Land Use Terms and Definitions. Approval of a use listed in this Title, and compliance with the applicable use-specific standards for that use, authorizes that use

only. Development or use of a property for any other use not specifically allowed in this Title and approved under the appropriate process is prohibited.

1104.02 ORGANIZATION.

The uses allowed in each of the zoning districts established in Table 1104.03.1: Use Table are defined as follows:

- (a) Table Symbolology. Table 1104.03.1: Use Table is arranged according to the following symbols established in Table 1104.02.1: Use Table Symbolology.

Table 1104.02.1: Use Table Symbolology

Symbol	Meaning	Description
P	Permitted by-Right	A "P" in a district column indicates that a use is permitted by right by staff. These uses are subject to all other applicable regulations of the Zoning Code.
L	Permitted as a Limited Use	An "L" in a district column indicates that a use is permitted by right by staff as a limited use, it meets the applicable use-specific standards. These uses are subject to all other applicable regulations of this Zoning Code.
C	Permitted as a Conditional Use	A "C" in a district column indicates that a use requires a conditional use permit subject to the discretion of the Board of Zoning Appeals. In addition to the conditions provided by the Board of Zoning Appeals, these uses may have applicable use-specific standards provided in Chapter Use - Specific Standards, Accessory Uses, and Temporary Uses. All conditional uses are subject to all other applicable regulations of this Zoning Code.
	Prohibited	A blank cell in a district column indicates that a use is prohibited in the district.
-	Not Required	A " - " in a district column indicates that a minimum parking ration is not required for a particular use.

- (b) Standards Column. The "Standards" column provides a reference to associated standards for certain uses allowed by right and for conditional uses. Where a blank space is in the column, there is no associated standard. Where there is information in the column, there are associated standards.

- (c) Unlisted Uses. If a proposed use is not specifically listed in Table 1104.03.1: Use Table, the Community Development Director shall determine whether the use is allowed or not allowed. This determination shall be based upon the similarity in nature and character to one or more uses that are listed in Table 1104.03.1: Use Table.

- (1) In making this determination, the Community Development Director may consider whether the use has similar visual, traffic, environmental, parking, employment, and other impacts as an expressly listed use.
- (2) The Community Development Director may also refer to empirical studies or generally accepted planning or engineering sources (e.g., American Planning Association's publication, "A Planner's Dictionary") in making this determination.
- (3) Unauthorized if Prohibited
 - A. If the Community Development Director determines that a proposed use does not fit within a given use type and is not functionally the same as an allowed, accessory, conditional, or temporary use, then the use is a prohibited use.
 - B. The Community Development Director's determination may be appealed pursuant to Section 1130.04 .

1104.03 USE TABLE.

The following uses may be permitted by-right, as a limited use, or by conditional use permit within the districts indicated as provided in Table 1104.03.1: Use Table. In addition to these allowances, use-specific standards (CHAPTER 1106 - Use-Specific Standards) may apply.

Key P = By-Right Allowance L = Limited Use Allowance C = Conditional Use Allowance N/A = Not Applicable	Residential			Commercial				Industrial		Public and Institutional			Max. Parking Ratio	Use- Specific Standards
	R- AG	R- LD	R- HD	C- NC	C- LC	C- HC	C- DT	I- L I	I- H I	P- PR	P- I E	P- DM		
Use							C E							
Residential Uses														
Adult Family Home	C		C	C									5:1,000 sf	1106.01 (a)
Adult Group Home	C		C	C									5:1,000 sf	1106.01 (b)
Children's Residential Center	C		C	C							C	C	5:1,000 sf	1106.01 (c)
Conventional Apartment			P	P			P P				C		2:1 BRU + 3:2 BRU + 4:3 BRU	
Cottage Court		C	C	C									2:DU	1106.01 (d)
Courtyard Apartment			P	L			L				C		2:1 BUR + 3:2 BRU + 4:3 BUR	1106.01 (e)
Educational Housing											P		5:1,000 sf	
Emergency Shelter			C	C			C				C	C	6:1,000 sf	1106.01 (f)
Foster Home	C	C	C										5:1,000 sf	1106.01 (g)
Four-Unit Dwelling			L	L			L						4:DU	1106.01 (h)
Group Home for Children			C								C		5:1,000 sf	1106.01 (i)
Halfway House Facility	C		C								C		5:1,000 sf	1106.01 (j)
Home for the Aging			P								P		6:1,000 sf	1106.01 (k)
Live-Work Dwelling			L	L	L		L						4:1,000 sf	1106.01 (l)
Main Street Mixed Use Building			L	L			L L				C	C	8:1,000 sf	1106.01 (m)
Multi-Unit Dwelling			L	L			L				C		4:DU	1106.01 (n)
Nursing Home			P	P	P		C				P		6:1,000 sf	1106.01 (o)
One-Unit Dwelling	P	P	P										N/A	1106.01 (p)
Recovery Housing Residence	C		C	C							C		5:1,000 sf	1106.01 (q)
Residential Care Facility	C		C	C									5:1,000 sf	1106.01 (r)
Residential Facility	C		C	C									5:1,000 sf	1106.01 (s)
Three-Unit Dwelling			L	L			L						4:DU	1106.01 (f)
Tiny Home		C	C										N/A	1106.01 (u)
Town home		P	P	L	L		P L						2:DU	1106.01 (v)
Transitional Housing			C	C							C		6:1,000 sf	1106.01 (w)
Tow-Unit Dwelling	P	P	P	L									N/A	1106.01 (x)
Vertical Mixed Use Building					C	C	C C				C	C	8:1,000 sf	1106.01 (y)
Nonresidential Uses														
Adult Day Care				C	P						P		6:1,000 sf	
Active Park/ Recreational Facilities	C	C	C	C	P	P	P P	C	C	P	P		N/A	1106.02 (a)
Agricultural Operations	P												N/A	
Agritainment	L												N/A	1106.02 (b)
Artisanal Manufacturing				P	P	P	P P	P					3:1,000 sf	
Assembly Hall				L	P	P	P			P	P		8:1,000 sf	1106.02(c)
Automotive Repair						L		P	P				2:1,000 sf	1106.02 (d)
Automotive Sales and Rental					C	P		P					4:1,000 sf	1106.02 (e)
Automotive Service					L	P		P					2:1,000 sf	1106.02 (f)
Automotive Wash					C	P	C C	P					2:1,000 sf	1106.02 (g)
Bar				C	L	P	L L	C					10:1,000 sf	1106.02 (h)
Bed and Breakfast		C	L	L			C						5:1,000 sf	1106.02 (i)
Brewery						C		P	P				5:1,000 sf	
Cannabis Growing/ Processing								P					4:1,000 sf	
Cemetery	C	C	C	C	C					C	C		N/A	1106.02 (j)

Check- Cashing Business					P	P								5:1,000 sf	
Child Care Center			C	P	P							P	P	6:1,000 sf	
Clinic				P	P	P	P					P	P	5:1,000 sf	
Club					P	P	P	P				C		8:1,000 sf	
College/University												P		N/A	
Communicati on Facility	C	C	C	C	C	C	C	C	C	C	C	C	C	N/A	1106.02 (k)
Community Center		C	C	C	P	P					C	P		8:1,000 sf	1106.02 (l)
Community Garden		C	L	L										N/A	1106.02 (m)
Crematory									P	P				3:1,000 sf	
Distillery									P	P				5:1,000 sf	
Educational Institution		L	L	P	P	P						P		N/A	1106.02 (n)
Financial Institution				P	P	P	L	L						5:1,000 sf	1106.02 (o)
Flex Warehouse						P			P					3:1,000 sf	
Funeral Services					C	C								8:1,000 sf	1106.02 (p_
Ghost Kitchen						P			P					3:1,000 sf	
Governmental Use	C	C	C	C	C	C	C	C	C	C	C	C	C	N/A	
Greenhouse/ Nursery	P								P		C			N/A	
Hospital						C	C	C				C	P	N/A	1106.02 (q)
Hotel					C	P	P	P							
Indoor Commercial amusement				L	P	P	C	C						8:1,000 sf	1106.02 (r)
Intensive- Impact Industrial and Manufacturin g										P				2:1,000 sf	
Kennel				L	P	P			P					5:1,000 sf	1106.02 (s)
Laboratory									P	P		C	C	3:1,000 sf	
Limited- Impact Industrial and Manufacturing						C			P	P				3:1,000 sf	
Major Utilities and Public Service Facility	P	C	C	C	C	C	C	C	P	P	C	P	C	N/A	1106.02 (t)
Microbrewery	C			L	P	P	P	L	P					8:1,000 sf	1106.02 (u)
Microdistillery	C			C	P	P	P	L	P					8:1,000 sf	1106.02 (v)
Mineral Extraction	C									C				N/A	1106.02 (w)
Minor Utilities and Public Service Facility	C								C	C		C		N/A	1106.02 (x)
Night Club					C	C	C							10:1,000 sf	
Outdoor Commercial Amusement					C	C								50:acre	1106.02 (y)
Parking Facility					C	P	C	C				C	C	N/A	
Passive Park/ Recreational Facilities	P	P	P	P							P	P		N/A	
Pawnbroker					L	L								5:1,000 sf	1106.02 (z)
Personal Services				P	P	P	P	P						5:1,000 sf	
Professional Office				P	P	P	P	P				P	P	4:1,000 sf	
Religious Land Use	L	L	L	L	P	P	P	P				P		8:1,000 sf	1106.02(aa)
Restaurant				L	P	P	L	L	P					10:1,000 sf	1106.02(bb)
Retail Store				L	P	P	P	P	P					8:1,000 sf	1106.02(cc)
Salvage Yard										L				N/A	1106.02(dd)
Self-Storage Facility						C			L	C		C		N/A	1106.02(ee)
Sexually Oriented Business						C			C					8:1,000 sf	1106.02(ff)
Solid Waste Transfer Station										C				N/A	
Technical School	C				P	P			P	P		P		6:1,000 sf	
Transportati on Facility						P	C	C	P		C	C	C	N/A	
Urban Farm			C	C	C	C	C	C	C		C	C		N/A	1106.02(gg)
Veterinarian Facility	C			L	P	P			P					4:1,000 sf	1106.02(hh)
Warehouse									P	P				2:1,000 sf	
Wholesale and Distribution									P	P				2:1,000 sf	
Accessory and Temporary Uses															
Accessory Building	L	L	L	P	P	P			P	P	P	P	P	N/A	1107.04
Accessory Dwelling Unit	L	L												1/DU	1107.05(a)
Alternative Energy System	L	L	L	L	L	L	L	L	L	L	L	L	L	N/A	1107.05(b)
ATM				L	P	P	L	L	P					N/A	1107.05(c)
Cargo Containers									C	C				N/A	1107.05(d)
Charitable Donation Container			L	L	L	L	L	L	L	L	L	L	L	N/A	1107.05(e)
Drive-Thru Facility				L	L	L								N/A	1107.05(f)

Fueling and Charging Services	C	C	C	C	C	L	C	C	C	C	C	C	C	N/A	1107.05(g)
Garage or Yard Sales	L	L	L												
Home Occupation	L	L	L	L				L						N/A	1107.05(h)
Mobile Food Service			C	C	C	C	C	C	C		C	C	C		
Outdoor Dining				L			L	L						N/A	1107.05(i)
Outdoor Storage					C	L			L	P	C	C		N/A	1107.05(j)
Personal Swimming Pool	P	P	P		P									N/A	
Private Kennel	C	C												N/A	
Private Utility	C	C	C	C	C	C	C	C	C	C	C	C	C	N/A	
Type A Family Child Care Home	C	C	C									C		N/A	
Type B Family Child Care Home	C	C	C									C		N/A	
Vertiport					L	L	C	C	L	L	C	L	L	N/A	1107.05(k)
Walk-Up Window				L	L	L	L	L						N/A	1107.05(l)

CHAPTER 1105

Land Use Terms and Definitions

1105.01 Residential uses.

1105.02 Nonresidential uses.

1105.03 Accessory and temporary uses.

1105.01 RESIDENTIAL USES.

(a) A Uses

(1) Adult Family Home

A residence or facility that provides accommodations to three (3) to five (5) unrelated adults and provides supervision and personal care services to at least three (3) of those adults, and is licensed according to the provisions of Chapter 3722 of the Ohio Revised Code.

(2) Adult Group Home

A residence or facility that provides accommodations to six (6) to 16 unrelated adults and provides supervision and personal care services to at least three (3) of the unrelated adults, and is licensed according to the provisions of Chapter 3722 of the Ohio Revised Code.

(b) B Uses (Reserved)

(c) C Uses

(1) Children's Residential Center

A use as defined in Ohio Admin. Code 5101:2-1-01(B)(71), as amended.

(2) Conventional Apartment

A residential building or group of buildings arranged, intended, and designed to be occupied by twelve or more households living independently of each other, and each including its own separate kitchen and bathroom accommodations.

(3) Cottage Court

A group of small, detached one- and two-unit dwellings located on one lot arranged around a shared court visible from the street.

(4) Courtyard Apartment

A medium-to-large sized detached dwelling arranged, intended, and designed to be occupied by twelve or more households living independently of each other, and each including its own separate kitchen and bathroom accommodations, oriented around a courtyard or series of courtyards.

(d) D Uses (Reserved)

(e) E Uses

(1) Educational Housing

A building or group of buildings in which housing is provided for individual students and faculty under the general supervision or regulation of an accredited college or university and as distinguished from an apartment, hotel, motel, or rooming house. Educational Housing may include facilities such as a commissary, snack bar, lounge, and study area, dining halls, and accessory kitchen, recreation facilities, and laundry, provided that these facilities are for the benefit and use of the occupants and their guests and not open to the general public. Examples of Educational Housing include but are not limited to Fraternity/Sorority Homes, Dormitories, Faculty Flats, and the like.

(2) Emergency Shelter

Those uses as defined in Ohio Admin. Code 5101:2-1-01(8)(114-115), as amended.

(f) F Uses

(1) Foster Home

A use as defined in Ohio RC. Ch. 5103.02(D), as amended.

(2) Four-Unit Dwelling

A detached dwelling arranged, intended or designed to consist of four dwelling units on one lot.

(g) G Uses

(1) Group Home for Children

A use as defined in Ohio Admin. Code 5101:2-1-01(B)(138-139), as amended.

(h) H Uses

(1) Halfway House Facility

A use as defined in Ohio RC. Ch. 5120.102(D), as amended.

(2) Home for the Aging

A use as defined in Ohio RC. Ch. 3721.01(A)(S), as amended.

- (i) I Uses (Reserved)
- (j) J Uses (Reserved)
- (k) K Uses (Reserved)

(l) L Uses

(1) Live-Work Dwelling

A dwelling unit that is also used for work purposes, provided that the "work" component is restricted to limited intensity such as a professional office, artist's workshop, studio, or other similar uses, is located on the street level, and the residential unit is occupied by the owner or manager of the "live" component. The "live" component may be located on the street level (behind the work component) or any other level of the building.

(m) M Uses

(1) Main Street Mixed Use Building

A small-to-medium-sized, low-to-mid-rise building with two or more different uses such as residential, office, retail, public, or entertainment uses. No residential use shall be allowed on the ground floor of a Main Street Mixed-Use Building. Example floor space configurations include but are not limited to:

- Ground floor retail, restaurant, or office storefronts with second floor apartment lofts;
- A three-floor building with retail on the ground floor, office on the second floor, and apartment/condo units on the third floor.

(2) Multi-Unit Dwelling

A detached dwelling arranged, intended or designed to consist of five (5) to twelve (12) dwelling units on one lot.

(n) N Uses

(1) Nursing Home

A use as defined in Ohio RC. Ch. 3721.01(A)(6) and Ohio Admin. Code 3701-16-01(W) as amended.

(o) O Uses

(1) One-Unit Dwelling

A detached dwelling arranged, intended or designed to consist of one dwelling unit on one lot.

(p) P Uses (Reserved)

(q) Q Uses (Reserved)

(r) R Uses

(1) Recovery Housing Residence

A use as defined in Ohio RC. Ch. 5119.01(A)(17), as amended.

(2) Residential Care Facility

A use as defined in Ohio RC. Ch. 3721.01(A)(7), Ohio RC. Ch. 5119.34, Ohio Admin. Code 3701-16-01(II), and Ohio Admin. Code 5101:2-1-01(280), as amended.

(3) Residential Facility

A use as defined in Ohio R.C. Ch. 5119.34(8), as amended.

(s) S Uses (Reserved)

(t) T Uses

(1) Three-Unit Dwelling

A detached dwelling arranged, intended or designed to consist of three dwelling units on one lot.

(2) Tiny Home

A detached dwelling arranged, intended, or designed to consist of one dwelling unit on one lot which is less than 400 hundred square feet and affixed to a permanent foundation.

(3) Town home

A dwelling that is part of a structure containing three or more dwelling units, each designed and constructed for occupancy by one household, with each dwelling unit attached by a common wall to another, in which each dwelling unit is located on individual lots.

(4) Transitional Housing

A use as defined in Ohio Admin. Code 122:6-1-01(F), as amended.

(5) Two-Unit Dwelling

A detached dwelling arranged, intended or designed to consist of two dwelling units on one lot.

(u) U Uses (Reserved)

(v) V Uses

(1) Vertical Mixed Use Building

A medium-to-large-sized, mid-to-high-rise building with two or more different uses such as residential, office, retail, public, or entertainment uses. No residential use shall be allowed on the ground floor of a Vertical Mixed-Use Building. Example floor space configurations include but are not limited to:

- Ground floor retail, restaurant, or office storefronts with upper floor apartment lofts;
- A five-floor building with retail and restaurants on the ground floor, office on the second floor, hotel accommodations and apartment/condo units on the third and fourth floors, and a restaurant and bar on the fifth floor.

(w) W Uses (Reserved)

(x) X Uses (Reserved)

(y) Y Uses (Reserved)

(z) Z Uses (Reserved)

1105.02 NONRESIDENTIAL USES.

(a) A Uses

(1) Adult Day Care

A licensed facility for the daytime care of an adult. This term includes any provided Adult day services (ADS) as defined by Ohio Admin. Code 173-39-02.1, as amended.

(2) Active Park/Recreational Facilities

Indoor or outdoor recreational pursuits typically available to the public, that involve cooperative or team activity, including those activities that occur on ball fields, sport courts, skateparks, ice rinks, and the like.

(3) Agricultural Operations

The use of land for growing forages and sod crops; grains and seed crops; vegetables; trees and forest products; fruits, including grapes, nuts, and berries; nursery, floral, ornamental, and greenhouse products; or lands devoted to a soil

conservation or forestry management program. Agricultural Operations also engage in the keeping, pasturing, and feeding of livestock for the sale of livestock or livestock products. An Agricultural Operations is assessed by the County Auditor at "current agricultural use value."

(4) Agritainment

Events and activities that allow for recreation, entertainment, and tourism that is in conjunction with on-going agricultural activities on-site (examples include, but are not limited to com mazes, hayrides, wedding venues, rodeos, and petting zoos).

(5) Artisanal Manufacturing

The manufacturing and production of goods by an artisan or craftsperson done by hand or small machinery, located within a building or indoor tenant space. This use typically includes but is not limited to jewelry, metalwork, cabinetry, woodworking, stained glass, textiles, ceramics, or handmade food products for off-site consumption.

(6) Assembly Hall

A building(s) or portion of a building in which facilities are provided for small to large gatherings and events for civic, educational, political, religious, cultural, or social purposes. Events that typically occur within an Assembly Hall are weddings, conferences, concerts, exhibitions, parties, live musical/acting performances, and the like. An Assembly Hall may be supported by ancillary uses that provide food and drink to those attending events.

(7) Automotive Repair

A building, place, or facility that offers mechanical and body work on motor vehicles including straightening of body parts, body repairs, battery rebuilding, painting, welding, short term storage of automobiles not in operating condition, outdoor similar work on motor vehicles that may involve noise, glare, fumes, smoke, or similar impacts.

(8) Automotive Sales and Rental

A building(s) and any associated open areas other than a street or required automobile parking space used for the display or sale of new or used automobiles, motorcycles, ATVs, recreational vehicles, light trucks, and trailers, to be displayed and sold on the premises, and where minor repair work and maintenance is done for those vehicles. This use does not allow for the storage of wrecked automobiles or the dismantling of automobiles or the storage of automobile parts or junk on the premises.

(9) Automotive Service

A building, structure, or land use for the limited repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles include, but not limited to, muffler repair and replacement, oil change and lubrication, tire service and sales, installation of accessories, or diagnostic services. Automotive Service work does not involve significant noise, glare, fumes, smoke, or similar impacts. Any repair, maintenance, or service activity more extensive than provided in the Automotive Service use, shall constitute as an Automotive Repair use and be regulated as such.

(10) Automotive Wash

A facility, whether automatic, semi-automatic or manual, for washing automobiles, motorcycles, A TVs, recreational vehicles, light trucks, trailers, and the like.

(b) B Uses

(1) Bar

An establishment providing or dispensing, for on-site consumption, alcoholic beverages, including but not limited to any fermented malt beverage, malt beverage, special malt, vinous, spirituous liquors, and those drinks specified in Ohio R.C. Ch. 4301.01(14), as amended. The sale of hot food products may be included as an ancillary use to the beverages provided on-site.

(2) Bed and Breakfast

An owner-occupied property, other than a hotel, which offers lodging for paying guests and which serves meals to these guests and which contains one or more guest bedrooms and where facilities for food preparation are not provided in the individual guest bedrooms.

(3) Brewery

A facility for the brewing of beer and ale for sale on the premises, as well as for offsite sales and distribution, which produces more than 10,000 barrels annually and may include a restaurant, bar, tasting, or retail space. The brewing operation processes the ingredients to make beer and ale by mashing, cooking, and fermenting. The brewing operation does not include the production of any other alcoholic beverages.

(c) C Uses

(1) Cannabis Growing/Processing

A facility operated by an organization or business that is licensed by the State of Ohio to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product.

(2) Cemetery

A place for interment of human or animal remains or cremated remains, including a burial park for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or a combination thereof.

(3) Check-Cashing Business

A use as defined in Ohio R.C. Ch. 1315.21B, as amended.

(4) Child Care Center

A use as defined in Ohio Admin. Code 5101:2-1-01(B)(63), as amended. This term includes nursery schools, preschools, and other similar uses.

(5) Clinic

An establishment where human patients are not hospitalized overnight and examined and are treated by or under the care and supervision of doctors, dentists, or other medical practitioners.

(6) Club

A use as defined in Ohio R.C. Ch. 4301 .01(13), as amended.

(7) College/University

A privately-owned or publicly-owned institution providing full-time or part-time education beyond the high school level, including any on-campus lodging rooms, housing for students or faculty, athletic facilities, food halls, medical services, and the like.

(8) Communication Facility

Towers, antennas, equipment, equipment buildings and other facilities used in the provision of wireless communication services, small cellular telecommunication services, and the like.

(9) Community Center

A place, structure, area or other facility that is open to the public, under the jurisdiction of a public or nonprofit agency, and

is used for community recreation, education and service activities. A community center may include, but is not limited to, the following uses: auditorium, multipurpose room, gymnasium, meeting space, open space, playground, playing courts, playing field, and swimming pool.

(10) Community Garden

A use that provides land or space for people to grow plants for non-commercial purposes, such as beautification, education, recreation, or harvest for personal consumption, and is managed by a specific person, group, association, or entity responsible for maintenance and operations. Examples of those who can manage include but are not limited to school/religious groups, homeowners' associations, rotary club, etc.

(11) Crematory

A building or portion of a building where human remains and deceased animals are cremated in cremation retorts.

(d) D Uses

(1) Distillery

A facility for distilling spirits and liquor, including wine, for sale and distribution on-premises or off-site, that produces more than 50,000 proof gallons annually, and including restaurant/bar space, tasting space, or retail space.

(e) E Uses

(1) Educational Institution

A public or private educational facility offering instruction at the elementary, junior, or senior high school levels in the branches of learning and study required to be taught in the schools of Ohio. Educational facilities may include but are not limited to ancillary uses such as playgrounds, ball fields, temporary classroom buildings, gyms, auditoriums, and amphitheaters.

(f) F Uses

(1) Financial Institution

An establishment where the primary occupation is financial services such as banking, savings, and loans. It does not include financial services that typically occur in an office or storefront, such as investment companies, loan companies, credit and mortgage, insurance services, or brokerage firms), which are classified under "Professional Office," below.

(2) Flex Warehouse

A building or portion thereof used for the housing of where building and construction trade services are provided to the public. This use shall include, but is not limited to, contractor offices, including landscaper's showrooms, construction supplies and storage including plumbing, heating, air conditioning, and building equipment, materials, sales, and other uses similar in nature and impact.

(3) Funeral Services

A building or part thereof used for human funeral services, that may include space for the embalming and other services used in the preparation of the dead for burial; the storage of caskets, funeral urns, funeral vehicles, and other related supplies; facilities for cremation, chapels, and other related uses.

(g) G Uses

(1) Ghost Kitchen

A place or facility for preparing, cooking, baking, and selling of food products on the premises for off-premise consumption. Accessory office and waiting spaces shall be incidental to the primary use.

(2) Government Use

A building or land used and controlled exclusively for governmental or public purposes by any department or branch of government including city, state, county, federal, or other recognized public entity. Such use may include, but is not limited to, city offices, public works, libraries, post offices, training facilities, fire stations, police storefronts, and other similar uses.

(3) Greenhouse/Nursery

A place where plants, including flowers, shrubs, trees, and sometimes seeds, are grown and sold. This use does not include the growing and selling of marijuana.

(h) H Uses

(1) Hospital

A facility providing physical or mental health services, inpatient or overnight accommodations, and medical or surgical care for the sick or injured. Such a facility may include Clinics.

(2) Hotel

A use as defined in Ohio R.C. Ch. 3731.01(A), as amended.

(i) I Uses

(1) Indoor Commercial Amusement

A place where entertainment activities occur completely within an enclosed structure for a fee, including but not limited to theaters, bowling alleys, arcades, skating rinks, escape rooms, pool halls, video and pinball parlors. An Indoor Commercial Amusement may include but are not limited to ancillary uses such as food and beverage sales and giftshops that are designed and intended primarily for the use of patrons.

(2) Intensive-Impact Industrial and Manufacturing

The manufacturing, processing, and storing of paper, chemicals, plastics, rubber, cosmetics, drugs, nonmetallic mineral products (such as concrete and concrete products, glass), primary metals, acetylene, cement, lime, gypsum or plaster-of Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins, electrical equipment, appliances, batteries, and machinery. This use also includes the heaviest and most intensive facilities which warrants additional review by the City such as: asphalt and concrete mixing plants, smelting, animal slaughtering, oil refining, and magazine contained explosives facilities.

(j) J Uses (Reserved)

(k) K Uses

(1) Kennel

A facility licensed to house dogs, cats, or other household pets or where grooming, breeding, boarding or training or selling of animals is conducted as business. This use includes pet resorts/hotels, pet adoption centers, dog training centers, animal rescue shelters and sanctuaries.

(l) L Uses

(1) Laboratory

A building or part thereof in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products except as incidental to the main purpose of the laboratory.

(2) Limited-Impact Industrial and Manufacturing

The manufacturing of products, from extracted, raw, recycled or secondary materials, including bulk storage and handling of those products and materials, or crushing, treating, washing, and/or processing of materials. This includes similar establishments, and businesses of a similar and no more objectionable character. It also includes incidental finishing and storage. Goods or products manufactured or processed on-site may be sold at retail or wholesale on or off the premises. This does not include any activity listed under Intensive-Impact Industrial and Manufacturing. Examples of Limited-Impact Industrial and Manufacturing include the manufacture or production of the following goods or products: apparel (including clothing, shoes, dressmaking); boats and transportation equipment; brooms; caskets; communication or computation equipment; dairy products; die-cut paperboard and cardboard; drugs, medicines, pharmaceutical; electrical equipment or machinery; farm machinery; fasteners and buttons; feed and grain; food/baking (including coffee roasting, creameries, ice cream, ice, frozen food, confectionery, and beverage); fruit and vegetable processing, canning and storage; gaskets; glass products made of purchased glass; household appliances; industrial controls; leather and allied products; lithographic and printing processes (including printing plants as defined below); mattresses; medical equipment and supplies; medicines; mill work and similar woodwork; mobile homes; musical instruments; novelties; office supplies; optical goods; photographic equipment; prefabricated and modular housing and components; printing and print supplies (including printing plants); 3-D printing, radio and TV receiving sets; sanitary paper products; scientific and precision instruments; service industry machines; signs; textiles (including dyeing, laundry bags, canvas products, dry goods, hosiery, millinery); tobacco products; toys, sporting and athletic goods; and watches and clocks.

(m) M Uses

(1) Major Utilities and Public Service Facility

Infrastructure services that typically have substantial visual or operational impacts on nearby areas. Typical uses include but are not limited to water and wastewater treatment facilities, high-voltage electric substations, utility-scale power generation facilities (including wind, solar and other renewable and nonrenewable energy sources), sanitary landfills and utility-scale water storage facilities, such as water towers and reservoirs.

(2) Microbrewery

An establishment where beer and malt beverages are made on the premises and offered for consumption on site, offered for sale directly to customers (including filling growlers), sold to licensed wholesalers to distribute the beer to retailers. Ohio State Law establishes an annual production limit of 10,000 barrels for microbreweries.

(3) Microdistillery

An establishment where distilling of spirits and liquor are made on premises, and offered for consumption on site, offered for sale directly to customers, sold to licensed wholesalers for distribution. Ohio State Law establishes an annual production limit of 50,000 proof gallons for microdistilleries.

(4) Mineral Extraction

The extraction or quarrying of coal, ores, stone, minerals, top soil or aggregate resources from the ground. Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining and top soil extraction. This also includes crushing, washing and grading coal, ore, stone, sand, gravel, minerals, topsoil or aggregate resources and manufacture of Portland cement.

(5) Minor Utilities and Public Service Facility

Infrastructure services that need to be located in or close to the area where the service is provided. Minor utilities and public service facilities generally do not have regular employees at the site and typically have few if any impacts on surrounding areas. Typical uses include water and sewer pump stations; gas regulating stations; underground electric distribution substations; electric transformers; water conveyance systems; stormwater facilities and conveyance systems; telephone switching equipment and emergency communication warning/broadcast facilities.

(n) N Uses

(1) Night Club

A use as defined in Ohio R.C. Ch. 4301 .0104), as amended.

(o) O Uses

(1) Outdoor Commercial Amusement

A place where entertainment activities occur outdoors for a fee, including but not limited to miniature golf, batting cages, water slides, driving ranges, theme parks, drive-in theaters, and go cart tracks. An Outdoor Commercial Amusement may include but are not limited to ancillary uses such as food and beverage sales and giftshops that are designed and intended primarily for the use of patrons.

(p) P Uses

(1) Parking Facility

An area reserved or used for parking or storage of motor vehicles, hauling trailers or boats on premises on which there is no principal building. Alternatively, the use may utilize a structure used specifically for the parking or storage of motor vehicles. A Parking Facility includes those parking arrangements that are surface-level, above grade, and below-grade structure.

(2) Passive Park/Recreational Facilities

Parks and recreational pursuits, such as interpretive programs and trail systems that take advantage of geological, biological, or scenic resources located within the city limits.

(3) Pawnbroker

A use as defined in Ohio R.C. Ch. 4727.01, as amended.

(4) Personal Services

Establishments that are primarily engaged in providing services generally involving the care of the person or person's possessions. Personal services may include, but are not limited to, laundry and dry-cleaning services, barber shops, beauty salons, music schools, informational and instructional services, tanning salons, and portrait studios.

(5) Professional Office

A use or structure where business or professional activities are conducted or business or professional services are made available to the public, including, but not limited to, tax preparation, accounting, architecture, legal services, medical professionals, dental laboratories, psychological counseling, real estate and securities brokering, and professional consulting services.

(q) Q Uses (Reserved)

(r) R Uses

(1) Religious Land Use

A structure, group of structures, or lands intended for regular gatherings of people to attend, participate in or conduct religious services and other related activities and associated accessory uses. Associated accessory uses may include religious instruction classrooms, church offices, counseling programs, private school, youth programs, parking, child and adult day care facilities, summer camps, recreational facilities, caretaker's quarters, food bank, thrift shop, sale of religious items, and cemeteries.

(2) Restaurant

An establishment where food and drink are prepared, sold to customers, and may be consumed on the premises. A restaurant may include the incidental sales and service of alcoholic beverages for on-site consumption. Such uses include but are not limited to cafes, coffee shops, delicatessen, sit-down dining, and fast food.

(3) Retail Store

A building(s) or facility(ies) in which the sale of goods, products, or merchandise is sold directly to the consumer. Typical uses include but are not limited to clothing stores, department stores, electronic and appliance stores, bike shops, bookstores, hobby shops, jewelry stores, furniture stores, pet supply stores, shoe stores, antique shops, secondhand stores, record shops, CBD/smoke shops, sporting goods stores, variety stores, musical instrument stores, medical supply sales, office supplies, convenience stores, and beauty supply shops. Cannabis dispensaries are excluded from this definition.

(s) S Uses

(1) Salvage Yard

A use as defined in 739.01(c) of the Code of Ordinances.

(2) Self-Storage Facility

A building or group of buildings consisting of individual, self-contained spaces that are leased or owned for the storage of business goods, household goods, or contractor supplies.

(3) Sexually Oriented Business

Those uses defined in 707.02 of the Code of Ordinances, as amended.

(4) Solid Waste Transfer Station

A building or facility that is used or intended to be used primarily for the purpose of transferring solid wastes that are generated off the facility's premises from vehicles or containers into other vehicles or containers for transportation to a solid waste disposal facility. The operation is totally enclosed within a building.

(t) T Uses

(1) Technical School

An institution in an enclosed building that focus on teaching the skills needed to perform a particular job, technical trade, or professional skill. Examples include schools of cosmetology, modeling academies, computer training facilities, vocational schools, administrative business training facilities and similar uses.

(2) Transportation Facility

Any structure or transit facility that is primarily used, as part of a transit system, for the purpose of loading, unloading, or transferring passengers or accommodating the movement of passengers from one mode of transportation to another.

(u) U Uses

(1) Urban Farm

Any land or indoor facility that cultivate flowers, fruits, and vegetables and sells those products for commercial purposes. Ancillary uses that support the operation such as washing, packaging, and storing facilities are included. This use is less intensive than the Agricultural Operations use. Any agricultural activity more extensive than provided in the Urban Farm use, shall constitute as an Agricultural Operations use and be regulated as such.

(v) V Uses

(1) Veterinarian Facility

A facility where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. This use may include an accessory kennel that is limited to short-term boarding incidental to the veterinarian facility.

(w) W Uses

(1) Warehouse

An enclosed storage facility which is used to store goods or parts, or for any part of the shipping process. This use includes cross-dock facilities.

(2) Wholesale and Distribution

A facility or area for the storage of goods, and the sale of goods to other firms for resale, including activities involving significant storage and movement of products or equipment. This use does not involve manufacturing or production. Examples include but are not limited to: carting, cold storage, distribution facilities, dry goods wholesale, express crating, hauling, feed locker plants, fulfillment centers that combine storage with call centers, hardware storage, merchant wholesalers (such as restaurant supply sales), warehouse or produce/fruit/food storage and wholesale structures, wholesale sale of paper supplies, shoes, sporting goods, professional and commercial equipment and supplies, and otherwise preparing goods for transportation. Distribution means the intake of goods and merchandise, individually or in bulk, the short-term holding or storage of such goods or merchandise, and/or the breaking up into lots or parcels and subsequent shipment off-site of such goods and merchandise. Distribution may be provided to an entity with an identity of interest with the facility or to businesses and individuals unrelated to the distributor. The term distribution also includes a transshipment facility for the temporary holding, storage and shipment of goods or vehicles.

(x) X Uses (Reserved)

(y) Y Uses (Reserved)

(z) Z Uses (Reserved)

1105.03 ACCESSORY AND TEMPORARY USES.

(a) A Uses

(1) Accessory Building

A subordinate building, located on the same lot as the primary building, the use of which is clearly incidental to and customarily found in connection with the primary building or use of the property. Such uses include but are not limited to

equipment storage sheds, personal workshop space, and the like.

(2) Accessory Dwelling Unit

An attached or detached additional dwelling unit associated with a principal residence on the same lot or parcel of that principal residence. This use includes those uses commonly referenced as carriage houses, granny flats, servant's quarters, garage apartments, guard residences, and the like.

(3) Alternative Energy System

Any wind or solar driven devices and equipment (whether roof, ground mounted, or tower mounted) used for the purpose of providing electrical power to a privately owned lot or parcel. These systems are accessory in function, are not of an industrial or large-scale, and are reserved exclusively for private or personal use.

(4) ATM

An automated device that performs banking or financial functions at a location remote from the controlling financial institution.

(b) B Uses (Reserved)

(c) C Uses

(1) Cargo Containers

A standardized, reusable weatherproof fully enclosed box-like structure constructed with doors, originally designed for the shipment or storage of freight or other goods, and commonly designed for or is capable of being mounted on a railroad car or chassis for movement by truck or ship.

(2) Charitable Donation Container

An accessory structure where clothes, goods, products, and other items are placed for donation and are subsequently delivered to a charitable organization for public consumption.

(d) D Uses

(1) Drive-Thru Facility

Any associated facilities related to a building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle receive or obtain a product, food, or service.

(e) E Uses (Reserved)

(f) F Uses (Reserved)

(1) Fueling and Charging Services

Facilities and equipment arranged, designed, used, or intended to be used for the primary purpose of dispensing gasoline, oil, diesel fuel, and electricity at retail direct to on-premises vehicles. Such services include fueling pumps, charging stations, and the like. This use does not include charging stations situated on residential properties since those facilities are for the property owner's or tenants' personal use.

(g) G Uses

(1) Garage or Yard Sales

General sales, open to the public, conducted from or on a residential lot or in any residential district for the purpose of disposing of personal lot or other lot, including but not limited to, all sales entitled "garage," "lawn," "estate," "yard," "attic," "tag" or "rummage sale."

(h) H Uses

(1) Home Occupation

An occupation, profession, or business activity for financial gain or profit which results in a product or service and is conducted in whole or in part in a dwelling unit and is subordinate to the residential use of the property.

(i) I Uses (Reserved)

(j) J Uses (Reserved)

(k) K Uses (Reserved)

(l) L Uses (Reserved)

(m) M Uses

(1) Mobile Food Service

A commercial operation that utilizes a licensed, motorized vehicle (food truck) or concession trailer for the sale of cooked or prepared food and beverage items that are sold to the general public for on-site or off-site consumption.

(n) N Uses (Reserved)

(o) O Uses

(1) Outdoor Dining

An accessory dining space reserved for customers and patrons at a restaurant, brewery/distillery, hotel, or mixed-use building.

(2) Outdoor Storage

The keeping of any goods, materials, merchandise, or vehicles outside of a structure or building for more than 48 consecutive hours. Outdoor storage shall not include vehicles, tool rental establishments, greenhouses, or other uses where the sale of the merchandise is the primary use of the property.

(p) P Uses

(1) Personal Swimming Pool

A swimming pool on private property for the use of the property owner, including family and guests.

(2) Private Kennel

The use of a residence or private property to partake in Hobby Breeder activities.

(3) Private Utility

Those utilities provided by a contractor or franchise on private property for personal use.

(q) Q Uses (Reserved)

(r) R Uses (Reserved)

(s) S Uses (Reserved)

(t) T Uses

(1) Type A Family Child Care Home

A use as defined in Ohio R.C. Ch. 5104.01(UU), as amended.

(2) Type B Family Child Care Home

A use as defined in Ohio R.C. Ch. 5104.01(VV), as amended.

(u) U Uses (Reserved)

(v) V Uses

(1) Vertiport

An area of land, structural surface, building, or structure with one or more designated drone staging areas for use by small unmanned aircraft systems (sUAS) under 55 pounds total take-off weight or as defined in Section 44801 of Title 49, United States Code, as amended, whichever is the lesser, to distribute commercial goods by air. This includes any appurtenant areas used or intended for use for unmanned aircraft system buildings, structures, and other facilities.

(w) W Uses

(1) Walk-Up Window

Any associated facilities related to a building opening, including windows, doors, or mechanical devices, through which customers and patrons on foot receive or obtain a product, food, or service.

(x) X Uses (Reserved)

(y) Y Uses (Reserved)

(z) Z Uses (Reserved)

CHAPTER 1106

Use-Specific Standards

1106.01 Residential uses.

1106.02 Nonresidential uses.

1106.01 RESIDENTIAL USES.

(a) Adult Family Home

(1) An Adult Family Home shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.

(b) Adult Group Home

(1) An Adult Group Home shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.

(c) Children's Residential Center

(1) A Children's Residential Center shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use

(d) Cottage Court

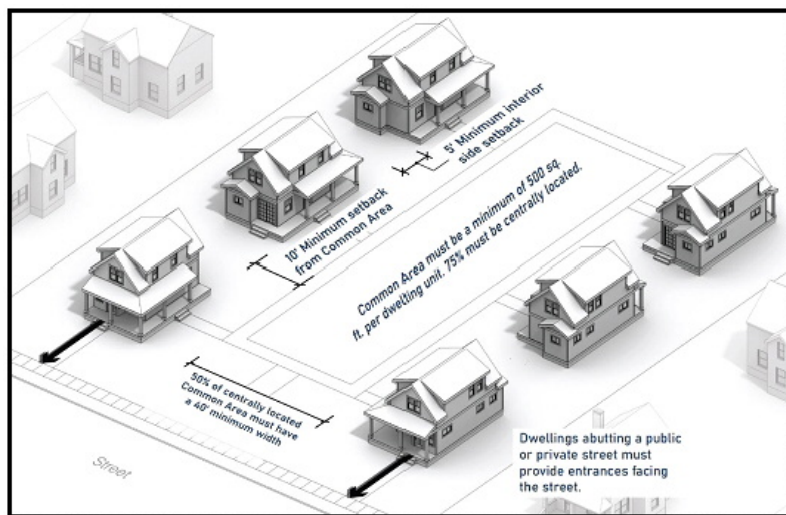


Figure 1106.01.1: Cottage Court Layout

(1) Figure 1106.01.1: Cottage Court Layout shows an example of a Cottage Court layout.

(2) The minimum total lot area required for a Cottage Court is the cumulative area required for each dwelling type provided within the development.

(3) Where a dwelling fronts on the common open space, it is considered to meet the requirement for frontage on a public or private street.

(4) The zoning district standards apply to each individual dwelling type within the Cottage Court with the following exceptions:

A. The maximum building height is limited to 35 feet for all dwellings.

B. For dwellings that front the common open space, the minimum front setback required is ten feet as measured from the common open space.

C. For dwellings that front the common open space, the required minimum rear and side setbacks is five feet.

(5) For any dwelling abutting a public or private street, an entrance to the dwelling must face the street.

(6) For any dwelling that fronts the common open space, the front facade of the dwelling shall be oriented to the common open space.

(7) Common open space shall be provided and shall meet the following standards:

A. The minimum area of the common open space is 500 square feet per dwelling.

B. At least 50% of the centrally located common open space shall have a minimum width of 40 feet.

C. Of the required amount of common open space, 75% shall be centrally located.

D. All common open space shall be accessible to all residents.

E. Yards for dwellings are not counted toward the required amount of common open space. However, such yards may be in addition to the required amount of common open space.

(e) Courtyard Apartment

(1) Common open space shall be provided for a Courtyard Apartment development.

(2) A Courtyard Apartment shall be designed where the prominent feature of the development is the common open space.

(3) For each dwelling unit provided, 100 square feet of common open space shall be provided.

(4) The required common open space:

A. May be hardscaped up to 50%.

B. Shall provide outdoor furniture, amenities, and similar items for the use of residents.

(f) Emergency Shelter

- (1) An Emergency Shelter shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.
- (g) Foster Home
 - (1) A Foster Home shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.
- (h) Four-Unit Dwelling
 - (1) A Four-Unit Dwelling may be designed as a stacked, side-by-side, or multi-side dwelling.
 - (2) Where possible, a Four-Unit Dwelling shall provide rear-entry parking.
 - (3) A Three-Unit Dwelling shall comply with the requirements of Section 1106.01 (w)(2).
- (i) Group Home for Children
 - (1) A Group Home for Children shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.
- (j) Halfway House Facility
 - (1) A Halfway House Facility shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.
- (k) Home for the Aging
 - (1) A Home for the Aging shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.
- (l) Live-Work Dwelling

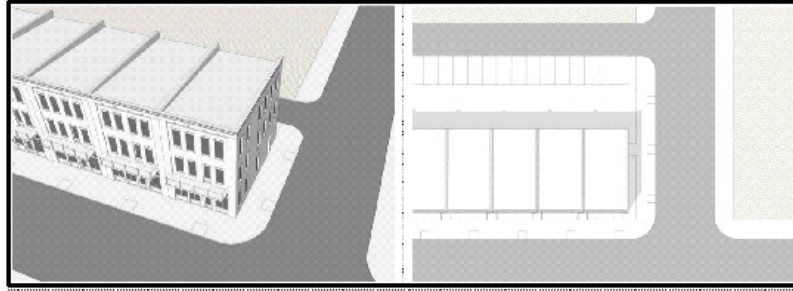


Figure 1106.01.2: Live-Work Dwellings

- (1) The "live" component may be located on the street level (behind the work component) or any other level of the building. Figure 1106.01.2: Live-Work Dwellings shows an example of Live-Work Dwellings where parking is provided in the rear.
- (2) The residential unit shall be occupied by the business owner or manager.
- (m) Main Street Mixed Use Building
 - (1) The first floor shall be reserved for nonresidential uses.
 - (2) The residential use shall not exceed 75% of the total Mixed-Use Building square footage.
 - (3) All on-site parking shall be located at the rear of the site.
- (n) Multi-Unit Dwelling



Figure 1106.01.3: Multi-Unit Dwelling

- (1) A Multi-Unit Dwelling may be designed as a stacked or multi-sided dwelling.
- (2) A Multi-Unit Dwelling shall be designed to where no more than four dwelling units are provided side-by-side on any one story of the dwelling.
- (3) A Multi-Unit Dwelling shall comply with the requirements of Section 1106.01 (w)(2).
- (4) Figure 1106.01.3: Multi-Unit Dwelling shows an example of a Multi-Unit Dwelling where rear-entry parking is provided.
- (o) Nursing Home
 - (1) A Nursing Home shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.
- (p) One-Unit Dwelling
 - (1) Zero Lot Line Development

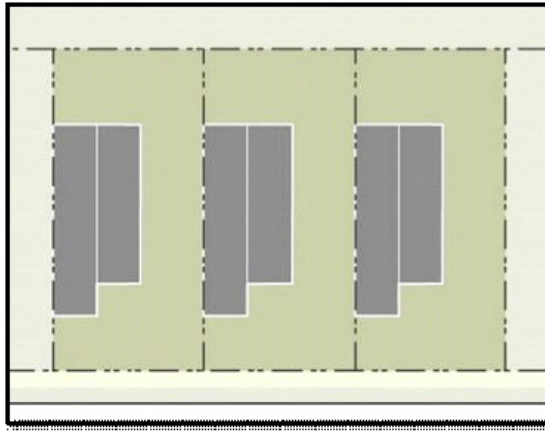


Figure 1106.01.4: Zero Lot Line Development

- A. The dwelling may be constructed with a zero side yard on one side, and a side yard of not less than 10 feet extending the full depth of the lot on the other side.
 - B. The dwelling may be placed on the "zero" side yard line (see the dwelling placement as provided in Figure 1106.01.4: Zero Lot Line Development).
 - C. In all cases, there shall be at least a 10-foot side yard on corner lots where adjacent to a street right-of-way or alley.
 - D. Under no circumstances shall the separation between two zero lot line dwellings, or between a zero lot line dwelling and any other type of principal building on an adjacent lot, be less than 10 feet wall-to-wall.
- (q) Recovery Housing Residence
 - (1) A Recovery Housing Residence shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.
 - (r) Residential Care Facility
 - (1) A Residential Care Facility shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.
 - (s) Residential Facility
 - (1) A Residential Facility shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.
 - (t) Three-Unit Dwelling
 - (1) A Three-Unit Dwelling may be designed as a stacked, side-by-side, or multi-side dwelling.
 - (2) A Three-Unit Dwelling shall comply with the requirements of Section 1106.01 (w)(2).
 - (u) Tiny Home
 - (1) A Tiny Home shall meet the applicable zoning district's dimensional requirements.
 - (2) A Tiny Home shall be securely fixed to a permanent foundation.
 - (3) A Tiny Home shall connect to water, wastewater, and electric utilities (including connection to the electrical grid).
 - (4) All final plans and construction details for a Tiny Home shall be signed and sealed by a registered engineering professional and they shall comply with Appendix Q in the most recently adopted version of International Residential Code.
 - (v) Town home

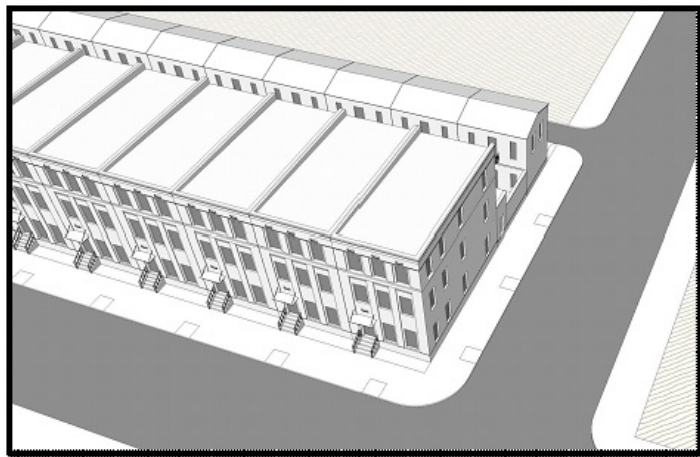


Figure 1106.01.5: Townhomes

- (1) No Town home row shall exceed eight (8) units.
 - (2) At the end of a Town home row, a five-foot minimum side yard setback shall be provided.
 - (3) Where possible, Townhomes shall provide rear-entry parking.
 - (4) All parking shall be on the public right-of-way or shall provide rear entry parking garages where alley access exists.
 - (5) Figure 1106.01.5: Townhomes shows an example of a Town home row where rear entry parking is provided.
- (w) Transitional Housing
 - (1) Transitional Housing shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.
 - (x) Two-Unit Dwelling

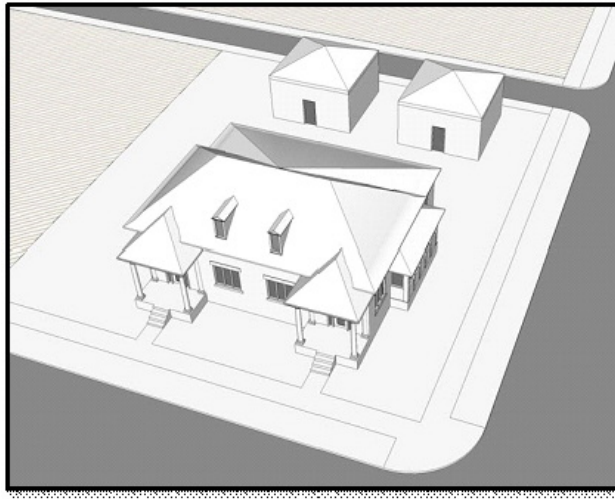


Figure 1106.01.6: Two-Unit Dwelling

- (1) A Two-Unit Dwelling may be designed as a stacked, side-by-side, or multi-sided dwelling.
- (2) Each front ground floor facade entrance shall be accompanied by a:
 - A. Stoop with an area of at least 50 square feet;
 - B. Porch with an area of at least 75 square feet; or
 - C. A recessed or projecting entry at least three feet deep with a structural covering (canopy, awning, etc.)
- (3) Figure 1106.01.6: Two-Unit Dwelling shows an example of a side-by-side Two-Unit Dwelling where rear-entry parking is provided.
- (y) Vertical Mixed Use Building
 - (1) The first floor shall be primarily used for nonresidential uses.
 - (2) The first floor may incorporate residential uses but shall be limited to 25% of the square footage on the first floor.
 - (3) The residential use shall not exceed 75% of the total Mixed Use Building square footage.
 - (4) All on-site parking shall be located at the rear of the site with the exception that no more than 25% of the on-site parking may be allowed in front of the site.
 - (5) Parking in the front of the site is prohibited in the C-DT district.
 - (6) Nonresidential uses are allowed on the top floor of a Vertical Mixed Use Building.

1106.02 NONRESIDENTIAL USES.

- (a) Active Park/Recreational Facilities
 - (1) All site lighting for the purposes of illuminating Active Park/Recreational Facilities or any accessory use shall terminate at 11:00 p.m. Lighting for walls, security measures, sconces, and parking facilities are excluded from this requirement.
 - (2) Noise generated by Active Park/Recreational Facilities shall not exceed 40 dBA at any residential property line between the hours of 11:00 p.m. and 8:00 a.m.
- (b) Agritainment
 - (1) Noise shall not exceed 70 decibels at the property boundaries.
 - (2) An Agritainment use shall provide sanitary and waste services for participants and spectators.
 - (3) An Agritainment use shall provide paved emergency medical services and fire lanes as part of the facility's operations.
 - (4) The fire lane shall be at least 28 feet wide.
- (c) Assembly Hall
 - (1) In the C-NC district the maximum building footprint of an Assembly Hall on a lot is 10,000 square feet.
- (d) Automotive Repair
 - (1) All Automotive Body Repair activities shall take place within a building, and in no instance shall activities occur in the open, outside of that building unless located in the I-LI or I-HI districts.
 - (2) On-site overnight vehicle keeping is prohibited unless vehicles are stored inside a building or fully screened as provided in Section 1120.03.
- (e) Automotive Sales and Rental
 - (1) An Automotive Sales or Rental use shall not be located within 300 feet of any other Automotive Sales or Rental use.
 - (2) No more than fifty percent (50%) of the total building floor area may be used for related accessory uses such as retail sales, repair and service, and washing.
 - (3) Inventory spaces shall not count toward the maximum parking requirements.
- (f) Automotive Service
 - (1) An Automotive Service use shall be located 150 feet from any residential district.
 - (2) All Automotive Service activities shall take place within a building, and in no instance shall activities occur in the open, outside of that building unless located in the I-LI or I-HI districts.
 - (3) On-site overnight vehicle keeping is prohibited.
- (g) Automotive Wash
 - (1) An Automotive Wash shall be located 150 feet from any residential district.
 - (2) An Automotive Wash shall be closed for business between midnight and 6:00 a.m.
 - (3) Automotive Wash activities located in the C-LC district shall occur within a completely enclosed structure.
- (h) Bar
 - (1) A Bar shall be located 150 feet from religious land uses and schools.
- (i) Bed and Breakfast
 - (1) A Bed and Breakfast shall be subordinate to the principal use of the lot which must be a dwelling.
 - (2) A Bed and Breakfast shall be owner-occupied and managed at all times.
 - (3) The maximum number of rented bedrooms/guestrooms is five.
 - (4) Rented bedrooms/guestrooms shall only be used by transient visitors and travelers and rented on a nightly, weekend, or weekly basis.
 - (5) No cooking facilities are allowed in any of the bedrooms/guestrooms.
 - (6) A Bed and Breakfast shall meet all of the minimum requirements of the City-County Health Department and shall conform in all respects to the requirements of the fire code, building code, electrical code, and plumbing code.

- (7) A Bed and Breakfast is responsible for the collection of the required City hotel/motel tax.
- (8) All City-County Health Officers, Building Inspectors, the Fire Marshal and their assistants, and other code enforcement officials of the City shall have the right to go on any premises of a Bed and Breakfast during normal business hours for the purpose of verifying compliance with this subsection and all other applicable ordinances of the City.
- (j) Cemetery
 - (1) A Cemetery shall have a minimum site area of 20 acres.
 - (2) All buildings, structures, gravestones, and other structures associated with a Cemetery shall be located at least 100 feet from all lot lines abutting a residential zoning district.
 - (3) A Cemetery may be located adjacent to a residential district or use if situated at the terminus of a residential block. In this instance, screening shall be provided as required in Section 1120.03 .
 - (4) A Cemetery in concert with Funeral Services shall comply with the regulations provided in 1106.02 (p).
- (k) Communication Facility
 - (1) The base and all related facilities and structures of the proposed wireless telecommunications facilities will be effectively screened from view.
 - (2) All utilities at the site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
 - (3) Access roads, turn-around space and parking have been provided to assure adequate emergency and service access.
 - (4) Maximum use of existing roads, whether public or private, shall be made to the extent practicable.
 - (5) Road construction shall minimize ground disturbance and the cutting of vegetation.
 - (6) Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
 - (7) Any new tower to be constructed on the site shall be no higher than necessary, and in no case, higher than 190 above existing grade.
 - (8) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
 - (9) Towers shall be galvanized and painted with a rust-preventive paint of a noncontrasting gray or similar color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this chapter.
 - (10) All wireless telecommunications facilities and antennas shall be fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:
 - A. All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
 - B. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.
 - (11) Wireless telecommunications facilities shall contain a sign no larger than four square feet located near the base of the tower in order to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the antenna(s), as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. No other signage, including advertising, shall be permitted.
 - (12) All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from any residential property line a minimum of a distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 50% of the height of the tower or structure.
 - (13) All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from any nonresidential property line a minimum of a distance equal to the height of the proposed tower or wireless telecommunications facility structure plus 25% of the height of the tower or structure.
- (l) Community Center
 - (1) A Community Center shall be located with access to an arterial street or on a street pavement wider than 30 feet.
 - (2) The following dimensional requirements shall be applicable only to the construction of a new building:
 - A. Minimum lot area: 40,000 square feet.
 - B. Minimum yards: 2.25 feet of horizontal distance shall be provided for each one foot of building height measured between the nearest point of any lot line and the nearest point from which the height is measured.
- (m) Community Garden
 - (1) Activities and structures may include greenhouses, hoop houses, cold frames, sheds, water capture facilities, or other small structures for the keeping of tools and equipment, composting, and needs for the Community Garden.
 - (2) Structures are subject to the requirements of the applicable zoning district.
 - (3) Community Garden activities shall be managed to prevent infestation of insects and other pests.
 - (4) A Community Garden shall be free of rank weeds.
 - (5) Composting practices provided on-site shall not include the burning of materials.
- (n) Educational Institution
 - (1) An Educational Institution shall not be located mid-block in between two residential districts or uses.
 - (2) An Educational Institution may be located adjacent to a residential district or use if situated at the terminus of a residential block. In this instance, screening shall be provided as required in Section 1120.03.
- (o) Financial Institution
 - (1) In the C-DT district:
 - A. A Financial Institution with Drive-Thru Facilities is prohibited.
 - B. An A TM is allowed but shall only be provided in such a manner that it is only accessible to pedestrians.
- (p) Funeral Services
 - (1) A Funeral Services site shall have a minimum frontage of 120 feet and a minimum lot area of 40,000 square feet.
 - (2) Funeral Services shall be located at least 100 feet from any residential district or use.
 - (3) Funeral Services including cremation or embalming shall be constructed, installed, operated, and maintained in accordance with all manufacturer's specifications and all applicable federal, state, and local permits. City inspectors shall have the right to enter and inspect the operations to determine compliance with this provision.
- (q) Hospital
 - (1) A conditional use permit is required for any associated flight facilities necessary to the Hospital's operations.
- (r) Indoor Commercial Amusement

- (1) No ancillary or accessory activities associated with an Indoor Commercial Amusement shall be provided outside. Such activities shall cause an Indoor Commercial Amusement use to be classified as an Outdoor Commercial Amusement.
 - (2) In the C-NC district, the maximum building footprint of an Indoor Commercial Amusement on a lot is 10,000 square feet.
- (s) Kennel
- (1) A Kennel shall comply with the following requirements:
 - A. A minimum lot area of 20,000 square foot shall be provided.
 - B. The following setbacks apply:
 - i. Front: 50 feet
 - ii. Side: 40 feet
 - iii. Rear: 50 feet
 - C. All structures shall be located at least 200 feet from a Residential district.
 - D. Outside runs used for animals are prohibited, and all services shall be provided within a fully enclosed building.
 - (2) In the C-NC district, the maximum building footprint of a Kennel on a lot is 10,000 square feet.
- (t) Major Utilities and Public Service Facility
- (1) Site Standards for Facilities
 - A. Utility substations shall be located at least 100 feet from a Residential district boundary.
 - B. The site shall access an arterial street or on a street pavement wider than 30 feet.
 - C. All proposed uses and facilities located within 100 feet of a Residential district shall be contained within buildings or structures.
 - D. A landscaped berm at least five feet in height shall be required in all yards abutting a Residential district or street.
 - (2) Location of Utility Lines
 - A. Such use shall not endanger the health and safety of residents or workers in the area.
 - B. The location of the use shall provide for minimal visual impact and shall not impair the use of surrounding properties.
 - C. The alignment of the use shall follow the topography to minimize any effects to the terrain.
 - D. There shall be minimal vegetative clearance for soil erosion control.
- (u) Microbrewery
- (1) A Microbrewery shall comply with the brewing regulations as provided in State Law.
 - (2) A Microbrewery includes on-site consumption as a principal or ancillary use.
 - (3) A Microbrewery may include other ancillary uses like food and retail sales, tasting events, or private parties.
 - (4) A Microbrewery shall utilize best management practices and available technology to minimize potential adverse odors associated with the use.
 - (5) In the C-NC district and C-DT-E subdistrict:
 - A. The maximum building footprint of a Microbrewery on a lot is 10,000 square feet.
 - B. A Microbrewery shall be located 150 feet from religious land uses and schools.
 - C. No outdoor storage is permitted, including parking and storage of vehicles associated with the business.
- (v) Microdistillery
- (1) A Microdistillery shall comply with the distilling regulations as provided in State Law.
 - (2) A Microdistillery shall comply with the regulations provided in Section 1106.02 (u).
- (w) Mineral Extraction
- Mineral Extraction is subject to the following specific requirements:
- (1) A license to operate shall be obtained from the Department of Natural Resources (DNR). Failure to maintain said license shall constitute abandonment.
 - (2) An application for such operation shall set forth the following information (compare to DNR requirements):
 - A. Name of the owner or owners of land from which removal is to be made.
 - B. Name of the applicant making request for such a permit.
 - C. Name of the person or corporation conducting the actual removal operation.
 - D. Location, description and size of the area from which the removal is to be made.
 - E. Type of resources or materials to be removed.
 - F. Proposed method of removal and whether or not blasting or other use of explosives will be required.
 - G. Description of equipment to be used.
 - H. Anticipated ending date for extraction and the method of rehabilitation and reclamation of the area.
 - I. The means that will be used to prevent the deposition of mud and debris from trucks on public streets and highways.
 - J. The means of controlling fugitive dust from the extraction.
 - K. Certification that all state and federal regulations can and will be met.
 - (3) Mineral Extraction shall not occur within 1,000 feet of a Residential District.
 - (4) Mineral Extraction shall not occur within 100 feet of abutting property or a street.
 - (5) The banks of an extraction site less than five feet deep, shall be sloped at a grade of not less than three feet horizontal to one foot vertical, and such banks shall be surfaced with at least six inches of suitable soil and seeded with a vegetative cover to prevent erosion.
 - (6) Whenever the floor of an extraction site is more than five feet below the grade of the site's perimeter or the site contains more than three feet of water, the site shall be completely enclosed by a barrier consisting of a fence on not less than a six foot high mound of earth planted with suitable dense planting or other suitable material sufficient in either case to prevent persons from entering the site. Such mound shall be located at least 25 feet from any street, road, highway or boundary of the quarry property.
 - (7) All quarrying, blasting, drilling or mining shall be carried out in a manner and on such scale as to minimize dust, noise and vibrations and to prevent adversely affecting the surrounding properties. A blasting permit shall be obtained from the Springfield Fire Division for all blasting that is done.
- (x) Minor Utilities and Public Service Facility
- (1) Minor Utilities and Public Service Facility shall comply with the regulations provided in Section 1106.02 (t).
- (y) Outdoor Commercial Amusement
- (1) An Outdoor Commercial Amusement use shall be located 500 feet from any residential district or use.
- (z) Pawnbroker
- (1) A Pawnbroker shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use.
 - (2) A Pawnbroker shall comply with the regulations provided in Chapter 743 Pawnbrokers.
 - (3) A Pawnbroker shall be located at least 1,000 feet from another Pawnbroker.
- (aa) Religious Land Use
- (1) A Religious Land Use shall be located with access to an arterial street or on a street pavement wider than 30 feet.

- (2) The following dimensional requirements shall be applicable only to the construction of a new building:
 - A. Minimum lot area: 40,000 square feet.
 - B. Minimum yards: 2.25 feet of horizontal distance shall be provided for each one foot of building height measured between the nearest point of any lot line and the nearest point from which the height is measured.
- (bb) Restaurant
 - (1) In the C-NC district the maximum building footprint of a Restaurant on a lot is 10,000 square feet.
 - (2) In the C-NC district a Restaurant with Drive-Thru Facilities is prohibited if the Restaurant will abut a residential district or use.
 - (3) In the C-DT district a Restaurant with Drive-Thru Facilities is prohibited.
- (cc) Retail Store
 - (1) In the C-NC district the maximum building footprint of a Retail Store on a lot is 10,000 square feet.
- (dd) Salvage Yard
 - (1) A Salvage Yard shall meet all local, county, and state rules, regulations, and ordinances pertaining to the use.
 - (2) A Salvage Yard shall comply with the regulations provided in CHAPTER 739 Salvage Yard Operators.
 - (3) A Salvage Yard shall be located at least 1,000 feet from a residential district.
 - (4) Any outdoor storage shall be conducted entirely within an enclosed fence, wall or other solid screen as provided in Section 1120.03 .
 - (5) Solid gates shall be provided at driveway areas.
 - (6) Such enclosures shall be constructed on or inside the front, side and rear lot lines and shall be constructed in such a manner that no outdoor storage or salvage operations shall be visible from an adjacent property, street or highway.
 - (7) Storage, either temporary or permanent, between such fence or wall and any property line is expressly prohibited.
 - (8) Junk or salvage materials shall not form part of the fence, be piled higher than the height of the fence, nor be placed against the fence.
 - (9) For fire protection, an unobstructed firebreak eight feet in width shall be maintained around the entire Salvage Yard.
 - (10) The storage of rags, paper and similar combustible waste shall not be closer than 100 feet to any property line, unless enclosed in a masonry building of not less than four-hour fire resistive construction.
- (ee) Self-Storage Facility
 - (1) A Self-Storage Facility shall be secured so that access is limited to tenants (or owners) and fire, police, or emergency service officials.
 - (2) A Self-Storage Facility shall provide adequate drive aisles between all buildings for vehicle circulation and fire and emergency access.
 - (3) A Self-Storage Facility unit shall not be used for the storage of explosives, ammunition, or hazardous or flammable materials.
 - (4) Self-Storage Facility units shall be used solely for the purpose of storage of goods and possessions and shall not be used for the operation of a business, hobby, band rehearsal, or any type of activity not related to the storage of personal property of the owner or tenant of the unit.
 - (5) Outdoor storage may be allowed in approved on-site areas for vehicles and recreational equipment if they are covered by an awning or canopy structure.
 - (6) The Self-Storage Facility may include accessory on-site offices and living quarters.
 - (7) These accessory spaces shall not exceed more than 3,000 square feet.
- (ff) Sexually Oriented Business
 - (1) A Sexually Oriented Business shall comply with the regulations provided in CHAPTER 707 Sexually Oriented Businesses.
- (gg) Urban Farm
 - (1) An Urban Farm shall comply with the regulations provided in Section 1106.02 (m).
 - (2) Any non-household animals provided on an Urban Farm shall comply with the regulations provided in CHAPTER 1124 - Animal Regulations.
- (hh) Veterinarian Facility
 - (1) Outside runs used for the treatment of animals is prohibited in the C-NC district.
 - (2) In the R-AG district, a Veterinarian Facility may treat and house non-household animals.
 - (3) In the R-AG district, a Veterinarian Facility shall be enclosed and screened as provided in Section 1120.03 or fenced as provided in Section 1120.04 (d) to restrain animals from running at large.

CHAPTER 1107

Accessory Uses and Features Standards

- 1107.01 Purpose.**
- 1107.02 Approval Procedure**
- 1107.03 Interpretation of unidentified accessory features.**
- 1107.04 General standards for all accessory features.**
- 1107.05 Accessory feature-specific regulations.**

1107.01 PURPOSE.

This Chapter authorizes the establishment of accessory uses, buildings, and functions, collectively referred to as accessory features, that are incidental and customarily subordinate to principal uses. An item is "accessory" if it is "incidental and customarily subordinate" to a principal use and complies with the standards established in this Chapter. All principal uses allowed in a zoning district shall be deemed to include those accessory uses, buildings, and functions typically associated with the use, unless specifically prohibited in this Chapter.

1107.02 APPROVAL PROCEDURE.

- (a) Generally. Any of the accessory uses identified in this Title may be allowed as accessory to an authorized principal use provided that:
 - (1) The proposed accessory feature is allowed in the base district where proposed; and
 - (2) The proposed accessory feature is consistent with the general and specific standards for accessory uses in this Chapter.
- (b) Simultaneously with a Principal Use. Accessory features may be reviewed as part of review of an associated principal use. In cases where the principal use is subject to a Conditional Use Permit, an accessory feature may only be authorized in accordance with an approved Conditional Use Permit.
- (c) Subsequent to a Principal Use
 - (1) Unless exempted, a building permit shall be required in cases where an accessory use or building is proposed subsequent to a principal use.
 - (2) In cases where the principal use is subject to a Conditional Use Permit, an accessory use may only be authorized in accordance with the provisions in TITLE Five - Procedural Standards.

1107.03 INTERPRETATION OF UNIDENTIFIED ACCESSORY FEATURES.

The Community Development Director shall evaluate applications for accessory features that are not identified in this Chapter on a case-by-case

basis, based on the following standards:

- (a) The definition of "accessory feature" in TITLE Nine - Definitions, and the general accessory feature standards and limitations established in this Chapter;
- (b) The purpose and intent of the base districts in which the accessory feature is located;
- (c) Potential adverse effects the accessory feature may have on other lots, compared with other uses permitted in the district; and
- (d) The compatibility of the accessory feature with other uses permitted in the district.

1107.04 GENERAL STANDARDS FOR ALL ACCESSORY FEATURES.

All accessory features shall be subject to the general standards in this Chapter, as well as any applicable supplemental standards in this Section and all standards applicable to the associated principal use.

- (a) Size. All accessory features shall:
 - (1) Be clearly subordinate in area, extent, and purpose to the principal use or structure;
 - (2) Not violate the bulk, density, parking, landscaping, or open space standards of this Zoning Code when taken together with the principal use or structure; and
 - (3) The floor area of any detached accessory building shall not exceed 50% of the floor area of the principal structure. The total combined floor area of all buildings shall not exceed the maximum lot coverage for the zoning district in which it is located.
- (b) Function. All accessory features shall directly serve the principal use or building, and be accessory and clearly incidental to the principal use or building.
- (c) Timing. Accessory features shall not be constructed or established prior to the start of construction of the principal use or building. An accessory feature shall not be used until the construction of the principal building is complete.
- (d) Height. Accessory features shall be limited to a maximum height of 15 feet unless exempted from the height requirements in this Zoning Code.
- (e) Location
 - (1) Accessory features shall be located on the same lot as the principal use or building.
 - (2) Accessory features shall not be located within platted or recorded easements.
 - (3) Accessory buildings shall be set back at least five feet from any side and 10 feet from any rear property line.
 - (4) Accessory buildings shall be set back at least five feet from the principal use or building on all sides.
 - (5) A detached accessory building in a residence district closer to the front line than 80 feet shall be no closer to any of its side lot lines than ten feet. On a corner lot whose rear line is the side line of a lot in a residence district, no accessory building shall be placed closer than ten feet to such rear line, nor closer than 20 feet to the street line on the side of the lot.
- (f) Miscellaneous. Any accessory building attached to a main building, except by a breezeway or roofed passageway with open or latticed sides, shall comply in all respects with the requirements for main buildings.

1107.05 ACCESSORY FEATURE-SPECIFIC REGULATIONS.

- (a) Accessory Dwelling Unit
 - (1) Only one Accessory Dwelling Unit is allowed on a lot.
 - (2) An Accessory Dwelling Unit shall comply with the required setbacks and height requirements of the zoning district in which the unit is located.
 - (3) An Accessory Dwelling Unit must not exceed the height of the principal dwelling.
 - (4) An Accessory Dwelling Unit must connect utilities to those of the principal dwelling.
 - (5) The property owner must occupy the principal dwelling or Accessory Dwelling Unit as the owner's permanent residence.
 - (6) An Accessory Dwelling Unit may be constructed in forms provided in Figure 1107.05.1: ADU Types.

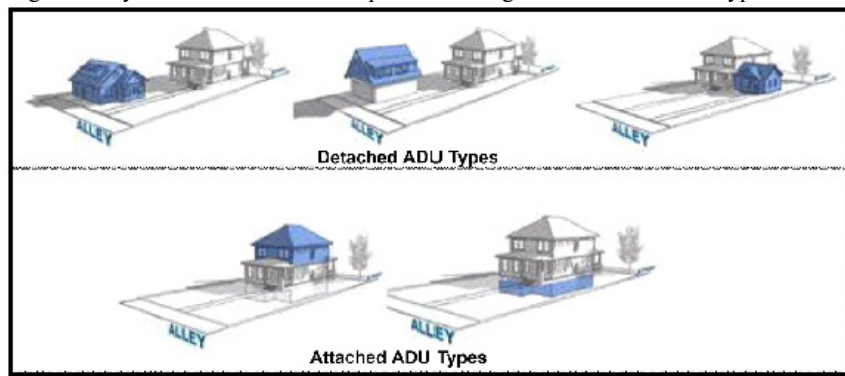


Figure 1107.05.1: ADU Types

- (7) An Accessory Dwelling Unit must comply with the requirements established in Table 1107.05.1: ADU Specifications.

Table 1107.05.1: ADU Specifications

Principal Use on Lot		ADU Type Allowed		Min. Lot Size	Max. ADU Size
		Detached	Attached		
		To Principal Dwelling	Above Detached Parking Structure		
One-Unit Dwelling	Yes	Yes	Yes	6,000 square feet	1,200 square feet
Two-Unit Dwelling	Yes	Yes	Yes	10,000 square feet	1,000 square feet
Town home	No	No	Yes	5,000 square feet	800 square feet
Three-Unit Dwelling	Yes	No	Yes	12,000 square feet	900 square feet

Four-Unit Dwelling	Yes	No	Yes	14,000 square feet	850 square feet
Multi-Unit Dwelling	Yes	No	Yes	18,000 square feet	800 square feet

(8) An ADU shall be architecturally consistent with the principal dwelling by having similar:

- A. Shape and style of exterior doors and windows;
- B. Building materials;
- C. Paint color(s); and
- D. Roof style.

(9) A Detached Accessory Dwelling Unit shall only be located in the rear of a lot.

(b) Alternative Energy System

(1) Solar Panels

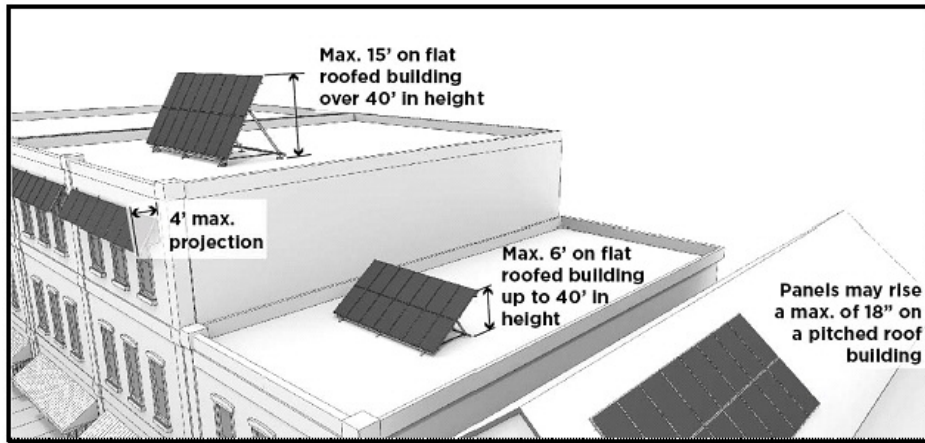
A. General Requirements

- i. A solar panel may be building-mounted or freestanding.
- ii. Solar panels must be placed so that concentrated solar radiation or glare is not directed onto nearby properties or roadways.

B. Building-Mounted Systems

- i. A building-mounted system may be mounted on the roof or wall of a principal building or accessory structure (see Figure 1107.05.2: Building Mounted Systems).
- ii. On pitched roof buildings, the maximum height a roof-mounted solar panel may rise is 18 inches.
- iii. On flat roofed buildings up to 40 feet in height, the roof-mounted solar panel system is limited to a maximum height of six feet above the surface of the roof.
- iv. On flat roofed buildings over 40 feet in height, the roof-mounted solar panel system is limited to 15 feet above the height of such structure.
- v. Roof-mounted solar energy systems are excluded from the calculation of building height.
- vi. Wall-mounted solar panels may project up to four feet from a building facade and shall be integrated into the structure as an architectural feature (see Figure 1107.05.2: Building Mounted Systems).

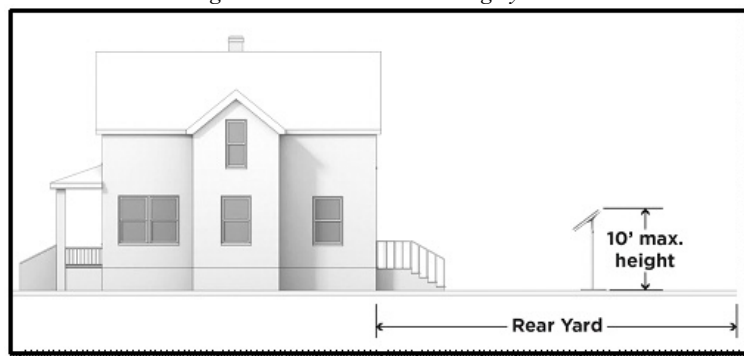
Figure 1107.05.2: Building Mounted Systems



C. Freestanding Systems

- i. A freestanding system is prohibited in the front yard.
- ii. The maximum height of a freestanding system is ten feet in residential districts (see Figure 1107.05.3: Freestanding Systems).

Figure 1107.05.3: Freestanding Systems



D. Co-Location

- i. Solar panels may be co-located on existing structures such as wireless communication towers and light poles.
- ii. Solar panels may be co-located on the roof of accessory structures such as pergolas and parking lot shade structures, and may serve as the roof as such structures.

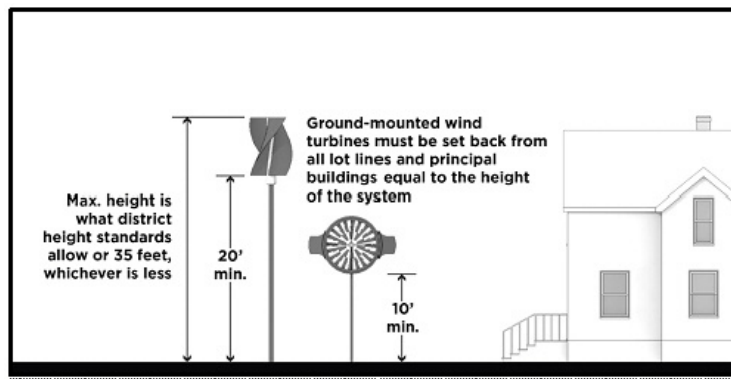
(2) Wind Turbines

- A. Wind turbines may be designed as either vertical or horizontal axis turbines, or designs that combine elements of the different types of turbines.

B. Wind turbines are subject to the following height restrictions:

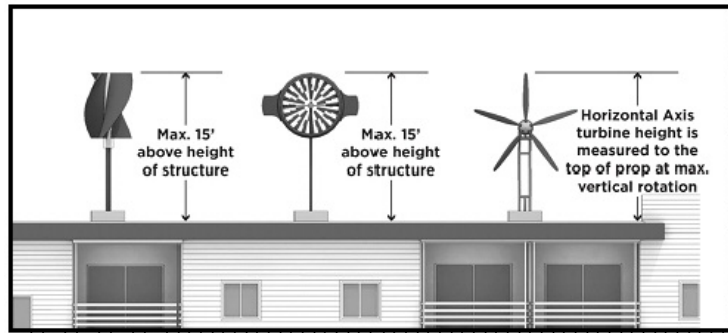
- i. The maximum height of any ground-mounted wind turbine is the maximum height allowed in the district or 35 feet, whichever is less (see Figure 1107.05.4: Ground-Mounted Wind Turbine Specifications). A taller height may be allowed by a conditional use permit.

Figure 1107.05.4: Ground-Mounted Wind Turbine Specifications



- ii. The maximum height of any wind turbine mounted upon a structure is 15 feet above the height of such structure (see Figure 1107.05.5: Structure-Mounted Wind Turbine Specifications).

Figure 1107.05.5: Structure-Mounted Wind Turbine Specifications



- iii. Maximum height is the total height of the turbine system as measured from the base of the tower to the top. For vertical axis turbines, the maximum vertical height of the turbine blades is measured as the length of a prop at maximum vertical rotation.
- iv. No portion of exposed turbine blades (vertical access wind turbine) may be within 20 feet of the ground. Unexposed turbine blades (horizontal access wind turbine) may be within ten feet of the ground (see Figure 1107.05.4: Ground-Mounted Wind Turbine Specifications).

- C. Ground-mounted wind turbines are permitted only in the rear yard. The tower must be set back from all lot lines equal to the height of the system. No principal buildings may be located within this area.
- D. All wind turbines must be equipped with manual (electronic or mechanical) and automatic over speed controls to limit the blade rotation speed to within the design limits of the wind energy system.

(c) ATM

- (1) An ATM may be provided as a standalone item or attached to a building.
- (2) An ATM attached to a building shall be located on the front or side facade of a building to which it is attached.
- (3) Any standalone ATM providing drive-thru facilities shall satisfy the requirements provided in Section 1107.05(f).

(d) Cargo Containers

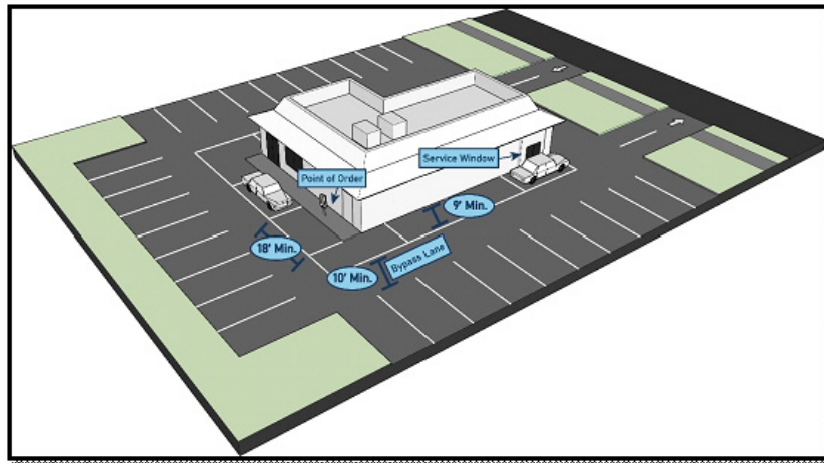
- (1) Cargo containers shall not be used as the primary use of a property.
- (2) Cargo containers 120 square feet or smaller in size may be used as temporary structures in nonresidential districts but shall not be placed in any required front or side yard setbacks.
- (3) Cargo containers exceeding 120 square feet are allowed in residential districts only if in active use for the storage of construction materials for ongoing permitted construction, or for a maximum period of seven consecutive days in association with the relocation of the contents of a residential structure.
- (4) Cargo containers exceeding 120 square feet:
 - A. Shall only be located in the rear yard and outside of any required setback.
 - B. Shall not be placed in any required parking area.
 - C. The combined area of the containers shall not exceed the floor area of the permanent structures on the property.
 - D. The stacking of cargo containers is prohibited in all districts except for industrial districts.
 - E. Screening shall be provided and comply with the requirements in Section 1120.03.
- (5) Cargo containers exceeding 120 square feet in industrial districts may be stacked two high.

(e) Charitable Donation Containers

- (1) Charitable donation containers shall only be allowed in nonresidential districts subject to issuance of a Zoning Certificate.
- (2) Charitable donation containers shall be subject to all applicable setback requirements of the zoning district within which it is located.
- (3) No more than one charitable donation containers shall be permitted at one time on a given lot, combined lot, development site, or complex.
- (4) A charitable donation container shall not exceed 78 inches in height - as measured from grade level, 60 inches in width, or 60 inches in depth.
- (5) Charitable donation containers shall not be permitted on a vacant lot, on a lot that contains a vacant primary building, or on a lot that contains a primary building of which a majority of the building is vacant.

(f) Drive-Thru Facility

Figure 1107.05.6: Drive-Thru Facility Standards



- (1) Any development providing a Drive-Thru Facility shall meet the requirements provided in Table 1107.05.2: Drive-Thru Facility Stacking Standards. Figure 1107.05.6: Drive-Thru Facility Standards is an example of a single Drive-Thru Facility with one point of order and one service window.

Table 1107.05.2: Drive-Thru Facility Stacking Standards

Use	Requirement
Restaurant	• 3 stacking spaces to each point of order;
	• 3 stacking spaces between the point of order and the first service window (including the position at the first service window); and
	• (If applicable) 2 stacking spaces between the first service window and the second service window (including the position at the second service window)
All other Uses	• 3 stacking spaces, including the position at the service window

- (2) A stacking space is at least nine feet wide by 18 feet long, exclusive of access driveways and parking aisles.
- (3) Stacking lanes shall be clearly marked and shall not interfere with on-site or off-site traffic circulation.
- (4) For any Drive-Thru Facility associated with a Restaurant, stacking lanes shall be accompanied with an abutting 10-foot-wide bypass lane.
- (5) Stacking areas shall not be located between the front building line and the public street upon which the building fronts.

(g) Fueling and Charging Services

- (1) Fueling and Charging Services shall not be located within 100 feet of any residential district.
- (2) At the four corners of a street intersection, Fueling and Charging Services shall be restricted to two of the four corner lots to prevent the proliferation of Fueling and Charging Services on all four lots.
- (3) Fueling and Charging Services may include fuel pumps, fuel pump islands, electric vehicle charging facilities and equipment, freestanding canopies, liquid storage tanks, and other associated items with fueling and charging, but shall meet the requirements of this Subsection.
- (4) Any fuel pump island or other structure shall meet the zoning district's applicable minimum setbacks.
- (5) All fuels shall be transferred from underground storage tanks by means of approved dispensing units located at least 15 feet from all property lines. All dispensers shall be protected from vehicle damage by rigidly mounting them in a concrete platform of at least six inches in height extending a minimum of 12 inches beyond the dispenser in all directions. When adequate protection is not provided by the concrete platform alone, additional safeguards shall be provided by a pipe bollard or guard rails.
- (6) Underground tanks for the storage of flammable or combustible liquids shall be located at least five feet from any wall, foundation, or property line. The top of the flammable liquid tanks shall be below the lowest floor elevation of any building within 20 feet of the tanks.
- (7) All freestanding canopies shall be constructed with a minimum vertical clearance of 15 feet.
- (8) All freestanding canopies shall be set back at least 15 feet from all property lines.

(h) Home Occupation

- (1) A Home Occupation shall be operated solely within the dwelling unit or an accessory building to the dwelling unit.
- (2) One person not a resident of the premises may be employed to assist in the Home Occupation.
- (3) Nothing in these provisions shall prevent persons who do not reside on the premises from assisting in those aspects of a Home Occupation that are off-premises.
- (4) A Home Occupation that occupies more than 10% of the floor area of a dwelling unit is subject to the provisions of the Ohio Basic Building Code. Floor area shall be construed as that area of a dwelling unit bounded by the exterior walls or fire walls of the dwelling unit (refer to the Ohio Basic Building Code, as regulated in Chapter 1303 of Part 13--Building Code of the Codified Ordinances of Springfield).
- (5) There shall be no external alteration of the residential appearance of a dwelling. However, an entrance which provides direct access to the Home Occupation may be constructed in a wall of the dwelling that does not face a street.
- (6) There shall be no direct selling or leasing of stocks of merchandise, supplies or products on premises. A person may pick up an order made by prior arrangements.
- (7) There shall be no disturbance such as noise, vibration, electrical interference, smoke, dust, odor, heat or glare beyond the lot lines or beyond the confines of the dwelling unit.
- (8) There shall be no outdoor display visible from outside the dwelling.
- (9) There shall be no toxic; explosive; flammable; combustible; corrosive; etiologic; or radioactive materials, used or stored on the premises, except that which is generally used for domestic purposes.
- (10) No more than two persons may avail themselves of the services provided by a Home Occupation at any one time. However, classes for generalized or specialized private instruction for more than two but not more than 10 individuals may be permitted if authorized as a conditional use by the Board of Zoning Appeals.

- (11) The following uses and activities shall be prohibited:
- Ambulance service;
 - Animal service, including a veterinarian establishment; animal grooming business; kennel; or establishment for the boarding of animals;
 - Appliance repair shop for large appliances such as but not limited to clothes washers and dryers; cooking ranges; refrigerators and freezers; and dishwashers;
 - Barber shop;
 - Beauty parlor, including a manicurist and cosmetologist;
 - Limousine service involving more than two limousines;
 - Machine shop;
 - Office of a person in a healing profession;
 - Painting of vehicles, trailers, or boats;
 - Tattoo parlor;
 - Vehicle and motorized equipment repair, including parts sales or detailing; vehicle washing; and large and small engine repair; and
 - Welding shop.
- (12) A zoning certificate shall be obtained from the Community Development Director prior to establishing a Home Occupation. A Home Occupation shall, on occasion, be subject to inspection to determine compliance with these provisions.

(i) Outdoor Dining

- Outdoor Dining shall be designated on an approved plan.
- Outdoor Dining shall not exceed 75% of the principal building's gross floor area.
- Any seating must be of metal, natural stone, concrete, or brick.
- If the seating is not firmly attached to the ground or to a building, the seating shall be constructed so as to be able to withstand a wind pressure of not less than 80 miles per hour without falling over or blowing away.
- Seating placed in the right-of-way must of de minimis impact, and be placed so as allow a minimum unobstructed right-of-way clearance of four feet.

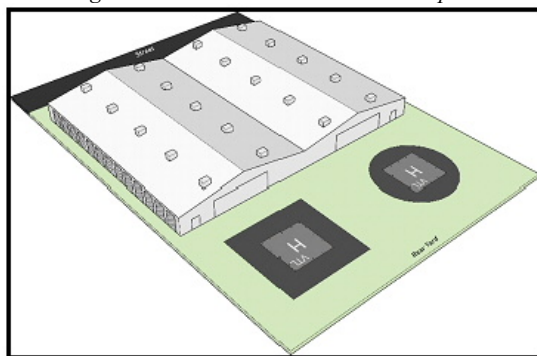
(j) Outdoor Storage

- Outdoor Storage shall be designated on an approved plan.
- Outdoor Storage shall not be placed:
 - Within any required setbacks.
 - Within parking spaces, fire lanes, easements, maneuvering aisles, or loading areas.
 - On the roof of any structure.
 - To exceed the required screening height.
 - At the front of any principal building.
- Outdoor Storage is limited to five percent of the total lot area or 20% of the principal building's gross floor area, whichever is more restrictive unless located in an Industrial district.
- Outdoor Storage shall be screened pursuant to Section 1120.03.
- Outdoor Storage items shall be stored on a paved surface, and associated access and maneuvering driveways shall be constructed of a paved surface.

(k) Vertiport

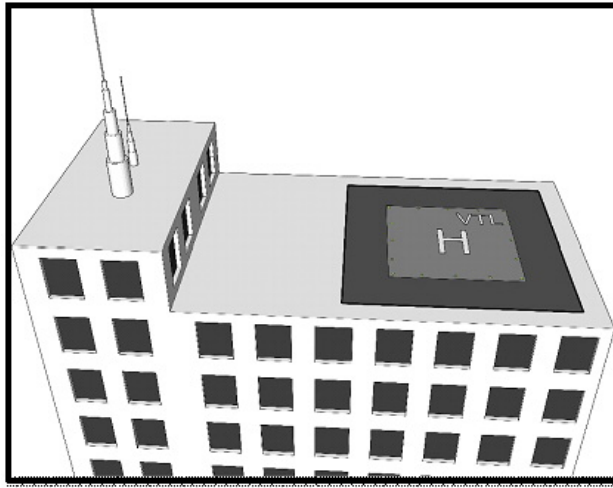
- A Vertiport shall meet all local, county, state, and federal rules, regulations, and ordinances pertaining to the use, including design standards required by the FAA
- A Vertiport shall be designated and shown on an approved plan.
- The Vertiport shall not be placed (see Figure 1107.05.7: Ground-Based Vertiports):
 - Within any required building setbacks;
 - Within fire lanes, easements, maneuvering aisles, customer pick-up lanes, or required loading and parking spaces;
 - In the front yard; and
 - So as to obstruct visibility or interfere with pedestrian or vehicle circulation.

Figure 1107.05.7: Ground-Based Vertiports



- The Vertiport is limited to 20% of the total lot area. This requirement does not apply to a Vertiport located on the roof of a building.
- When located at grade in the C-LC, C-HC, P-PR, P-IE, and P-DM districts, any goods, materials, containers, trailers, or other equipment shall be screened as required in Section 1120.03. Landing pads are exempt from this screening requirement.
- When a Vertiport is located on the roof of a building (see Figure 1107.05.8: Rooftop Vertiport):
 - Any roof-mounted mechanical equipment, excluding landing pads, is subject to the screening requirements provided in Section 1120.03; and
 - Any additional structure, parapet wall, screening, safety railing, or other appurtenance associated with the Vertiport is subject to the maximum height requirement of the district, except a single mast up to 10 feet in height for a windsock may exceed the maximum height requirement.

Figure 1107.05.8: Rooftop Vertiport



- (7) A Vertiport shall not be located within 150 feet of a residential district.
- (8) Parking is not required for a Vertiport.

(l) Walk-Up Window

- (1) A Walk-Up Window shall be located on the front or side facade to the building to which it is attached.
- (2) A Walk-Up Window may include a temporary or permanent seating/waiting area.

TITLE THREE - District Standards

- Chap. 1108. General Provisions.
- Chap. 1109. Residential Districts.
- Chap. 1110. Commercial Districts.
- Chap. 1111. Industrial Districts.
- Chap. 1112. Public and Institutional Districts.
- Chap. 1113. Special Districts.

CHAPTER 1108

General Provisions

1108.01 Generally.

1108.02 Zoning districts established.

1108.01 GENERALLY.

(a) The use, erection, construction, reconstruction, relocation, or alteration of any building, structure, or land shall comply with the regulations of this Title for the zoning district in which the building, structure, or land is located.

(b) Any use, erection, construction, reconstruction, relocation, or alteration of any building, structure, or land shall comply with the City's flood plain regulations as provided in Chapter 1329 of the Codified Ordinances.

1108.02 ZONING DISTRICTS ESTABLISHED.

(a) Generally. The City is geographically divided into 12 zoning districts, established in Table 1108.02.1: Comprehensive Plan-Zoning Conversion.

(1) Zoning districts capture the major development categories, including residential and nonresidential uses and development activities. Each zoning district includes permitted uses and dimensional standards.

(2) Some zoning districts have subdistricts that provide additional regulations to encourage the preferred development outcomes in each subdistrict.

(b) Comprehensive Plan Congruency and Zoning Conversion. See Table 1108.02.1: Comprehensive Plan-Zoning Conversion to show how the former zoning districts have been converted into the new zoning districts. Additionally, Table 1108.02.1:

Comprehensive Plan-Zoning Conversion shows the new zoning districts' relationship to the Clark County Comprehensive Plan.

Table 1108.02.1: Comprehensive Plan-Zoning Conversion

Key: T = Zoning District intends to accommodate the development patterns provided in a given future land use category " - " = Not Applicable		Residential			Commerce				Employment/Institutional			
		Rural/Agri-cultural	Suburban Living Low High	Traditional Neighborhood Low High	Village Center	Down-town Core	Com-mercial Center	Mixed Use Low High	Employ-ment Center	Park and Recrea-tion	Indus-trial	Insti-tutional Campus
Previous District i	Applicable District i											
Residential Districts												
A RR-1	R-AG	T	-	-	-	-	-	-	-	T	-	-
RS-5	R-LD	-	T	--	T	-	-	-	-	T	-	-

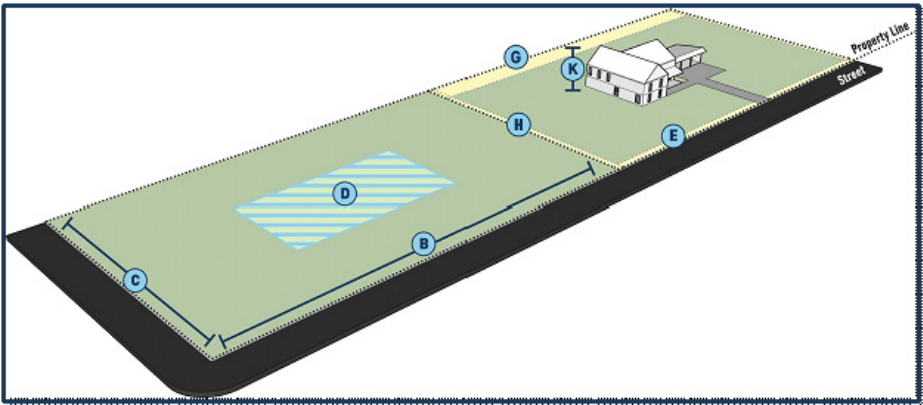
RS-8 RFBH RM-12 RM-20 RM-44 RM-44A	HHD	-	-	T	-	T	-	-	-	-	T	-	T	-	-
Commercial Districts															
CN-1 CN-2	C-NC	-	-	-	-	-	T	-	-	T	-	-	-	-	-
CO-1 CC-2	C-LC	-	-	-	-	-	-	-	T	-	-	-	-	-	-
CI-1 CH-1 CC-2A RDP	C-HC	-	-	-	-	-	-	-	T	-	-	-	-	T	-
CB-10	C-DT	-	-	-	-	-	T	T	-	T	T	-	-	-	-
Industrial Districts															
M-1	I-LI	-	-	-	-	-	-	-	-	-	-	T	-	T	-
M-2	I-HI	-	-	-	-	-	-	-	-	-	-	-	-	T	-
Public and Institutional Districts															
G	P-PR	-	-	-	-	-	-	-	-	-	-	-	T	-	-
G EC-1	P-IE	-	-	-	-	-	-	-	-	-	-	-	-	-	T
DMC	P-DM	-	-	-	-	-	-	-	-	-	-	T	-	-	T
Special Districts															
PD	S-PD	T	T	T	T	T	T	T	T	T	T	T	T	T	T

CHAPTER 1109

Residential Districts

- 1109.01 Agriculture (R-AG) District
- 1109.02 Low Density Residential (R-LD) District.
- 1109.03 High Density Residential (R-HD) District.

1109.01 AGRICULTURAL (R-AG) DISTRICT.



- (a) Purpose. The Agriculture (R-AG) district preserves large tracts of undeveloped land for agricultural pursuits and provides open space or intended managed growth areas in which agricultural uses of land continue until municipal services are provided for intensified development. This district protects agricultural areas from the encroachment of urban and suburban development. This district accommodates the characteristics of the Rural/Agricultural and Park and Recreation character areas as envisioned in the Clark County Comprehensive Plan.
- (b) Uses. Use allowances in the Agriculture (R-AG) district shall comply with those provided in Table 1104.03.1: Use Table.
- (c) Dimensional Standards. Development in the Agriculture (R-AG) district shall follow the standards in Table 1109.01.1: Agriculture (R-AG) District Dimensional Standards.

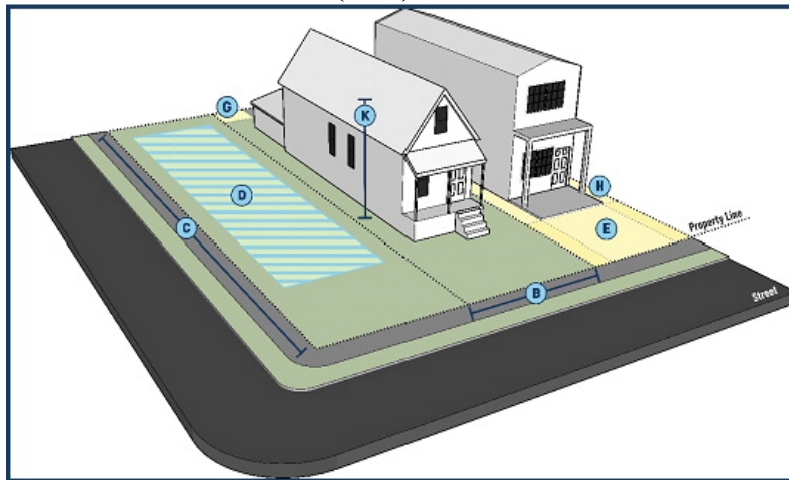
Table 1109.01.1: Agriculture (R-AG) District Dimensional Standards

Agriculture (R-AG) District - Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	8 acres
B	Lot Width (min.)	300 feet
C	Lot Depth (min.)	50 feet
D	Total Lot Building Coverage (max.)	N/A
Setback Requirements		
E	Front (min.)	5 feet

F	Front (max.)	N/A
G	Rear (min.)	20 feet
Agriculture (R-AG) District - Dimensional Standards		
H	Side (min.)	5 feet
I	Corner Side Yard (min.)	5 feet
Building Requirements		
J	Height (min.)	N/A
K	Heights (max.)	35 feet
L	Transparency	N/A
Applicable Site Development Standards		

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1109.02 LOW DENSITY RESIDENTIAL (R-LD) DISTRICT.



(a) Purpose. The Low Density Residential (R-LD) district primarily accommodates low density residential development supported by parks, open space, cultural, and educational amenities. This district accounts for the characteristics of the Suburban Living, Low Intensity, Traditional Neighborhood, Low Intensity, and Park and Recreation character areas as envisioned in the Clark County Comprehensive Plan.

(b) Uses. Use allowances in the Low Density Residential (R-LD) district shall comply with those provided in Table 1104.03.1: Use Table.

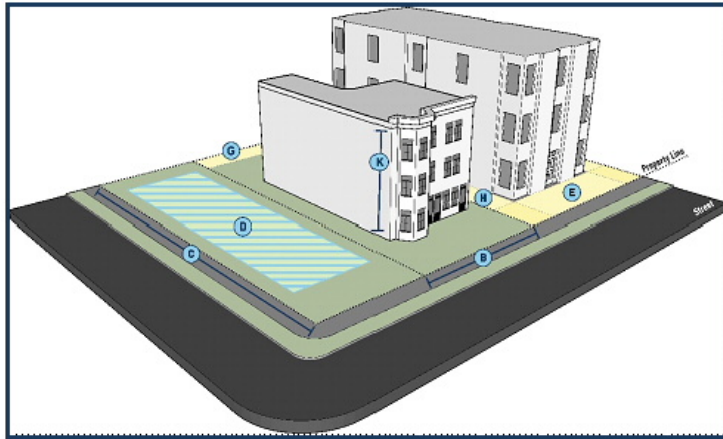
(c) Dimensional Standards. Development in the Low Density Residential (R-LD) district shall follow the standards in Table 1109.02.1: Low Density Residential (R-LD) District Dimensional Standards.

Table 1109.02.1: Low Density Residential (R-LD) District Dimensional Standards

Low Density Residential (R-LD) District - Dimensional Standards				
Use/Development Type g		One-Unit Dwelling	Town home	Two- Unit Dwelling
Lot Requirement				
A	Lot area (min.)	5,000 square feet	4,000 square feet	6,000 square feet
B	Lot Width (min.)	35 feet	20 feet	45 feet
C	Lot Depth (min.)	Not to exceed 4 times the width		
D	Total Lot Building Coverage (max.)	50%	60%	60%
Setback Requirements				
E	Front (min.)	20 feet	15 feet	20 feet
F	Front (max.)	N/A	N/A	N/A
G	Rear (min.)	10 feet	10 feet	10 feet
H	Side (min.)	5 feet	N/A	5 feet
I	Corner Side Yard (min.)	20 feet	15 feet	20 feet
Building Requirements				
J	Height (min.)	N/A	N/A	N/A
K	Height (max.)	35 feet	35 feet	35 feet
L	Transparency	N/A	N/A	N/A
Applicable Site Development Standards				

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1109.03 HIGH DENSITY RESIDENTIAL (R-HD) DISTRICT.



(a) **Purpose.** The High Density Residential (R-HD) district provides for medium-to-high density residential development with a diversified range of housing choices. This district encourages "Missing Middle Housing" (MMH) and multi-family residential uses at appropriate scales, serving as a transition between low-density residential areas and nonresidential nodes. The range of housing products provided in this district should be appropriately situated ensuring development is of scale with surrounding residential areas. Medium-density residences are preferable along local and collector streets supported by parks, open space, cultural, and educational amenities, while higher density residences are more suitable along arterial streets within close proximity to nonresidential nodes and activity areas. This district accommodates the characteristics of the Suburban Living, High Intensity, Traditional Neighborhood, High Intensity, and Mixed Use, Low Intensity, and Mixed Use, High Intensity character areas as envisioned in the Clark County Comprehensive Plan.

(b) **Uses.** Use allowances in the High Density Residential (R-HD) district shall comply with those provided in Table 1104.03.1: Use Table.

(c) **Dimensional Standards.** Development in the High Density Residential (R-HD) district shall follow the standards in Table 1109.03.1: High Density Residential (R-HD) District Dimensional Standards.

Table 1109.03.1: High Density Residential (R-HD) District Dimensional Standards

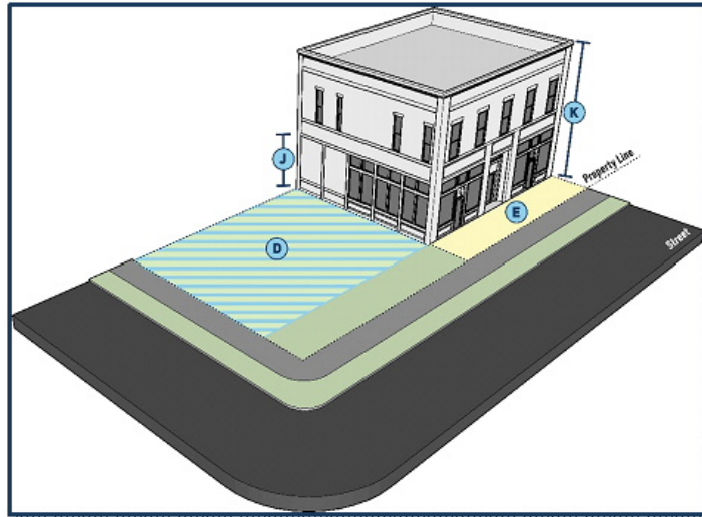
High Density Residential (R-HD) District - Dimensional Standards						
Use/Development Type g		One & Two-Unit Dwellings	Town home	Three & Four - Unit Dwellings	Multi-Unit Dwellings	Apartments
Lot Requirements						
A	Lot Area (min.)	4,000 square feet	3,000 square feet	8,000 square feet	10,000 square feet	15,000 square feet
B	Lot Width (min.)	35 feet	20 feet	45 feet	50 feet	60 feet
C	Lot Depth (min.)	Not to exceed 4 times the width				
D	Total Lot Building Coverage (max.)	60%	80%	70%	70%	80%
Setback Requirements						
E	Front (min.)	15 feet	15 feet	15 feet	15 feet	15 feet
F	Front (max.)	N/A	N/A	N/A	N/A	N/A
G	Rear (min.)	10 feet	10 feet	10 feet	10 feet	10 feet
H	Side (min.)	5 feet	N/A	5 feet	5 feet	10 feet
I	Corner side Yard (min.)	15 feet	15 feet	15 feet	15 feet	15 feet
Building Requirements						
J	Height (min.)	N/A	N/A	N/A	N/A	N/A
K	Height (max.)	35 feet	35 feet	35 feet	35 feet	45 feet
L	Transparency	N/A	N/A	N/A	N/A	N/A
Applicable Site Development Standards						
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CHAPTER 1110

Commercial Districts

1110.01 Neighborhood Commercial (C-NC) District.

1110.02 Light Commercial Corridor (C-LC) District.

1110.03 Heavy Commercial Corridor (C-HC) District.**1110.04 Downtown (C-DT) District.****1110.01 NEIGHBORHOOD COMMERCIAL (C-NC) DISTRICT.**

(a) **Purpose.** The Neighborhood Commercial (C-NC) district provides pedestrian-oriented and neighborhood-scale development offering small-scale retail, service, office, and entertainment needs of nearby residential neighborhoods. Stores, offices, and other businesses in this district should generally accommodate most of the neighborhood residents within walking distance or short vehicular commute. Large-scale development and high-intensity uses are not appropriate, whereas small-scale retail, service, and restaurant establishments are preferable in this district. The C-NC district may serve as a mixed-use transitional area between the C-DT district and lower density residential areas in a development pattern often found along town main streets and in neighborhood commercial areas of older cities. This district accommodates the characteristics of the Village Center and Mixed Use, Low Intensity character areas as envisioned in the Clark County Comprehensive Plan.

(b) **Uses.** Use allowances in the Neighborhood Commercial (C-NC) district shall comply with those provided in Table 1104.03.1: Use Table.

(c) **Dimensional Standards.** Development in the Neighborhood Commercial (C-NC) district shall follow the standards in Table 1110.01.1: Neighborhood Commercial (C-NC) District Dimensional Standards.

Table 1110.01.1: Neighborhood Commercial (C-NC) District Dimensional Standards

Neighborhood Commercial (C-NC) District - Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	N/A
B	Lot Width (min.)	N/A
C	Total Building Coverage (max.)	N/A
D	Total Lot Building Coverage (max.)	N/A
Setback Requirements		
E	Front (min.)	20 feet
F	Front (max.)	N/A
G	Rear (min.)	N/A
H	Side (min.)	N/A
I	Corner Side Yard (min.)	20 feet
Building Requirements		
J	Height (min.)	15 feet
K	Height (max.)	35 feet
L	Transparency	Yes
Applicable Site Development Standards		
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1110.02 LIGHT COMMERCIAL CORRIDOR (C-LC) DISTRICT.

(a) **Purpose.** The Light Commercial Corridor (C-LC) district encourages a variety of low-to moderate intensity commercial development along high-volume corridors which serve residents and visitors on a local to citywide scale. Development in this district mostly gravitates towards those reliant on vehicular travel, although some pedestrian-oriented development patterns may be suitable on occasion. This district accommodates the characteristics of the Commercial Center character area as envisioned in the Clark County Comprehensive Plan.

(b) **Uses.** Use allowances in the Light Commercial Corridor (C-LC) district shall comply with those provided in Table 1104.03.1: Use Table.

(c) **Dimensional Standards.** Development in the Light Commercial Corridor (C-LC) district shall follow the standards in Table 1110.02.1: Light Commercial Corridor (C-LC) District Dimensional Standards.

Table 1110.02.1: Light Commercial Corridor (C-LC) District Dimensional Standards

Light Commercial Corridor (C-LC) District - Dimensional Standards	
Lot Requirements	

A	Lot Area (min.)	N/A
B	Lot Width (min.)	N/A
C	Total Depth (min.)	N/A
D	Total Lot Building Coverage (max.)	N/A
Setback Requirements		
E	Front (min.)	0 feet
F	Front (max.)	20
G	Rear (min.)	10 feet
H	Side (min.)	N/A
I	Corner Side Yard (min.)	20 feet
Building Requirements		
J	Height (min.)	15 feet
K	Height (max.)	45 feet
L	Transparency	Yes
Applicable Site Development Standards		
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1110.03 HEAVY COMMERCIAL CORRIDOR (C-HC) DISTRICT.

(a) **Purpose.** The Heavy Commercial Corridor (C-HC) district provides a variety of moderate-to-high intensity commercial development along high-volume corridors which serve residents and visitors on a citywide to regional scale. Development in this district is reliant on those traveling by vehicle. Uses and businesses whose operations are intensive and extensive characterized by outdoor display, storage, and/or sale of merchandise, may be suitable for this district. This district accommodates the characteristics of the Commercial Center and Industrial character areas as envisioned in the Clark County Comprehensive Plan.

(b) **Uses.** Use allowances in the Heavy Commercial Corridor (C-HC) district shall comply with those provided in Table 1104.03.1: Use Table.

(c) **Dimensional Standards.** Development in the Heavy Commercial Corridor (C-HC) district shall follow the standards in Table 1110.03.1: Heavy Commercial Corridor (CHC) District Dimensional Standards.

Table 1110.02.1: Heavy Commercial Corridor (C-HC) District Dimensional Standards

Heavy Commercial Corridor (C-HC) District - Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	N/A
B	Lot Width (min.)	N/A
C	Total Depth (min.)	N/A
D	Total Lot Building Coverage (max.)	N/A
Setback Requirements		
E	Front (min.)	20 feet
F	Front (max.)	N/A
G	Rear (min.)	10 feet
H	Side (min.)	5
I	Corner Side Yard (min.)	20 feet
Building Requirements		
J	Height (min.)	15 feet
K	Height (max.)	45 feet
L	Transparency	Yes
Applicable Site Development Standards		
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1110.04 DOWNTOWN (C-DT) DISTRICT.

(a) **Purpose.** The Downtown (C-DT) district promotes high intensity, compact, pedestrian oriented development focused on providing a mix of commercial, institutional, and residential uses within the City's core (Downtown) and nearby areas. Development and redevelopment within this district should be versatile enough to reduce building vacancies and abandoned lots, while increasing the availability of open spaces, plazas, and amenities. This district comprises of two mapped subdistricts - Core and Edge - which have specific use allowances and development regulations to ensure the preferred development outcomes. These two subdistricts have their own purposes, but generally these subdistricts should:

- (1) Facilitate pedestrian-oriented, mixed-use, urban infill redevelopment, providing shopping, employment, housing, and business and personal services;

- (2) Promote an efficient, compact, and walkable development pattern that encourages pedestrian activity while reducing reliance on automobiles;
- (3) Allow development flexibility in land use and site design;
- (4) Effectively regulate downtown and its surrounding areas to create attractive and functional development outcomes as envisioned in the Downtown Core and Village enter character areas of the Clark County Comprehensive Plan;
- (5) Revitalize the historic downtown and its surrounding areas while preserving Springfield's history and heritage; and
- (6) Enhance the significance of the City's authentic core to residents, tourists, and visitors and serve as a support and stimulus to business and industry.

(b) Establishment of Subdistricts. To achieve an appropriate location of uses, form, and scale within the C-DT district, the district shall be classified into the following subdistricts:

- (1) Core. The Core (C-DT-C) subdistrict preserves and enhances the existing buildings along main thoroughfares and those properties contained within the subdistrict and identified on the Zoning Map. Additionally, compatible infill and redevelopment of the area is preferred within this subdistrict. This subdistrict emphasizes pedestrian focused and mixed-use development requiring new buildings and additions to existing buildings to be consistent with the historical form and architectural traditions of the area.
- (2) Edge. The Edge (C-DT-E) subdistrict promotes compatible infill and redevelopment of the area immediately surrounding the Core (C-DT-C) subdistrict by providing a range of low-to-moderate intensity nonresidential development and varying residential transitions between the Core (C-DT-C) subdistrict and the adjacent surrounding neighborhoods. This subdistrict emphasizes small-to-medium scale development consistent with the immediate surrounding area within the subdistrict.

(c) Uses. Use allowances in the Downtown (C-DT) district shall comply with those provided in Table 1104.03.1: Use Table.

(d) Dimensional Standards. Development in the Downtown (C-DT) district shall follow the standards in Table 1110.04.1: Downtown (C-DT) District Dimensional Standards.

Table 1110.04.1: Downtown (C-DT) District Dimensional Standards

Downtown (C-DT) District - Dimensional Standards			
		Subdistrict	
		Core (C)	Edge (E)
Lot Requirements			
A	Lot Area (min.)	N/A	N/A
B	Lot Width (min.)	N/A	N/A
C	Lot Depth (min.)	N/A	N/A
D	Total Lot Building Coverage (max.)	N/A	N/A
Downtown (C-DT) District - Dimensional Standards			
Setback Requirements			
E	Front (min.)	0 feet	5 feet
F	Front (max.)	5 feet	15 feet
G	Rear (min.)	0 feet	0 feet
H	Side (min.)	0 feet	0 feet
I	Corner Side Yard (min.)	0 feet	5 feet
Building Requirements			
J	Height (min.)	30 feet	30 feet
K	Height (max.)	65 feet	45 feet
L	Transparency	Yes	Yes
Applicable Site Development Standards			

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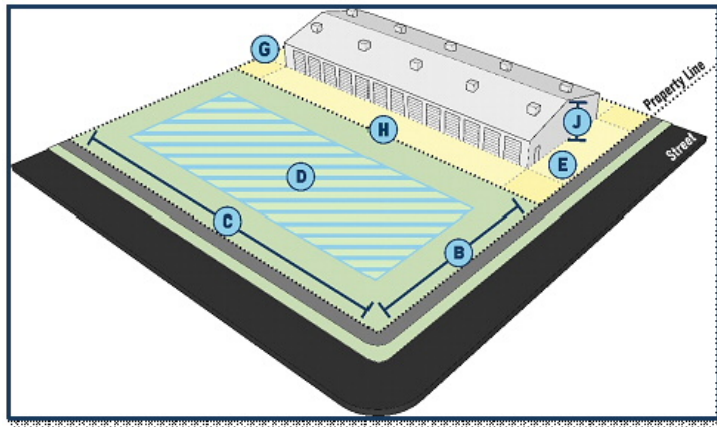
CHAPTER 1111

Industrial Districts

1111.01 Light Industrial (I-LD) District.

1111.02 Heavy Industrial (I-HI) District.

1111.01 LIGHT INDUSTRIAL (I-LI) DISTRICT.



(a) **Purpose.** The Light Industrial (I-LI) district provides for an assortment of research facilities, employment parks, and low-intensity manufacturing and industrial uses that are clean, quiet, and free of hazardous or objectionable elements such as noise, odor, dust, smoke, or glare. This district serves as a transition between heavy industrial uses and other less intensive commercial activity and residential uses. Access to this district should be directly from an arterial or collector street and not through a residential district. This district accommodates the characteristics of the Industrial and Employment Center character areas as envisioned in the Clark County Comprehensive Plan.

(b) **Uses.** Use allowances in the Light Industrial (I-LI) district shall comply with those provided in Table 1104.03.1: Use Table.

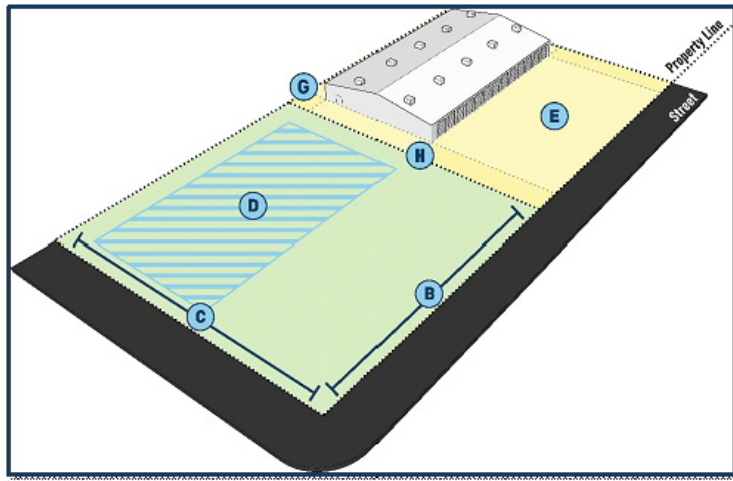
(c) **Dimensional Standards.** Development in the Light Industrial (I-LI) district shall follow the standards in Table 1111.01.1: Light Industrial (I-LI) District Dimensional Standards.

Table 1111.01.1: Light Industrial (I-LI) District Dimensional Standards

Light Industrial (I-LI) District - Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	20,000 square feet
B	Lot Width (min.)	100 feet
C	Lot Depth (min.)	N/A
D	Total Lot Building Coverage (max.)	N/A
Setback Requirements		
E	Front (min.)	20 feet
Light Industrial (I-LI) District - Dimensional Standards		
F	Front (Max.)	N/A
G	Rear (min.)	20 feet
H	Side (min.)	20 feet
I	Corner Side Yard (min.)	20 feet
Building Requirements		
J	Height (min.)	15 feet
K	Height (max.)	45 feet
L	Transparency	No
Applicable Site Development Standards		

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1111.02 HEAVY INDUSTRIAL (I-HI) DISTRICT.



(a) **Purpose.** The Heavy Industrial (I-HI) district provides areas for manufacturing, processing, assembling, storing, testing, and industrial uses that are extensive and intensive in character, and require large sites, open storage and service areas, extensive services and facilities, and access to major transportation networks. Development in this district is sometimes incompatible with less intensive uses because of traffic, noise, vibration, dust, glare, or emissions, and are intrusive to commercial activity and residential areas. Access to this district should be directly from an arterial or collector street and not through a residential district. This district accommodates the characteristics of the Industrial character area as envisioned in the Clark County Comprehensive Plan.

(b) **Uses.** Use allowances in the Heavy Industrial (I-HI) district shall comply with those provided in Table 1104.03.1: Use Table.

(c) **Dimensional Standards.** Development in the Heavy Industrial (I-HI) district shall follow the standards in Table 1111.02.1: Heavy Industrial (I-HI) District Dimensional Standards.

Table 1111.02.1: Heavy Industrial (I-HI) District Dimensional Standards

Heavy Industrial (I-HI) District - Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	1 acre
B	Lot Width (min.)	200 feet
C	Lot Depth (min.)	N/A
D	Total Lot Building Coverage (max.)	N/A
Setback Requirements		
E	Front (min.)	100 feet
F	Front (Max.)	N/A
G	Rear (min.)	20 feet
H	Side (min.)	20 feet
I	Corner Side Yard (min.)	100 feet
Building Requirements		
J	Height (min.)	15 feet
K	Height (max.)	85 feet
L	Transparency	No
Applicable Site Development Standards		

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CHAPTER 1112

Public and Institutional Districts

1112.01 Parks and Recreation (P-PR) District.

1112.02 Institutional and Education (P-IE) District.

1112.03 Downtown Medical Campus (P-DM) District.

1112.01 PARKS AND RECREATION (P-PR) DISTRICT.

(a) **Purpose.** The Parks and Recreation (P-PR) district provides and maintains land for open space and for essential public service. This district accommodates the characteristics of the Park and Recreation character area as envisioned in the Clark County Comprehensive Plan.

(b) **Uses.** Use allowances in the Parks and Recreation (P-PR) district shall comply with those provided in Table 1104.03.1: Use Table.

(c) **Dimensional Standards.** Development in the Parks and Recreation (P-PR) district shall follow the standards in Table 1112.01.1: Parks and Recreation (P-PR) District Dimensional Standards.

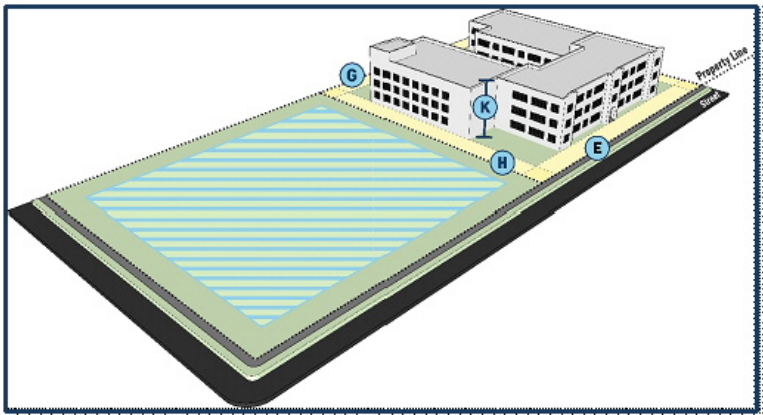
Table 1112.01.1: Parks and Recreation (P-PR) District Dimensional Standards

Parks and Recreation (P-PR) District - Dimensional Standards

<i>Lot Requirements</i>		
A	Lot Are (min.)	N/A
B	Lot Width (min.)	N/A
C	Lot Depth (min.)	N/A
D	Total Lot Building Coverage (max.)	N/A
<i>Setback Requirements</i>		
E	Front (min.)	20 feet
F	Front (max.)	N/A
G	Rear (min.)	20 feet
H	Side (min.)	20 feet
I	Corner Side Yard (min.)	20 feet
<i>Building Requirements</i>		
J	Height (min.)	N/A
K	Height (max.)	45 feet
L	Transparency	No
<i>Applicable Site Development Standards</i>		

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1112.02 INSTITUTIONAL AND EDUCATIONAL (P-IE) DISTRICT.



- (a) Purpose. The Institutional and Educational (P-IE) district provides appropriate areas for the development of educational, religious, and governmental facilities. This district accommodates the characteristics of the Institutional Campus character area as envisioned in the Clark County Comprehensive Plan.
- (b) Uses. Use allowances in the Institutional and Educational (P-IE) district shall comply with those provided in Table 1104.03.1: Use Table.
- (c) Dimensional Standards. Development in the Institutional and Educational (P-IE) district shall follow the standards in Table 1112.02.1: Institutional and Educational (P-IE) District Dimensional Standards.

Table 1112.02.1: Institutional and Educational (P-IE) District Dimensional Standards

Institutional and Educational (P-IE) District - Dimensional Standards		
<i>Lot Requirements</i>		
A	Lot Are (min.)	N/A
B	Lot Width (min.)	N/A
C	Lot Depth (min.)	N/A
D	Total Lot Building Coverage (max.)	N/A
<i>Setback Requirements</i>		
E	Front (min.)	20 feet
F	Front (max.)	N/A
G	Rear (min.)	20 feet
H	Side (min.)	20 feet
I	Corner Side Yard (min.)	20 feet
<i>Building Requirements</i>		
J	Height (min.)	N/A
K	Height (max.)	45 feet
L	Transparency	No
<i>Applicable Site Development Standards</i>		

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1112.03 DOWNTOWN MEDICAL CAMPUS (P-DM) DISTRICT.

(a) Purpose. The Downtown Medical Campus (P-DM) district provides centralized medical and institutional facilities and services for Springfield residents and Clark County citizens. This district may be supported by uses and amenities that provide convenience services and goods for patients, employees, and visitors. This district accommodates the characteristics of the Institutional Campus and Employment Center character areas as envisioned in the Clark County Comprehensive Plan.

(b) Uses. Use allowances in the Downtown Medical Campus (P-DM) district shall comply with those provided in Table 1104.03.1: Use Table.

(c) Dimensional Standards. Development in the Downtown Medical Campus (P-DM) district shall follow the standards in Table 1112.03.1: Downtown Medical Campus (PDM) District Dimensional Standards.

Table 1112.03.1: Downtown Medical Campus (P-DM) District Dimensional Standards

Downtown Medical Campus (P-DM) District - Dimensional Standards		
Lot Requirements		
A	Lot Area (min.)	N/A
B	Lot Width (min.)	N/A
C	Lot Depth (min.)	N/A
D	Total Lot Building Coverage (max.)	N/A
Setback Requirements		
E	Front (min.)	5 feet
F	Front (max.)	N/A
G	Rear (min.)	0 feet
H	Side (min.)	0 feet
I	Corner Side Yard (min.)	5 feet
Building Requirements		
J	Height (min.)	15 feet
K	Height (max.)	65 feet
L	Transparency	No
Applicable Site Development Standards		

• CHAPTER - Dimensional Regulation • CHAPTER 1116 - • CHAPTER 1117 - Landscaping • CHAPTER 1118 - Site Lighting • CHAPTER 1119 - Signs	• CHAPTER 1120 - Screening and Fencing • CHAPTER 1121 - Waste Management • CHAPTER 1123 - Infill • CHAPTER 1124 - Animal Regulations • CHAPTER 1125 - Performance Standards

CHAPTER 1113

Special Districts

1113.01 Planed Development (S-PD) District.

1113.01 PLANNED DEVELOPMENT (S-PD) DISTRICT.

(a) Purpose. The purpose of the Planned Development (S-PD) district is to provide for zoning and subdivision regulation of Planned Developments to allow more flexible design of single use residential, commercial, or industrial uses developments as well as allow modern integrated developments of mixed residential, commercial, industrial, recreational, or agricultural uses, with such Planned Developments regulated so as to be in substantial conformity with the Clark County Comprehensive Plan adopted by the City, with the City's Thoroughfare Plan, and with the purposes established in this Section, and so as to not have substantially adverse effects on neighboring areas which outweigh the benefits to the community derived from the Planned Development. In addition, the regulation of Planned Developments under this Section is intended to further the following purposes:

- (1) To provide flexibility in architectural design, placement, and clustering of buildings, use of open space, provision of traffic circulation facilities and parking, and related site development considerations;
- (2) To provide for the preservation and best use of existing landscape features and environment characteristics through development sensitive to and protective of the natural features of the PD district and the surrounding area in a harmonious fashion;
- (3) To promote efficient land use with smaller networks of utilities and streets;
- (4) To provide a more flexible zoning mechanism to facilitate redeveloping older residential areas and to encourage infill development;
- (5) To enable the creation of a more desirable environment than would be possible through the application of the regulations in the City's conventional zoning districts;
- (6) To provide a comprehensive planning process and an integrated body of regulation for zoning and subdivision control of each Planned Development;
- (7) To provide for more usable and suitably located recreation facilities, open spaces, and other public, private, and common amenities than would otherwise be provided under conventional land use development regulation;
- (8) To combine and coordinate architectural styles, building forms, and building relationships within Planned Developments;
- (9) To provide for appropriate land covenants, easements, and financial assurances and securities to ensure completion of public improvements,

completion of construction of Planned Development phases, long term maintenance of common areas and other amenities in Planned Developments, long term maintenance and preservation of Planned Development features intended to mitigate adverse effects on neighboring areas and areas within the Planned Development and preservation of the attributes of the Planned Development necessary to integration of the uses permitted therein;

- (10) To provide for the integration of diverse uses in a manner that will allow the uses to complement each other and that will promote convenience of access to various uses by the community within and near the Planned Development;
 - (11) To provide aesthetically pleasing development which will foster a livable environment in the Springfield community and which will promote the public welfare;
 - (12) To provide a flexibility in zoning and subdivision regulation that will incentivize developers to opt for pursuing a planned development subject to more comprehensive municipal regulation, even though the developer may incur increased early development costs associated with undertaking the PD district planning process.
- (b) Uses. Uses for each separate Planned Development (PD) District shall be established in the ordinance granting the Planned Development (PD) District.
- (c) Dimensional Standards. A Planned Development (PD) District requires a minimum of 5 contiguous acres.
- (d) Special Regulations
- (1) Dimensional and development standards for each separate Planned Development (PD) District shall be established in the ordinance granting the Planned Development (PD) District and may include but shall not be limited to uses, density, lot area, lot width, lot depth, yard depths and widths, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, management associations, and other requirements as the City Commission may deem appropriate.
 - (2) The Planned Development (PD) District shall conform to all other sections of the ordinance and this Zoning Code unless specifically exempted in the granting ordinance.

TITLE FOUR - Site Development Standards

- Chap. 1114. General Provisions.
- Chap. 1115. Dimensional Regulations.
- Chap. 1116. Parking and Loading.
- Chap. 1117. Landscaping.
- Chap. 1118. Site Lighting.
- Chap. 1119. Signs.
- Chap. 1120. Screening and Fencing.
- Chap. 1121. Waste Management.
- Chap. 1122. Urban Design.
- Chap. 1123. Infill.
- Chap. 1124. Animal Regulations.
- Chap. 1125. Performance Standards.

CHAPTER 1114

General Provisions

- 1114.01 Purpose.**
- 1114.02 Organization**
- 1114.03 Applicability.**
- 1114.04 General Measurement Rules.**
- 1114.05 Alternative Compliance.**

1114.01 PURPOSE.

This Title establishes uniform standards for the development and improvement of property throughout Springfield to ensure quality development that is consistent with the Clark County Comprehensive Plan.

1114.02 ORGANIZATION.

This Title is organized into the following chapters for each development standard as summarized in Table 1114.02.1: Development Standards Overview. Specific regulations and standards apply as provided in this Title.

Table 1114.02.1: Development Standards Overview

Development Standard	Location	Summary
Dimensional Regulations	CHAPTER 1115 -	Addresses the various yards, setbacks, and dimensional requirements that apply to a lot or development
Parking and Loading	CHAPTER 1116-	Provides for when parking and loading is required and how a site manages parking and loading accommodations
Landscaping	CHAPTER 1117 -	Regulates the necessary landscaping requirements to improve the development aesthetic and maintain the City's natural feel
Site Lighting	CHAPTER 1118 -	Regulates site lighting to minimize light pollution while balancing the desire for safely lit properties
Signs	CHAPTER 1119 -	Regulates the various sign types and prescribes allowances based on zoning districts

Screening and Fencing	CHAPTER 1120 -	Provides regulations where more intensive development needs to buffer from less intensive development. It also accounts for those instances where fencing may be applied to protect privacy
Waste Management	CHAPTER 1121-	Provides requirements for on-site waste management facilities to improve the development aesthetic and mitigate potential nuisance complaints
Urban Design	CHAPTER 1122 -	Provides a set of design requirements to retain and produce attractive Downtown development
Infill	CHAPTER 1123 -	Addresses instances where redevelopment is to occur on previously developed lots
Animal Regulations	CHAPTER 1124 -	Provides flexible regulations that accounts for the safekeeping of various non-household animals on a lot
Performance Standards	CHAPTER 1125 -	Mitigates a development's potential to create public nuisances (smoke, odor, dust, noise, etc.)

1114.03 APPLICABILITY.

- (a) This Title applies to all new development, expansions, and redevelopment within the city limits of Springfield unless otherwise specified. Each chapter in this Title establishes when a particular standard applies.
- (b) Each application for a development plan, site plan, zoning certificate, building permit, certificate of occupancy, conditional use permit, or other application shall include information as to the location, dimensions, and provision of the applicable standards provided in this Title.
- (c) Any development located within the flood plain shall comply with the City's flood plain regulations as provided in CHAPTER 1329 of the Codified Ordinances.

1114.04 GENERAL MEASUREMENT RULES.

- (a) Standards for Rounding
- (1) When a measurement results in a fractional number, any fraction less than one-half shall be rounded down to the next whole number. Any fraction of one-half or greater shall be rounded up to the next higher whole number.
 - (2) When a calculation or measurement results in a fractional percentage, any percentage ending between .0 and .5 shall be rounded down to the next lower whole number. Any percentage ending in .5 or greater shall be rounded up to the next higher whole number.
- (b) Distance Measurements. Unless otherwise expressly stated, all distances specified in this Zoning Code are to be measured as the length of an imaginary straight line joining those points.
- (c) Separation Measurements. Where a minimum separation is required or provided between a given use or lot and a separate use, lot, or district, such separation shall be measured as the shortest distance between the lot line associated with the given use or lot and the nearest point of the separate lot or district, as required, without regard to intervening buildings.

1114.05 ALTERNATIVE COMPLIANCE.

Any development may inquire about alternative compliance to allow for development flexibility. Alternative compliance requests shall follow the requirements provided in Section 1130.01.

CHAPTER 1115

Dimensional Regulations

1115.01 Purpose.

1115.02 Applicability.

1115.03 Standards.

1115.01 PURPOSE.

The purpose of this Chapter is to establish clear guidelines for measuring and applying required lots, yards, setbacks, height, and other dimensional features.

1115.02 APPLICABILITY.

This Chapter applies to any lot, yard, setback, or height required by this Zoning Code within Springfield city limits.

1115.03 STANDARDS.

(a) Number of Buildings per Lot

- (1) Residential Uses. Only one principal building for one-unit, two-unit, three-unit, four-unit, or multi-unit dwellings with permitted accessory buildings is allowed on a lot, unless specified otherwise in this Zoning Code.
- (2) Nonresidential and All Other Uses. Where a lot is used for townhomes, courtyard and conventional apartments, nonresidential uses, or a combination of those uses, more than one principal building may be located upon the lot, but only when conforming to all applicable requirements to those uses and the zoning district in which it is located, unless specified otherwise in this Zoning Code.

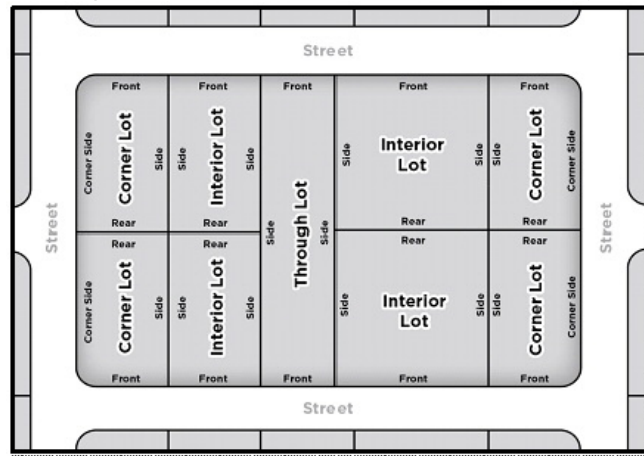
(b) Yards and Setbacks

- (1) Generally
 - A. Every part of a required yard shall be unoccupied and unobstructed by any portion of a structure from the ground upward, except as provided below.
 - B. In measuring a setback, the shortest distance between a lot line and the building applies.
 - C. All yards abutting a street are measured from the nearest edge of the right-of-way, or from the lot line, whichever provides the greater setback.
 - D. Required yard means that portion of any yard constituting the minimum area required in any zoning district, but excluding that portion of

the yard in excess of the minimum required area.

- E. This Zoning Code's required lots, yards, and setbacks are summarized in Figure 1115.03.1: Lots, Yards, and Setbacks Summary.

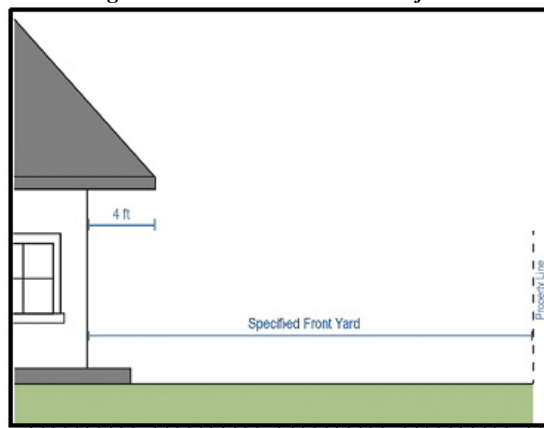
Figure 1115.03.1: Lots, Yards, and Setbacks Summary



(2) Front Yard Regulations

- A. The front yard shall be open and unobstructed. Eaves and roof extensions or a porch may project into the required front yard for a distance not to exceed four feet (see Figure 1115.03.2: Front Yard Projection).

Figure 1115.03.2: Front Yard Projection



- B. Where a building line has been established by an approved plat that deviates from the setback that is prescribed by this Zoning Code, the required front yard shall comply with the building line established by that plat.

(3) Side Yard Regulations

- A. Every part of a required side yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, and other architectural features projecting not to exceed one (1) foot into the required side yard and roof eaves projecting not to exceed four (4) feet into the required side yard. A fence (in accordance with Section 1120.04) may be constructed on the property line adjacent to a side yard.
- B. Where a side property line divides a nonresidential district from a residential district, a minimum ten (10) foot side yard is required for the nonresidential lot side adjacent to that residential district.
- (4) Rear Yard Regulations. Every part of a required rear yard shall be open and unobstructed except for permitted accessory buildings and the ordinary projections of window sills, belt courses, cornices, roof overhangs, and other architectural features projecting not to exceed four feet into the required rear yard. A fence (in accordance with Section 1120.04) may be constructed on the property line adjacent to a rear yard.

(c) Lot Standards

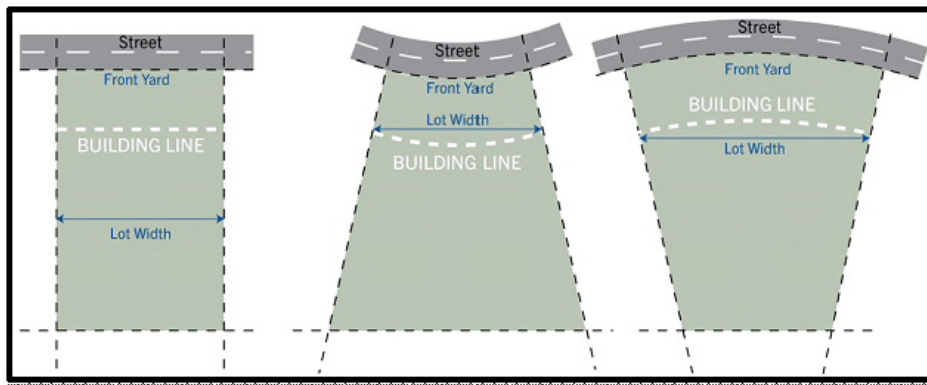
(1) Lot Area

- A. No lot shall be created or reduced in area, width, or depth below the minimum requirements established in TITLE Three - District Standards.
- B. A lot that was legally created prior to the adoption of this Zoning Code may be redeveloped, but any deviations from the standards provided in this Zoning Code may utilize the infill standards in this Title or shall require a variance.
- C. The total space required for a lot is calculated by multiplying the lot's depth by it's width.

(2) Lot Width

- A. Lot width is the distance parallel to the front property line, measured at the front setback line.
- B. Lot width on a curving front line means the distance parallel to the tangent of the front property line at the building setback line.
- C. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.
- D. Refer to Figure 1115.03.3: Lot Width Summary to clarify lot width measurements.

Figure 1115.03.3: Lot Width Summary



(3) Lot Depth. Lot depth is the distance measured from the front property line to the rear property line.

(4) Total Lot Building Coverage

- A. Total lot building coverage is the percentage of the lot that is occupied by the ground area of a building and its accessory buildings.
- B. Fences, walls, and gates are not included when calculating total lot building coverage.

(d) Building Height

(1) Maximum building height is measured as the vertical distance from street grade to (see Figure 1115.03.4: Building Height Summary):

- A. The top of a flat roof, including structures designed with a decorative mansard roof concealing a flat roof.
- B. The deck line of a mansard or gambrel roof.
- C. The midpoint height between the eaves and the ridge in the case of a pitched roof.
- D. Any dormers that extend past the roofline cannot exceed the maximum building height permitted in the district, as measured from the adjacent average grade, or its equivalent, to the top of the dormer.

(2) For the purposes of building height measurement, roof types are defined as follows:

- A. **Flat Roof.** A roof that is not pitched and where the surface of the roof is generally parallel to the ground. A mono-pitched roof, also called a shed roof, is a single sloping roof surface, and is also considered a flat roof.
- B. **Mansard or Gambrel Roof.** A two-sided roof with two slopes on each side. The upper slope is positioned at a shallow angle, while the lower slope is steep. A gambrel roof has vertical gable ends, while a mansard roof is hipped at the four corners of the building.
- C. **Pitched Roof.** A gable or hip roof having a slope or pitch of at least one foot rise for each four feet of horizontal distance in the direction of the slope or pitch of the roof. A hipped roof is sloped in two pairs of directions compared to the one pair of direction for a gable roof.

Figure 1115.03.4: Building Height Summary



(3) Exempt Buildings from Maximum Height Requirements

- A. Public and semipublic or public service buildings, when permitted in a district, may be erected to a height not to exceed 60 feet.
- B. Churches, temples, mosques, and similar places of religious assembly may be erected to a height not to exceed 75 feet if the building is set back from each lot line at least one foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is built.

(4) Exempt Elements from Maximum Height Requirements. Except as specifically stated in other parts of this Zoning Code, no building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the maximum allowed height hereinafter established for the district in which the building is located, except that the following elements may be constructed above such height limits:

- A. Penthouse or roof buildings for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building;
- B. Fire or parapet walls;
- C. Skylights, towers, steeples, and stage/screen lofts;
- D. Flag poles, chimneys, and smokestacks;
- E. Radio and television aerials;

F. Water tanks and similar structures.

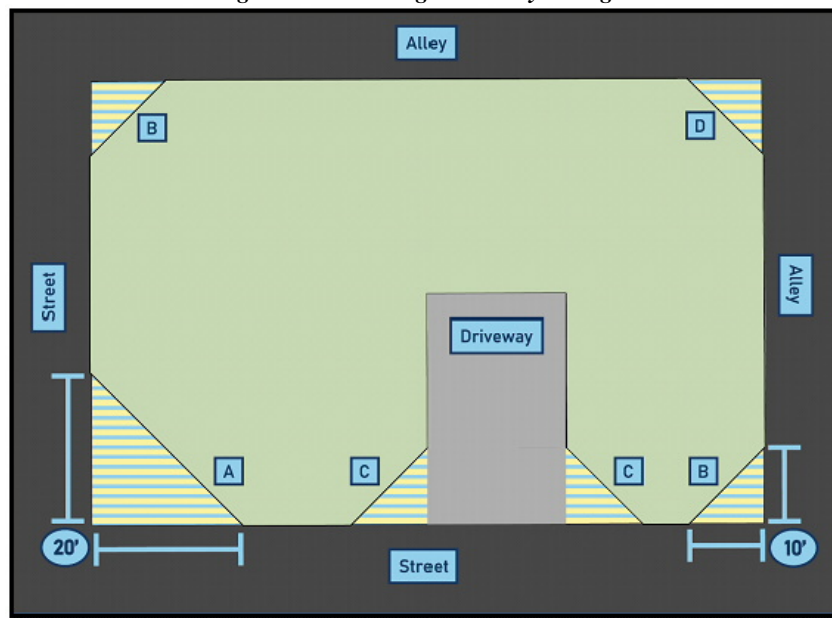
(e) Sight Visibility

(1) Generally

- A. These provisions apply to all new development or proposed expansions into the sight visibility triangle. However, these provisions do not apply to or otherwise interfere with:
- The placement and maintenance of traffic control devices under governmental authority and control and public utilities;
 - Existing screening and fencing requirements; and
 - Existing and future City, state, and federal regulations.
- B. Obstructions are prohibited at elevations 2.5 feet above the average street grade within the sight visibility triangle. Prohibited obstructions include any fence, wall, screen, billboard, sign, structure, landscaping, or any other object.
- C. At intersections where streets do not intersect at or near right angles, the Community Development Director shall have the authority to increase the minimum sight distances required above as they deem necessary to provide safety for both vehicular and pedestrian traffic.

- (2) Street Intersections. At intersections where streets intersect at or near right angles, the sight visibility triangle shall be the area formed by extending the two curb lines from their point of intersection 20 feet along the curb and connecting these points with an imaginary line, creating a triangle (see label A in Figure 1115.03.5: Sight Visibility Triangles).
- (3) Street and Alley Intersections. At intersections where a street and alley intersect at or near right angles, the sight visibility triangle shall be the area formed by extending the street curb and alley lines from their point of intersection 10 feet along the curb and alley line, connecting these points with an imaginary line, creating a triangle (see label Bin Figure 1115.03.5: Sight Visibility Triangles).
- (4) Street and Driveway Intersections. At intersections where a street and driveway intersect at or near right angles, the sight visibility triangle shall be the area formed by extending the point of the driveway's entry 10 feet along the street's curb and driveway entry point, connecting these points with an imaginary line, creating a triangle (see label C in Figure 1115.03.5: Sight Visibility Triangles).
- (5) Alley Intersections. At intersections where alleys intersect at or near right angles, the sight visibility triangle shall be the area formed by extending the two alley lines from their point of intersection 10 feet along the alley lines, connecting these points with an imaginary line, creating a triangle (see label Din Figure 1115.03.5: Sight Visibility Triangles).

Figure 1115.03.5: Sight Visibility Triangles



CHAPTER 1116

Parking and Loading

- 1116.01 Purpose.**
- 1116.02 Applicability.**
- 1116.03 General requirements.**
- 1116.04 Parking measurements.**
- 1116.05 Adjustments and reductions to required parking.**
- 1116.06 Parking design.**
- 1116.07 Bicycle parking.**
- 1116.08 Special vehicle parking.**
- 1116.09 Loading.**

1116.01 PURPOSE.

The purposes of this Chapter are to:

- Ensure that adequate off-street parking is provided for new land uses and changes in use;
- Minimize the negative environmental and development design impacts that can result from excessive parking, driveways, and drive aisles within parking areas;
- Establish standards and regulations for safe and well-designed parking and vehicle circulation areas that minimize conflicts between pedestrians and vehicles within parking areas and surrounding land uses;
- Regulate off-street parking and specify the requirements for residential off-street parking as they pertain to the appearance and the health, safety, and welfare of the City;
- Offer flexible means of minimizing the amount of area devoted to vehicle parking by allowing reductions in the number of required spaces in context-sensitive locations;
- Ensure compliance with provisions of the Americans with Disabilities Act (ADA);

- (g) Minimize the visual impact of off-street parking areas; and
- (h) Ensure that adequate off-street bicycle parking facilities are provided in walkable areas and promote parking that offers safe and attractive pedestrian routes.

1116.02 APPLICABILITY.

- (a) Any new building, structure, use, redeveloped site, or enlarged or expanded existing building or use, must meet this Chapter's requirements.
- (b) Developments that require permanent parking may provide parking spaces in a structure or on a hard-paved surface area.
- (c) When a change in intensity of use of any building, structure, or area may allow for an increase in on-site parking, any increment of additional required parking shall comply with the maximum parking ratios provided in accordance with this Chapter unless an adjustment is permitted in Section 1116.05.

1116.03 GENERAL REQUIREMENTS.

- (a) Compliance Required
 - (1) ADA Compliance. All ADA parking spaces and related ADA accessibility features are required to be installed in accordance with the current edition of the ADA Standards for Accessible Design (the "ADA Standards") as published by the Department of Justice. Where discrepancies exist between this Zoning Code and the ADA Standards, the ADA Standards shall apply. All required parking shall meet the ADA Standards.
 - (2) No building shall be erected and no existing building shall be moved onto another lot unless the requirements for off-street parking and off street loading spaces are fulfilled. No existing building shall be altered or added to and no change shall be made in the use of a building or premises that will increase the number of parking spaces needed for the occupants, employees, patrons, client, or guests, by exceeding the maximum parking ratios as provided in this Chapter.
 - (3) Any required parking spaces for a building or use that are provided on adjacent land, where such arrangement is permitted under this Zoning Code, shall be allocated to the exclusive use of such building or premises during its normal hours of activity or operation and the right to such exclusive use shall be officially recorded as a limitation upon such adjacent land, such limitation to continue in effect as long as the requirement under this Zoning Code exists.
- (b) Maximum Parking Ratios. Required parking shall be provided within the maximum off-street parking ratios as established in Table 1104.03.1: Use Table.
- (c) Increased Maximum Parking. No existing or proposed parking shall be increased unless otherwise specified in this Chapter. Increases in parking spaces may be permitted by the Board of Zoning Appeals if:
 - (1) The need is clearly demonstrated to the satisfaction of the Board of Zoning Appeals; and
 - (2) The probabilities of future changes in occupancy or attendance and the effects of parking and loading are mitigated.

1116.04 PARKING MEASUREMENTS.

- (a) Generally
 - (1) Fraction of a Space. When the calculation of the number of required parking spaces results in a requirement of a fractional space, the closest whole number applies. If the fractional amount is less than one half ($\frac{1}{2}$), the next lowest whole number applies.
 - (2) Square Footage (Floor Area). The gross building square footage.
- (b) Parking Specific Metrics. Table 1116.04.1: Interpretation of Parking Metrics summarizes the various parking metrics used to determine required parking.

Table 1116.04.1: Interpretation of Parking Metrics

Metric	Example	Interpretation
Square footage (Floor Area)	1:1,000 SF	1 parking space for each 1,000 square feet of the building's floor area (excluding bathrooms)
Dwelling Unit	1:DU	1 parking space for each dwelling unit
Bedroom Unit	0.5:1 BRU + 1.5:2 BRU	0.5 parking spaces for each single bedroom apartment unit plus 1.5 parking spaces for each two bedroom apartment unit
Bedroom(s)/Guestroom(s)	1 + (0.75) bedrooms	1 parking space plus the umber of parking spaces from calculating 0.75 times all bedrooms
Acres	1:5 acres	1 parking space for every 5 acres
Site	5: site	5 parking spaces for the entire site
Bay	1: bay	1 parking space for every bay
Pump	1:2 pumps	1 parking space for every 2 pumps

1116.05 ADJUSTMENTS AND REDUCTIONS TO REQUIRED PARKING.

The following situations may count towards the maximum parking requirements:

- (a) Availability of Public Parking
 - (1) If a supply of public parking exists within the maximum walking distance, as specified below, and is sufficient to meet the demands of a use, then up to 50% of the public spaces provided may count towards the proposed use's maximum parking requirement.
 - (2) The maximum walking distance is five hundred (500) feet from the proposed use.
- (b) On-street Parking
 - (1) On-street parking consists of parking spaces located within the public right-of-way.
 - (2) Each parking space that is in a public right-of-way abutting the lot may count as a required parking space for the purpose of meeting the requirements in Table 1104.03.1: Use Table.
 - (3) Each parking space must be on a hard-paved area abutting or within the public right-of-way. If it is in a public right-of-way, then it shall not prohibit or limit access for emergency service vehicles as required by the Fire Marshal.
- (c) Shared Parking. For any development containing a mix of uses or where an off-site parking agreement is proposed, and where individual uses operate or have a parking demand at different peak periods, a shared parking arrangement may be permitted and count towards the allowed maximum parking requirements.

1116.06 PARKING DESIGN.

(a) Generally. All parking and stacking spaces, driveways, and aisles shall be constructed of:

- (1) Asphalt;
- (2) Concrete;
- (3) Brick/Block (Permeable) Pavers;
- (4) Grass Pavers/Porous Pavement; or
- (5) Pervious Concrete.

(b) Location

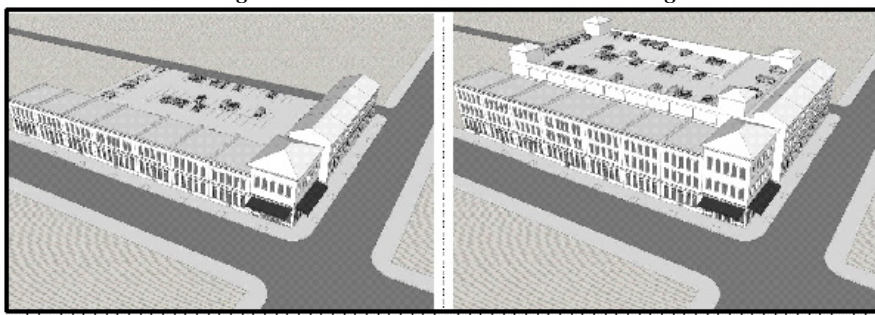
- (1) All required parking spaces shall be located on the same lot as the principal building, structure, or use; however, required parking spaces may be located on an adjacent lot not further than 1,500 feet from the subject property boundary. Such off site parking arrangement may be approved by the Planning Board and shall be recorded against the land of both the subject lot and lot providing the required parking spaces.
- (2) Where off-street parking (on-site parking) is required, parking may be located as provided in Table 1116.06.1: District-Specific On-Site Parking Location.

Table 1116.06.1: District-Specific On-Site Parking Location

On-Site Location	Residential			Commercial					Industrial		Public and Institutional		
	R-AG	R-LD	R-HD	C-NC	C-LC	C-HC	C-DT	C E	I-LI	I-HI	P-PR	P-IE	P-DM
Front	T	T	T	T	T	T	X	X	T	T	T	T	T
Rear	T	T	T	T	T	T	T	T	T	T	T	T	T
Side	T	T	T	T	T	T	T	T	T	T	T	T	T

- (3) Where parking is provided within a principal building, any parking located at the first story of the building shall be located behind the floor area measuring at least thirty (30) feet in depth along the street line.
- (4) Where parking in the rear of a nonresidential lot or development is provided, parking shall be completely obscured from street view except where a parking garage is provided. A parking garage may extend above the roofline of the building in which it is attached. Figure 1116.06.1: Nonresidential Rear Parking shows examples of rear surface parking (left graphic) and garage parking (right graphic).

Figure 1116.06.1: Nonresidential Rear Parking



(c) Configuration

(1) Nonresidential Development Parking

A. Construction

- i. All areas, spaces, driveways, and aisles associated with parking shall be configured as provided in Table 1116.06.2: Parking Area Configuration.

Table 1116.06.2: Parking Area Configuration

Parking Angle g Requirement (ft) i	90 °	60 °	45 °	30 °	0 °
Width Parallel to Aisle	9	11.4	12.7	17.6	24
Length at 90	18	20	19	15.5	9
Minimum One-Way Aisle Width	24	18	13	12	14
Minimum Two-Way Aisle Width	24	22	22	22	22
Module Width Parallel to:					
Single Row Parking	42	38	32	27.5	23
Double Row Parking	60	58	51	43	32
Double Row Parking with Single Interlock	N/A	56	47.5	39.6	N/A
Double Row Parking with Double Interlock	N/A	54	43.5	36.2	N/A

- ii. All parking spaces shall be connected to an aisle, which shall have the minimum width indicated in Table 1116.06.2: Parking Area Configuration.
- iii. When different parking space configurations abut the same aisle, the greatest aisle width shown in Table 1116.06.2: Parking Area Configuration shall be provided.
- iv. Parking spaces shall be designed to permit ingress and egress of a vehicle to and from a parking space without moving any other vehicle occupying a parking space except for residential uses.
- v. No parking area shall be so designed in such a manner that exiting a parking space would require backing into a street or alley.
- vi. Parking areas with spaces along lot lines and alleys shall be provided with car stops or curbing so no part of a parked vehicle can extend beyond a lot line or into an alley.
- vii. In parking areas, all parking and stacking spaces, driveways and aisles shall be pitched or curbed and drained in such a manner as to

prevent the flow of excess water from such areas onto adjoining property or into streets and alleys which do not have adequate drainage facilities. The adequacy of drainage facilities as well as compliance with the stormwater regulations of CHAPTER 961 of the Codified Ordinances of Springfield, Ohio, shall be determined by the City Engineer.

viii. In all parking areas, parking spaces shall be visibly delineated on the surface by painted or marked stripes.

ix. If two or more parking areas are connected by a driveway, the parking areas shall be designed so that an aisle connected to more than 12 parking spaces is not used as a drive-in providing access to another parking area.

x. When the number of parking spaces provided exceeds 50, the developer shall permanently retain onsite the first quarter (1/4) inch of every storm event.

B. Landscaping and Screening

i. Landscaping and screening may apply for certain parking arrangements.

ii. When required landscaping applies, it shall comply with those requirements provided in Section.

iii. When required screening applies, it shall comply with those requirements provided in Section 1120.03.

C. Other Standards. Any required off-street parking area other than for dwellings shall comply with the following conditions:

i. The driveways and parking spaces are smoothly graded on a hard-paved surface and adequately drained;

ii. Surface waters are not permitted to discharge over or onto public sidewalks or roadways or onto other premises;

iii. Any associated lighting is directed away from adjacent residential areas and so arranged to prevent light pollution; and

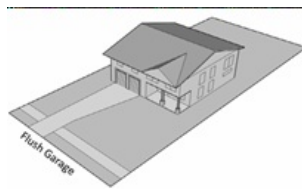
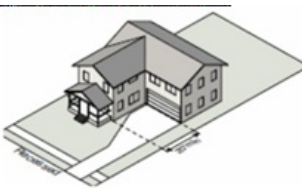
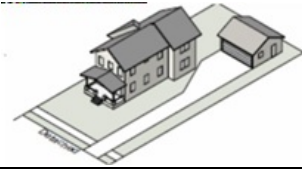
iv. Any parking areas using lighting may be lit one hour before and after the development's operational hours.

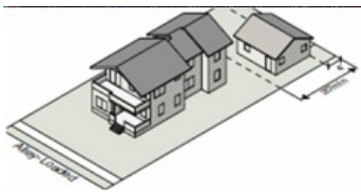
(2) Residential Parking

A. Construction

i. Residential parking may be constructed and configured as provided in Table 1116.06.3: Residential Parking Configurations.

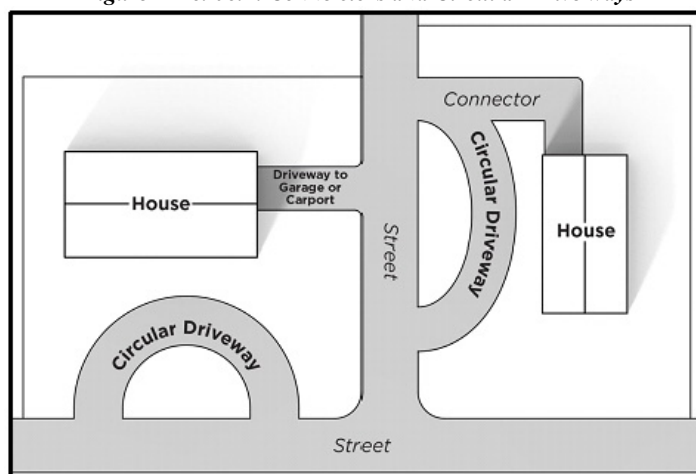
Table 1116.06.3: Residential Parking Configurations

Parking Style	Requirements	Graphic
Flush	- Garage is attached to the primary structure and where the garage doors are oriented to the street - In no case shall the garage be the front-most protrusion of the front facade of the house - The garage may be flush with the front facade of the house or a covered front porch - The total width of the garage door (including any center column between two garage doors) shall not exceed more than 55% of the width of the facade in which the garage is placed - A single garage door shall not exceed 16 ft in width. If two garage doors are proposed, each garage door shall not exceed 8 ft in width	
Recessed	- Garage doors are oriented toward the street - Garage doors must be positioned at least 20 ft behind the front wall plane of the house - There is no restriction on garage door width	
Side-Loaded	- Garage doors are oriented perpendicular to the front wall plane - Any wall of the garage must be located at least 3 ft behind the front wall plane of the house	
Detached Residential Garage	Garage is placed entirely to the rear of the house	

Rear/Alley-Loaded	• Garage is placed entirely to the rear of the house and is alley-accessed • Garage doors must face the alley • The garage must either be located 4 ft from the alley right-of-way or be a minimum of 20 ft from the alley right-of-way • Where parking spaces are located between the garage and the alley, the garage must be located at least 20 ft from the alley right-of-way	

- ii. Residential parking may be designed so that a vehicle may back into a public street or alley to obtain ingress or egress.
- iii. For one-, two-, three- and four-unit dwellings on lot widths greater than 75 feet, multiple points of access are allowed when the following conditions are met:
 - a. On lots with a residential garage:
 1. The driveway leading to a residential garage, not to exceed the maximum width allowed, except for flares adequate to access the garage (see Figure 1116.06.2: Connectors and Circular Driveways).
 2. A connector driveway may extend from a circular driveway to beyond the front wall of the structure. Connector driveways must comply with driveway width requirements.
 - b. On lots without a residential garage:
 1. No driveway, other than a Circular driveway, may be constructed in the area between the front wall of the principal structure and the front property line (see Figure 1116.06.2: Connectors and Circular Driveways).
 2. A connector driveway may extend from a circular driveway to beyond the front wall of the principal dwelling. Connector driveways must comply with driveway width requirements.

Figure 1116. 06.2: Connectors and Circular Driveways



- c. Driveways and parking spaces can be provided as a two-track "Hollywood" design with a width of 18 inches per wheel track. Tire base of vehicles parked or stored on Hollywood drive must be accommodated by the two-track design.
- B. Additional Location Requirements. Parking spaces, stacking spaces, aisles and driveways shall be located as follows:
 - i. Generally
 - a. Off-Street parking and stacking spaces, aisles, and driveways shall be located on the same lot as the use served except as provided in Section 1116.05.
 - b. Driveways and aisles in all Residential districts and in all other districts abutting a Residential district, shall not be located closer than three feet to a lot line except for single-family dwellings (including zero lot line and townhouse units) and duplexes.
 - c. A parking area shall not be located closer than five feet to a lot with a single-family residence or duplex in other Residential districts.
 - ii. Front Yard
 - a. No parking or storage space in a Residential district and in the Commercial and Industrial districts within 50 feet of a Residential district along the same frontage shall be permitted within a front yard.
 - b. For detached single-family dwellings in the Residential districts, two of the required parking spaces may be provided within a front yard on a regularly constructed driveway, provided not less than 50% of the front yard shall remain in open space free of impervious surface.
 - c. For zero lot line dwellings, duplexes, and family care facilities, only two of the required parking spaces may be provided within the front yard on a regularly constructed driveway, provided not less than 50% of the front yard shall remain in open space free of impervious surface.
 - iii. Rear Yard. Parking and stacking spaces, driveways and aisles may be located within a rear yard.
- (3) Access and Driveway Design
 - A. Generally. These regulations are applicable in zoning districts without access and driveway requirements specific to the zoning district. If the district specifically requires access and driveway design, those requirements control. The City Engineer may develop and implement policies necessary to control the design and construction of driveways that are consistent with this Zoning Code.
 - B. The number of driveways on a given street or access easement is based on the following:
 - i. All development shall meet the requirements provided in Table 1116.06.4: Maximum Number of Driveways unless specified otherwise.

Table 1116.06.4: Maximum Number of Driveways

Lot Frontage	Max. Number of Driveways

< 150 feet	1 For single- family dwellings with lot frontages greater than 75', a circular driveway is allowed
150 - 450 feet	2
451-600 feet	3
601-750 feet	4
<750 feet	Determined by City Engineer

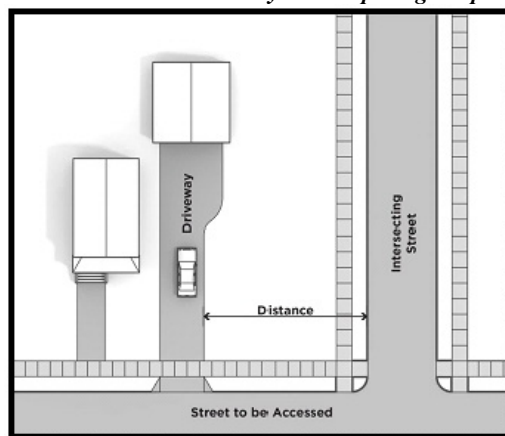
ii. The City Engineer may impose other access and driveway requirements as necessary based on specific site conditions.

C. The minimum distance between a driveway and the intersecting street is described in Table 1116.06.5: Driveway-Street Spacing. Figure 1116.06.3: Driveway-Street Spacing Graphic shows an example of driveway spacing in relation to an intersecting streets.

Table 1116.06.5: Driveway-Street Spacing

Classification of Intersecting Street	Classification of Street to be Accessed		
	Arterial	Collector	Local
Arterial	200 ft	150 ft	100 ft
Collector	150 ft	100 ft	50 ft
Local	100 ft	50 ft	50 ft

Table 1116.06.3: Driveway-Street Spacing Graphic

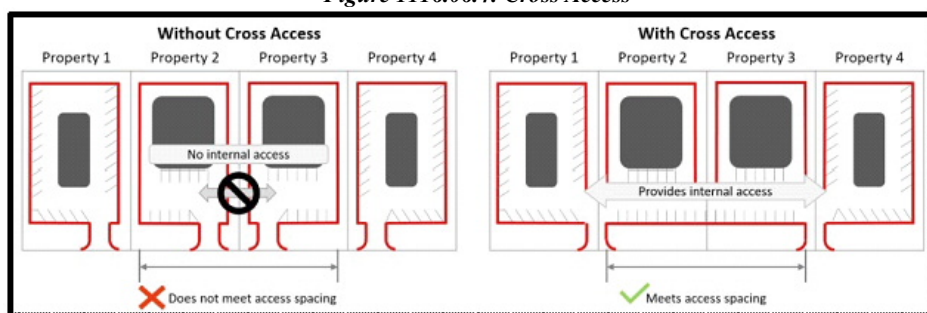


- i. If the required distance cannot be met due to lot size or other constraint as verified by the City Engineer, the driveway shall be located as far as possible from the intersecting street.
- ii. All driveways in a development must be separated by a minimum distance equal to the width of the wider driveway.
- iii. No curb cut may encroach on the frontage of adjacent property without the written consent of the owner for such encroachment, except where a joint use driveway with the adjacent property is established at the request of both owners.

D. Cross Access

- i. Cross access shall be provided for all development with two or more abutting lots that front a street except for one-, two-, three-, and four-unit dwelling developments as depicted in Figure 1116.06.4: Cross Access, subject to the following standards.

Figure 1116.06.4: Cross Access



- ii. Cross access may be provided at the front or at the back of a group of lots, depending on the anticipated amount of pedestrian activity for the development.
- iii. Driveway spacing shall comply with Section 1116.06 (c)(3).

1116.07 BICYCLE PARKING.

(a) Generally

- (1) Bicycle parking is required for certain uses in the R-HD, C-NC, C-LC, C-DT, P-PR, PIE, and P-DM zoning districts to encourage the use of bicycles by providing secure and convenient places to park bicycles.
- (2) Required bicycle parking is designed so people of all ages and abilities can access bicycle parking and securely lock their bicycle without inconvenience.
- (3) Bicycle spaces are measured as the ability for a facility to store one bicycle. One bicycle space equals one stored bicycle.
- (4) A bicycle parking facility shall not obstruct pedestrian traffic or interfere with the use of the pedestrian area.

(b) **Required Minimums.** When a development provides more than 10 on-site parking spaces, minimum bicycle parking requirements shall comply with those provided in Table 1116.07.1: Minimum Bicycle Parking Ratios.

Table 1116.07.1: Minimum Bicycle Parking Ratios

Development/Use	Ratio

Courtyard Apartment	1 bicycle spaces per 20 units
Conventional Apartment	1 bicycle spaces per 15 units
Mixed Use Building (Main Street Mixed Use Building and Vertical Mixed Use Building)	1 bicycle space per 500 square feet
Bar	1 bicycle space per 1,000 square feet
Brewpub	1 bicycle space per 1,000 square feet
Restaurant	1 bicycle space per 500 square feet
Active and Passive Park/Recreational Facilities	2 bicycle spaces per 20,000 square feet of lot area
Any nonresidential building larger than 10,000 square feet	1 bicycle space per 5,000 square feet

(c) Bicycle Facilities

(1) Generally. A bicycle facility shall:

- A. Allow a bicycle frame and one wheel to be locked to the rack with a high-security lock;
- B. Allow a bicycle to be securely held with its frame supported in at least one place;
- C. Be durable and securely anchored to the ground, pavement, or building;
- D. Have a locking surface thin enough to allow standard u-locks to be used, but thick enough so the rack cannot be cut with bolt cutters; and
- E. Not include any elements, impediments, or features within the interior space.

(2) Installation. A bicycle facility shall be:

- A. Available to the public;
- B. Located in a convenient, well-lit area that is clearly visible to both a visitor to the building and a person who is on the sidewalk that access the building's primary entrance; and
- C. Within 150 feet of:
 - i. The primary entrance of each building, and closer than the nearest vehicle parking space; or
 - ii. At least one primary entrance of a building with multiple entrances; unless an alternative location during the site plan process is approved; and
- D. Outfitted to where a bicycle can be safely and securely locked.

1116.08 SPECIAL VEHICLE PARKING.

(a) Special vehicles in the R-AG district may be stored on a well-maintained gravel pad in the rear yard that is a minimum of five feet from side and rear yard property lines.

(b) Except for the purpose of making local deliveries, no special vehicle designed for the shipment of detonable materials and explosives; flammable/combustible solids, liquids or gasses; nor hazardous materials as defined by the Ohio Department of Transportation shall be parked or stored on any lot in a Residential district.

(c) Special vehicles used for commercial purposes shall not be stored in any Residential district.

1116.09 LOADING.

(a) Ratios. Every nonresidential development which requires the loading or unloading of goods, supplies, or materials in its daily operation shall provide at least one off-street loading space for every 10,000 square feet of gross floor area, so located as to avoid backing vehicles into or out of public streets to serve the premises.

(b) Location. A loading space is:

- (1) Located within the same development as the building or use served;
- (2) Prohibited from encroaching into a sidewalk, street, or public right-of-way;
- (3) Prohibited from being located between the front building line and the front property line;
- (4) Located to the rear or side of buildings and is visually unobtrusive;
- (5) Setback a minimum distance of 100 feet from any adjacent residential zoning district or use unless completely enclosed by building walls, a uniformly solid wall, or any combination of the two;
- (6) Set back a minimum distance of 40 feet from any public street, nearest point of intersection on any two streets or highway, or front property line; and
- (7) Oriented away from the street frontage.

(c) Dimensions

- (1) Unless otherwise specified, all off-street loading spaces shall have a minimum dimension of 12 feet by 35 feet and an overhead clearance of 15 feet.
- (2) In no case shall required off-street loading spaces encroach upon off-street parking spaces required by this Chapter, or on public right-of-way.

(d) Maneuvering

- (1) The size of delivery vehicles intending to serve the site determines maneuvering area size.
- (2) Each maneuvering area for loading spaces must not conflict with parking spaces or with the maneuvering areas for spaces.

(e) Design

- (1) Each loading space must minimize conflicts with other vehicular, bicycle, and pedestrian traffic.
- (2) Loading spaces shall be designed so that vehicles shall maneuver entirely within the property lines of the premises and not on public right-of-way.
- (3) Unenclosed off-street loading areas shall be permanently paved on a hard-paved surface.
- (4) Landscaping and screening requirements, provided in CHAPTER 1117 - Landscaping and CHAPTER 1120 - Screening and Fencing, apply to loading facilities and shall prevent direct views of the loading facilities and their driveways from adjacent properties and public right-of-way.

(f) Urban Loading Standards

(1) Applicability

- A. This Subsection applies exclusively to those properties located in the C-DT district.
- B. The regulations of Section 1116.09 (a)-(e) do not apply to those properties located in the C-DT district.

(2) Standards

- A. Loading may be provided in any right-of-way adjacent to the applicable site.

- B. Loading occurring in a street shall be restricted to the hours of 8 p.m. to 8 a.m.
- C. Loading in an alley may occur at any time of day.
- D. No delivery vehicle shall be loading/unloading products for more than 30 minutes at a time.

CHAPTER 1117

Landscaping

1117.01 Purpose.

1117.02 Applicability.

1117.03 General requirements.

1117.04 Nonresidential standards.

1117.05 Residential standards.

1117.06 Urban landscaping standards.

1117.01 PURPOSE.

The purpose of this Chapter is to preserve Springfield's character and integrate and enhance new development by promoting landscape design that:

- (a) Reinforces the identity of the community;
- (b) Appropriately situates new buildings in the landscape;
- (c) Provides adequate vegetation for screening and buffering between land uses;
- (d) Provides tree canopies to reduce urban heat island effect;
- (e) Preserves the existing native trees and other physical site values where possible;
- (f) Reduces stormwater runoff;
- (g) Accounts for unique landscaping treatment in dense, urban areas;
- (h) Soften the visual impact of paved areas, parking lots, and adjoining right-of-way; and
- (i) Identifies climate-appropriate landscape material.

1117.02 APPLICABILITY.

- (a) Generally. The Chapter applies to:

- (1) All development for new construction within Springfield's city limits except for the exemptions listed below.
- (2) The following landscaping standards apply to all new nonresidential development and to the expansion by more than twenty-five percent (25%) of an existing building mass or site in any zoning district.

- (b) Exemptions. This Chapter does not apply to any property with a plan or permit that was approved prior to the adoption of this Zoning Code, unless an amended plan or permit is required by the requirements in the submittal checklist.

1117.03 GENERAL REQUIREMENTS.

- (a) Installation

- (1) All tree plantings required by this Chapter shall be installed before occupancy or commencement of a use.
- (2) If because of weather conditions the plantings cannot be installed before occupancy or commencement of a use, the Community Development Director may issue a temporary zoning certificate and grant a delay of tree installation until the seasonal calendar dates of March 15 or September 1, whichever occurs first.
- (3) Tree installation shall then occur within 60 days after the calendar date.

- (b) Maintenance

- (1) It shall be the responsibility of the owner of a lot to maintain and replace, if necessary, trees required by these provisions after their planting.
- (2) Any trees on the public right-of-way or on private property that overhang the public right-of-way shall be maintained according to the provisions of Chapter 907 of the Codified Ordinances, as amended.
- (3) All plantings shall be properly weeded, mulched, and kept free of trash and other unsightly material.

- (c) Recommended Plant Species

- (1) The varieties and sizes of trees permitted by this code for the use indicated are specified in the list of Recommended Trees for Springfield, Ohio, (as provided by the City Forestry Division.).
- (2) Trees not included on the list may be used to fulfill the requirements of this chapter upon approval of the City Forestry Division.
- (3) Any development requiring more than four trees shall use at least two or more species of trees with no more than 50% being one particular tree species.

- (d) Planting Sizes. The following specifications shall be met at the time of planting as provided in Table 1117.03.1: Planting Sizes.

Table 1117.03.1: Planting Sizes

Tree Type	Height at Maturity	Minimum Requirements at Time of Planting
Large Deciduous Tree (Large Tree)	< 45 feet	• Minimum trunk diameter of two (2) inches when measured six (6) inches above established grade and show the growth capabilities, branch information and crown balance that is indigenous to the particular variety
Medium Deciduous Tree (Medium Tree)	30 - 45 feet	• Single stem • Minimum trunk diameter of two (2) inches when measured six (6) inches above established grade and show the growth capabilities, branch information and crown balance that is indigenous to the particular variety
Small Deciduous Tree (Medium Tree)	20 - 30 feet	
Coniferous Tree	--	• Minimum height of five (5) feet when measured from the planted level to the top of the tree • This height may be reduced to three (3) feet when it is required to be used for screening purposes. • The needle color and branching habits shall be normal for the species and the appearance shall be indicative of previous care in pruning and development

(e) Measurements and Calculations

- (1) The required distance for the location of a tree shall mean the distance to the center of the trunk.
- (2) Where fractional numbers of trees result, the number of trees required shall be rounded to the closest whole number. If the fractional amount is one half (½), the next lowest whole number shall be applied.
- (3) Existing trees may be used to satisfy the requirements of the tree regulations, provided they meet the minimum size requirements for trees at initial planting and they are an approved tree per the list of Recommended Trees for Springfield, Ohio, or are approved by the City Forestry Division.

(f) Locational Requirements

- (1) No tree shall be planted within 10 feet of a utility pole.
- (2) At street intersections within the right-of-way or within eight (8) feet of the right-of-way, trees shall not be located within 70 feet of the intersection of curb lines (or pavement edge where curbs do not exist) along arterial streets, within 50 feet along collector streets, or within 30 feet along local streets. In instances where two different types of streets intersect, the location of the tree shall be determined by the type of street adjacent to the proposed tree. (City Engineer is to calculate distances.)
- (3) Trees shall be located a minimum of four (4) feet from the edge of planting area or right-of-way line.

(g) Tree Placement within Street Rights-of-Way

- (1) A tree planting permit shall be obtained from the City Forestry Division for new developments, placement and species of trees in street rights-of-way as provided on construction drawings.
- (2) No trees shall be planted where the width of the area between a curb and a sidewalk is less than four (4) feet. If no sidewalk exists, the width between a curb and a right-of-way line shall be at least nine (9) feet. Trees shall not be located within two (2) feet of a street curb or edge of pavement where a curb does not exist, within two (2) feet of a sidewalk, nor within six (6) feet of a right-of-way line where a sidewalk does not exist. (City Engineer is to determine how close a tree should be to the street pavement where a curb does not exist.)
- (3) At the intersection of a street and a drive or at the intersection of a street and an alley, trees shall not be located within 15 feet of the edge of the drive or the right-of-way line of the alley.
- (4) Large and medium trees shall not be spaced closer than 30 feet apart nor closer than 14 feet of a building. Small trees shall not be spaced closer than 16 feet apart nor closer than eight (8) feet of a building.
- (5) Trees shall be placed to avoid interference with the construction, maintenance and operation of public and private utilities and services above or below ground as determined by the utility companies and the City Engineer.

1117.04 NONRESIDENTIAL STANDARDS.

(a) Generally. Nonresidential development shall comply with the landscaping requirements provided in this Section and plant required landscaping accordingly before obtaining a certificate of occupancy.

(b) Requirements

(1) Generally

- A. Trees shall be placed to avoid interference with the construction, maintenance and operation of public and private utilities and services above or below ground as determined by the utility companies and the City Engineer.
- B. Any large and medium trees provided on-site shall not be spaced closer than 30 feet apart.
- C. Any large and medium trees provided on-site shall not be spaced closer than 14 feet of a building.
- D. Any small trees provided on-site shall not be spaced closer than 16 feet apart.
- E. Any small trees provided on-site shall not be spaced closer than 8 feet of a building.

(2) Required Plants in Front Yards (Adjacent to Street Rights-of-Way)

- A. Large trees shall be planted at a minimum ratio of one tree for every 40 feet of lot frontage.
- B. Large trees shall be planted adjacent to street rights-of-way.

(3) Required Plants in Rear and Side Yards

- A. Large, medium, or small trees shall be planted at a minimum ratio of one tree for every 80 feet of the yard's length.
- B. This requirement may be substituted by landscaping in rear and side yards that provide a continuous mix of coniferous trees mixed with small trees spaced every 50 feet of the yard's length.
- C. Trees shall not be spaced closer than 15 feet from an abutting side and rear property lines.

(4) Required Landscaping in Parking Lots

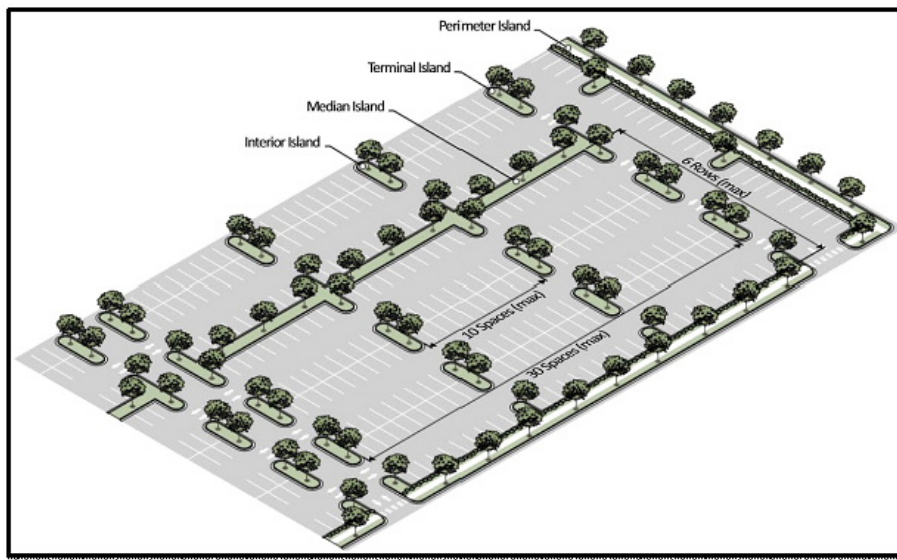
A. Applicability

- i. This Subsection applies to all on-site surface parking areas with more than 10 parking spaces. For purposes of this Subsection, multiple platted lots contained on a single site and any separate parking areas connected with drive aisles are considered a single parking area.
- ii. At least 1 medium or large tree must be planted in each surface parking area with 10 spaces or less.
- iii. All surface parking areas of any size within any district with frontage on any portion of a street right-of-way (not including an alley) must be screened along the street edge as provided in Section 1120.03.

B. Generally

- i. Trees utilized in parking areas shall be designated on the construction drawings.
- ii. The varieties and sizes of trees permitted are specified in the list of Recommended Trees for Springfield, Ohio (as provided by the City Forestry Division). Trees not included on the list may be used to fulfill the requirements of this Chapter upon approval of the City Forestry Division.
- iii. All trees shall be placed within planting areas of pervious material suitable for tree growth and separated from parking spaces, driveways and aisles by a continuous curb or barrier a minimum of five inches in height or a depressed planting area engineered to accept and infiltrate stormwater and separated from parking spaces, driveways and aisles by a cut curb or other practice that will deter traffic from entering the planting area.
- iv. Trees shall be located so a parking space is not more than 50 feet from a tree.
- v. Tree planting areas shall have a minimum area of 120 square feet for each small tree and 160 square feet for each medium and large tree.
- vi. All depressed area designs shall be detailed in the construction drawings and be approved by the City Engineer.
- vii. Figure 1117.04.1: Parking Lot Landscaping summarizes the requirements provided below of this Subsection.

Figure 1117.04.1: Parking Lot Landscaping



C. Perimeter Islands

- i. A landscape perimeter island shall be provided along primary internal access drives.
- ii. A landscaped perimeter island shall be a minimum of five feet wide, landscaped with shrubs installed at a rate of 30 shrubs per 100 linear feet that under typical conditions can be expected to reach a height and spread of three feet within three years of planting. All shrubs shall be a minimum of 18 inches tall when planted. In lieu of planting a hedge, a wall at least three feet in height may be installed.
- iii. A perimeter island may also serve as the location for a sidewalk connecting the use and the street. In such case, the sidewalk shall be a minimum of six feet wide and the remaining planting area shall be no less than five feet wide.

D. Interior Islands

- i. A landscaped interior island shall be provided for every 10 parking spaces. Interior islands shall be distributed evenly throughout the parking area.
- ii. An interior island shall be a minimum of eight feet in width and be a minimum of 300 square feet in area.
- iii. All parking rows shall terminate with a landscaped interior terminal island.
- iv. No more than 30 parking spaces shall be located between terminal islands.
- v. Interior islands may be consolidated, or intervals may be expanded to preserve existing trees.

E. Median Islands

- i. A landscape median island shall be provided between every six single parking rows.
- ii. A landscape median island must be a minimum of six feet wide.
- iii. A median island may also serve as the location for a sidewalk connecting parking and the use served by the parking area. The sidewalk shall be a minimum of five feet wide. If trees or shrubs are planted in the median, the median width shall be expanded by at least five feet.
- iv. Median islands may be consolidated, or intervals may be expanded to preserve existing trees.

F. Tree Coverage

- i. Each interior island (and terminal interior island) shall include at least one medium or large tree.
- ii. In no case shall there be less than one medium or large tree for every 4,000 square feet of parking area.

G. Landscape Border

- i. When a parking area is provided within 20 feet of any street, a landscape border not less than four feet in width is required between the parking area and the street.
- ii. The landscape border may be broken for necessary walkways, driveways, and sight distance areas.
- iii. Such landscaping shall contain a combination of trees (40 feet on center) and shrubs (4 feet on center) making at least a three feet high visual barrier during the summer months, at plant maturity.
- iv. A wall or fence can be placed in the landscape border strip (see Section 1120.03), as can a berm.
- v. Shrubs, hedges, and other landscape-screening materials (except trees) cannot exceed four feet in height.

1117.05 RESIDENTIAL STANDARDS.

(a) Generally. Applicants are required to plant the amount established in Table 1117.05.1: Residential Planting Requirements per lot prior to obtaining a certificate of occupancy.

(b) Requirements

- (1) Trees selected from the tree list in this Section shall be planted on all residential lots.
- (2) At least one of the trees must be placed in the front yard of the lot.
- (3) For all residential properties, common areas, and open space lots, applicants are required to plant one tree per 40 linear feet of street frontage. Trees may be grouped or clustered to facilitate site design.
- (4) The following minimum standards apply as established in Table 1117.05.1:

Residential Planting Requirements. An applicant shall choose one of three planting options. An applicant may plant the required large trees, medium trees, small trees, or an alternative combination of the three tree types specified in Table 1117.05.1: Residential Planting Requirements.

Table 1117.05.1: Residential Planting Requirements

Tree Type g Zoning District i	Large ¹	Medium ¹	Small ²	Alternative Combination (Large/Medium/Small)
R-AG	2	5	8	0/7/10 8/0/0 1/6/9

R-LD	0	1	2	0/0/3 1/0/1 0/2/1
R-HD	0	1	1	0/0/2 1/0/0
Notes	1 = Large and medium trees shall not be located closer than 14 feet to a dwelling or building 2 = Small trees shall not be located closer than 8 feet to a dwelling or building			

- (5) Existing trees with a minimum trunk diameter of six (6) inches measured six (6) inches above established grade may be substituted for new trees at the ratio of one (1) existing tree for every two (2) new trees.

1117.06 URBAN LANDSCAPING STANDARDS.

(a) Applicability

- (1) This section applies exclusively to those properties located in the C-DT district. (2) The regulations of Sections 1117.04 and 1117.05 do not apply to those properties located in the C-DT district.

(b) Standards

- (1) Trees shall not be required along the frontage of a property.
- (2) The front yard may be paved to match the pavement of the public frontage.
- (3) Planter boxes and hanging plants is required for development in the C-DT district unless providing a small tree for every 50 feet of linear feet along the frontage of a property.
- (4) Planter boxes shall be bottomless, flow-through boxes with native plants, placed next to buildings and designed to capture runoff.
- (5) Planter boxes may be placed in courtyards or adjacent sidewalks with runoff sent to them via French drains or hidden pipes.

CHAPTER 1118

Site Lighting

1118.01 Purpose.

1118.02 Applicability.

1118.03 Standards.

1118.01 PURPOSE.

The purposes of this Chapter are to:

- (a) Allow the use of site lighting for night-time safety, utility, security, productivity, enjoyment, and commerce;
- (b) Minimize adverse off-site impacts of lighting;
- (c) Curtail light pollution, reduce skyglow, and improve the nighttime environment for astronomy;
- (d) Help protect the natural environment from the adverse effects of night lighting from gas or electric sources;
- (e) Conserve energy and resources to the greatest extent possible; and
- (f) Encourage site lighting that is functional, aesthetically pleasing, and complementary to the architectural style of buildings or settings.

1118.02 APPLICABILITY.

(a) Generally. This Chapter applies to all site lighting within Springfield city limits. All site lighting installed after the effective date of this Zoning Code shall comply with this Chapter.

(b) Exemptions. The following are exempt from the regulations in this Chapter unless noted otherwise:

- (1) Public street lighting, providing that new street lighting shall be approved by the Service Department;
- (2) Temporary holiday displays;
- (3) Emergency/warning lights; and
- (4) City-owned facilities, provided these uses meet the following standards:
 - A. The luminaire angle from a lighting source that illuminates a recreational use may exceed an angle of zero degrees only to the extent necessary for lighting the use, provided that the luminaire is shielded to minimize spillover to surrounding properties;
 - B. Maximum permitted illumination at the property line for a recreational use shall be two footcandles; and
 - C. Site lighting for a recreational use shall be extinguished within an hour of the event's end.

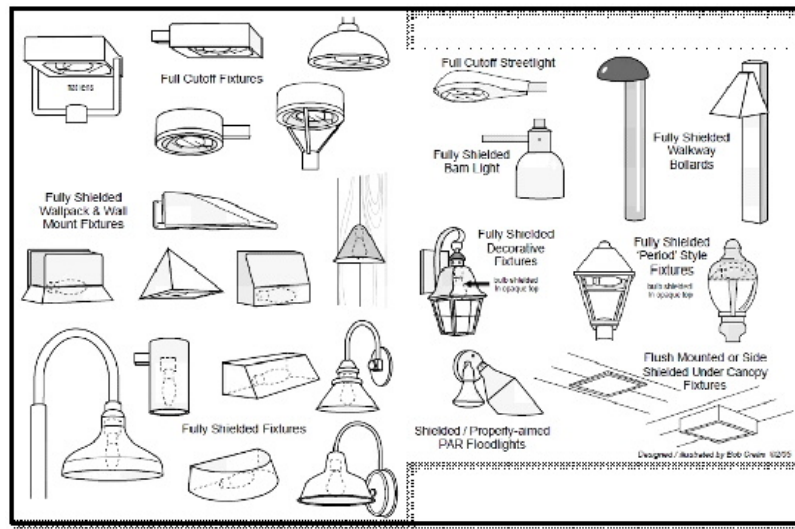
1118.03 STANDARDS.

(a) Generally

- (1) The direct or reflected light from any light fixture shall not create a traffic hazard to operators of motor vehicles on public streets or to operators of aircraft, and no colored lights may be used in such a way as to be confused or construed as street traffic or air traffic control devices.
- (2) No blinking, flashing, or fluttering lights, or other illuminated device that has a changing light intensity, brightness, or color, is permitted in any zoning district.
- (3) The Community Development Director may require modifications to any site lighting fixture after installation upon finding that the lighting, as installed, does not comply with these standards.

(b) Lighting Design

Figure 1118.03.1: Acceptable Light Fixtures



- (1) All site lighting shall meet the functional security needs of the proposed land use without adversely affecting surrounding properties and the natural environment.
- (2) All new and replacement lighting fixtures shall be full cutoff and downcast, except those light sources less than five hundred (500) lumens for individual light fixtures, one hundred fifty (150) lumens for individual lights in a light string (e.g., patio lights), and three thousand (3,000) Kelvin in color temperature are not required to be full cutoff and downcast. For examples of cutoff and downcast light fixtures, refer to Figure 1118.03.1: Acceptable Light Fixtures.
- (3) Light sources shall be concealed or shielded to minimize the potential for glare and light pollution.
- (4) Lights that shine outward and create direct glare are prohibited.
- (5) The amount of light trespass projected onto a residential use from another property shall not exceed 0.1 footcandles at the property line.
- (6) Lighting shall be distributed evenly to minimize extremes in luminance levels.
- (7) Light types of limited spectral emission, such as low-pressure sodium or mercury vapor lights, are prohibited in all areas.
- (8) Energy efficient lighting shall be used to the maximum extent practicable.
- (9) Light sources in residential zoning districts shall not exceed three thousand (3,000) Kelvin in color temperature.
- (10) Light sources in nonresidential zoning districts shall not exceed five thousand (5,000) Kelvin in color temperature.
- (11) Light fixtures used to illuminate flags, statues, or any other objects shall minimize glare beyond the illuminated object.

CHAPTER 1119

Signs

- 1119.01 Purpose.**
- 1119.02 Applicability.**
- 1119.03 Prohibited and exempt signs.**
- 1119.04 General requirements.**
- 1119.05 Sign features.**
- 1119.06 Sign types.**
- 1119.07 On-premise signs.**
- 1119.08 Off-premise signs.**
- 1119.09 Temporary signs.**

1119.01 PURPOSE.

The purpose of this Chapter is to regulate signs of all types (permanent and temporary) in a manner that:

- (a) Protects constitutional rights to free speech by providing ample opportunities for expression through signs, while avoiding content-based distinctions, and providing clear approval standards;
- (b) Protects public health and safety by:
 - (1) Minimizing visual traffic hazards, distractions and obstructions for motorists, cyclists, and pedestrians, or signs causing confusion by virtue of visual similarity to traffic control signs;
 - (2) Reducing hazards caused by collapse, fire, collision, decay, or abandonment;
 - (3) Not obstructing firefighting or police surveillance; and
 - (4) Encouraging the upgrading, updating, or removal of signs that are poorly maintained, or do not conform to this Chapter, and preventing signs that are potentially dangerous due to structural deficiencies and disrepair.
- (c) Enhances the appearance and economic value of the landscape, by providing that signs:
 - (1) Do not create a nuisance to persons using the public rights-of-way;
 - (2) Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height, or movement; and
 - (3) Are not detrimental to land or property values.
- (d) Promotes the community's appearance, character, quality, and business climate by encouraging signs that are attractive and functional for their intended purpose, and that are in scale and harmony with the development site and building(s) and with surrounding areas;
- (e) Reduces and prevents visual clutter or potential deterioration of the community's appearance and attractiveness; and
- (f) Implements the goals and policies of the City's adopted planning policies by establishing uniform standards and procedures to regulate the size, type, number, design, placement, illumination, timeframe for display, and maintenance of signs.

1119.02 APPLICABILITY.

- (a) Generally
 - (1) This Chapter applies everywhere within the Springfield city limits, except as specifically stated otherwise in this Chapter.
 - (2) This Chapter does not prohibit signs required by state or federal law and does not authorize signs that state or federal law prohibits.
 - (3) A person shall not erect, operate, display, or otherwise use any sign that this Chapter prohibits.
 - (4) A person shall not erect, operate, display, or otherwise use any sign at a time, place, or manner that this Chapter prohibits.

(b) Message Neutrality

- (1) Content Neutrality. Despite any other provision of this Chapter, no sign is subject to any limitation based on the content of its message.
- (2) Substitution Allowed. Any sign authorized in this Chapter may contain any noncommercial copy or messages instead of a commercial or another noncommercial message.

1119.03 PROHIBITED AND EXEMPT SIGNS.

(a) Prohibited Signs. Signs may not be located in front of the building setback line, and, unless expressly permitted, the following types of signs are prohibited to the extent such signs are:

- (1) Flimsy or non-weatherproof signs, including, but not limited to, signs made of cloth or paper or insecurely mounted;
- (2) Pole signs;
- (3) Portable, flashing, moving or revolving signs;
- (4) Searchlights, balloons, or sound attraction devices;
- (5) Signs containing wording or color combinations similar to traffic control signs or devices that are therefore unsafe in that they are likely to confuse motorists and pedestrians;
- (6) Back lit translucent signs integrated into or framed by any awning, canopy, marquee, or mansard; and
- (7) Signs, or portions of structures, awnings or fascia, neon or neon type or laser signs.

(b) Exempt Signs. The following signs and related objects are generally allowed to be erected and publicly displayed at any location within the Springfield city limits, except as otherwise specifically proscribed within this Section, and a city-issued sign permit is not required to erect and display any of the following signs unless specifically set forth in this Section. This Section shall not apply to:

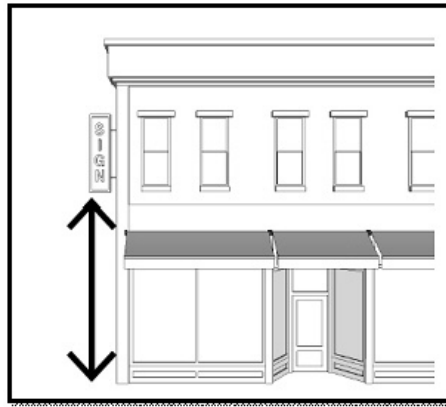
- (1) Any signs and signals properly authorized by law, signs authorized by statute or a state agency, and other traffic signals, public warnings, or legal notices provided that such objects are installed in a location and in a manner and condition required by federal or state statute, a state agency, or a City ordinance or authorized authority.
- (2) Nonconforming signs.
- (3) Existing billboards.
- (4) Signs required by governmental bodies or agencies having proper jurisdiction for a public purpose by law, statute, or ordinance. This also includes any signs the City Commission decides by ordinance or resolution to erect within its city limits or any real property that it may own or control.
- (5) Signs on vehicles, trailers, or equipment are exempted only to the extent such signs are incidental to the primary use of the vehicle, trailer, or equipment, provided that the vehicle, trailer, or equipment is in good mechanical repair and is not left in one place for more than 72 hours without being moved.
- (6) Signs erected by the City that direct vehicular or pedestrian traffic, which may display arrows, words, or other symbols to indicate directions of facilities.
- (7) Address numerals and other similar information required to be maintained by law or governmental order, rule, or regulation, provided that the size of the sign may not exceed the requirements of such law, order, rule, or regulation.
- (8) Signs contained within a walled, fenced, or secured property or area.
- (9) Signs that are interior facing and not visible from public right-of-way.
- (10) Signs erected by governmental bodies or agencies serving the public, that are less than 32 square feet in area.
- (11) Decorations, lights, pennants, and similar devices on public property with permission and under the supervision of the City.
- (12) Seasonal lights and decorations customarily displayed during federally, state, or local recognized holidays.
- (13) Burglar/security alarms and signs that are less than eight square feet in area.
- (14) Signs in plaza or public space structures located in the City's right-of-way, that are installed and maintained by the City or a contractor authorized by the City.

1119.04 GENERAL REQUIREMENTS.

(a) Design and Installation

- (1) All signs shall be maintained in good condition at all times.
- (2) No sign shall be located within a sight visibility triangle as provided in Section 1115.03 (e) unless specified otherwise.
- (3) No sign shall violate zoning district dimensional standard, unless specified otherwise.
- (4) No sign shall impair any motorist's view of pedestrian or vehicular traffic.
- (5) No sign shall be related or connected in any way to sound attraction devices unless specified otherwise.
- (6) Any electrical service provided to a freestanding sign shall be underground.
- (7) All signs shall be erected and maintained so as to be safe and secure so as not to fall or cause danger to person or property nor to rot or deteriorate or be blown down by reason of weather and shall be subject to applicable regulations contained or incorporated in the Code of Ordinances.
- (8) All freestanding sign shall be placed in concrete bases or footings.
- (9) All freestanding signs shall be landscaped around the base of the sign in an area equal to three feet for each square foot of sign and base area.
- (10) All attached signs shall affix flush against the wall of the building, canopy, or awning, or as flush as possible while allowing the plane of the face of the sign to remain perpendicular to the ground.
- (11) All on-premise signs shall maintain a vertical clearance as provided in Section 1119.07 when projecting over a right-of-way, sidewalk, walkway, or driveway, unless specified otherwise (see Figure 1119.04.1: Sign Vertical Clearance).

Figure 1119.04.1: Sign Vertical Clearance



- (12) Wherever a development is under one ownership or operated as a unit with a single development, signs shall be relatively consistent and similar in appearance and location (either on the building or on awning but not both), size, type, and style, and architectural scale.

(b) Measurements

(1) Sign Area

- A. Sign area is measured in square feet ("sf") and calculated as the width multiplied by the height of a single rectangle that contains all sign elements, including decorative embellishments, and any internally illuminated or backlit panel, fabric, or similar material not approved as an architectural element of the building.
- B. Sign area includes cabinets, background panels, or colors that are part of the sign installation and not part of the building architecture or the sign support.
- C. Sign area measurements are as follows:
 - i. Only one side of a multi-faced sign is considered when determining the sign area, if the faces are equal in size, the interior angle formed by the faces is less than 45 degrees, and the two faces are not more than 18 inches apart.
 - ii. Where two faces of a multi-faced sign are not equal in size, but the interior angle formed by the faces is less than 45 degrees and the two faces are no more than 18 inches apart, the larger sign face is used to calculate sign area.
 - iii. When the interior angle formed by the faces of a multi-faced sign is greater than 45 degrees, or the faces are greater than 18 inches apart, all sides of the sign are considered in calculating sign area.
 - iv. For irregularly shaped signs, the sign area is calculated as the sum of the boundaries that completely contain all sign elements.
 - v. The calculation of sign area for a single sign includes all related sign elements on the same facade or structure. Sign elements are related if they are all constructed in a similar manner and are located less than five feet apart.
Additionally, to be considered a single sign, the facade on which the elements of the sign are mounted can be offset by up to five feet.
 - vi. Where two or more signs are allowed on a facade, the separate sign area rectangles for each sign are added together to determine the total amount of sign area on that building facade.
 - vii. Area limits control the sign area per face for a sign with two faces. viii. Where sign area is required as a percentage, the sign area is a continuous portion of a building facade exclusive of doors and windows, consisting of a plane surface.

(2) Sign Height

- A. The sum of the height of the sign base and sign face as measured from the ground immediately adjacent to the highest point of the sign, including any cabinets, trim, or attachments.
- B. Height limits include the combined height of the sign face and monument base.

1119.05 SIGN FEATURES.

Signs may incorporate the following features established below; however, these features shall only be allowed as established in the tables in Sections 1119.07 and 1119.08 .

(a) Changeable Copy

- (1) Generally. Permanent signs may incorporate changeable copy as the tables in Sections 1119.07 and 1119.08 . Figure 1119.05.1: Changeable Copy Examples shows examples of signs that incorporate changeable copies.

Figure 1119.05.1: Changeable Copy Examples



- (2) Standards. Changeable copies may be illuminated if the dimensions and standards allow illumination for the sign type in that zoning

district.

(b) Illumination

- (1) Signs may be internally or externally illuminated as provided in this Chapter and in those instances where permitted according to the tables in Sections 1119.07 and 1119.08.
- (2) Figure 1119.05.2: Illumination Examples shows examples of signs that incorporate illumination.

Figure 1119.05.2: Illumination Examples



- (3) All types of artificial light sources used to illuminate a sign face which are not shaded or concealed so that the light will not interfere with the vision of motorists or shine directly on residential property in any residential district, and illumination which flashes or simulates movement, shall be prohibited.
- (4) No sign may be of such intensity or brilliance as to impair the vision of a motorist or to otherwise interfere with the motorist's operation of a vehicle.
- (5) No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.
- (6) Illuminated signs shall be equipped with a mechanism that automatically adjusts the brightness to maintain compliance with the illumination standards of this Chapter.
- (7) Illuminated signs shall be equipped with a means to immediately turn off the display or lighting if it malfunctions or poses a threat to public safety. The owner of these signs must immediately turn off the sign or lighting when ordered to do so by the City if the sign cannot be immediately adjusted to comply with the illuminated sign standards set forth in this Chapter or it otherwise poses a threat to public safety.
- (8) Illuminated signs must adhere to the following standards listed in Table 1119.05.1: Sign Illuminance Standards.
 - A. Generally. Maximum Luminance Standards are measured in footcandles.
 - B. Daytime Standards. During the time between the First Sunday in November through the Second Sunday in March the standard daytime hours are 7:30 a.m. until 6 p.m. During the time between the Second Sunday in March through the First Sunday in November the standard daytime hours are 6 a.m. until 7:30 p.m. (Times based on information provided by the Astronomical Application Department of the U.S. Naval Observatory).
 - C. Nighttime Standards. During the time between the First Sunday in November through the Second Sunday in March the standard nighttime hours are 6 p.m. until 7:30 a.m. During the time between the Second Sunday in March through the First Sunday in November the standard nighttime hours are 7:30 p.m. until 6 a.m. (Times based on information provided by the Astronomical Application Department of the U.S. Naval Observatory).

Table 1119.05.1: Sign Illuminance Standards

Zoning District	Maximum Footcandles	
	Day	Night
R-AG R-LD P-PR P-IE	28.8	2.787
R-HD C-NC	55.74	18.58
C-LC	74.32*	18.58
C-HC I-LI I-HI	92.9*	46.45**
C-DT P-DM	92.9*	46.45**
Notes	*=(55.74 in inclement weather, such as fog, rain, or snow) **=(18.58 in inclement weather, such as fog, rain, or snow)	

- (c) Digital Dynamic Display Sign Operational Regulations. Figure 1119.05.3: Digital Dynamic Displays shows examples of signs that incorporate digital dynamic displays.

Figure 1119.05.3: Digital Dynamic Displays



- (1) **Digital Dynamic Display Sign (Single Color).** A digital dynamic display (single color) sign shall operate with the following standards:
- A. Shall comply with the sign tables in Sections 1119.07 and 1119.08.
 - B. These signs shall be operated so that the sign message remains constant for a period of at least 15 seconds before changing to another sign message.
 - C. These signs shall not have continual motion.
 - D. The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects.
 - i. There shall be no left and right flow of messages;
 - ii. No up and down scrolling or otherwise;
 - iii. No moving or flashing of images displayed on the sign; and
 - iv. No cross fade with simultaneous dissolve and appearance of sign messages.
 - E. Each sign shall be operated in conformance with the illumination standards in Section 1119.05(b).
 - F. A digital dynamic display single color sign shall use automatic level controls to reduce light levels at night and under cloudy and other darkened conditions, in accordance with the following:
 - i. A digital dynamic display sign shall have installed equipment that will automatically adjust luminance based on time of day in order to be compliant with this Chapter.
 - ii. These signs shall be equipped with a means to immediately turn off the display or lighting if it malfunctions or poses a threat to public safety, such as fails or ceases to operate in its usual or normal programmed manner, causing motion, movement, flashing or any similar effects.
 - iii. Signs shall be immediately turned off when ordered to do so by the City when the City has determined that the sign does not comply with the illumination standards set forth in this Chapter or it otherwise poses a threat to public safety, if the sign cannot be immediately adjusted to comply with the illumination standards set forth in this Chapter and cease to pose a threat to public safety. A malfunctioning sign or a sign not in compliance with these operational standards shall remain turned off until it is restored to operate in conformity to the requirements of this Chapter.
- (2) **Digital Dynamic Display Sign (Multi-Color).** A digital dynamic display multi-color sign shall operate with the following standards:
- A. All of the standards provided in Section 1119.05(c)(1)A-E.
 - B. Image transition timing requirements shall comply with Table 1119.05.2: Transition Standards.

Table 1119.05.2: Transition Standards

Zoning District	Transition Time
R-AG R-LD P-PR P-IE	Not applicable
R-HD C-NC C-LC C-HC C-DT I-LI I-HI P-DM	15 seconds
Notes	All signs shall be operated so that the sign message remains static for a period of the assigned time before changing to another sign message

- C. A digital dynamic display multi-color sign shall use automatic level controls to reduce light levels at night and under cloudy and other darkened conditions as required in Section 1119.05 (c)(1)F.
- D. The following standards apply:
 - i. Longitudinal Location. A digital dynamic display multi-color sign shall not be erected in locations that already place high demands upon driver attention, such as intersections, interchange entry and exit points, channelization features, close proximity to traffic control devices (including official route markings and directional signing), highway

structures (bridges, viaducts, overpasses), and other roadway features which require a high level of attention to the driving task (by way of example, sharp curves, land drops, "weaving" areas, areas of reduced sight distance).

- ii. **Spacing and Density.** This Subsection refers to the number of digital dynamic display signs that are located within a specified linear distance adjacent to the roadside areas, and how these signs affect highway traffic safety and successful delivery of informational messages to motorists. An approaching driver shall not be able to see two or more digital dynamic display multi-color signs within their field of view at the same time. Each zoning district may have a different potential detection distance that defines the distance of a driver's field of vision. Table 1119.05.3: Detection Distance Requirements lists the applicable detection distance for each zoning district.

Table 1119.05.3: Detection Distance Requirements

Zoning District	Detection Distance
R-AG R-LD P-PR P-IE	400 feet +
R-HD C-NC	800 feet +
C-LC	1,000 feet +
C-HC I-LI I-HI	1,000 feet +
C-DT P-DM	300 feet +

- iii. **Lateral Location.** In determining conditions to impose on the distance that digital dynamic display multi-color signs are set back from the highway, measured in distance from the edge of the main traveled way or the angle of a digital dynamic display multi-color sign on which the messages are displayed relative to the line of sight of motorists on the adjacent highway. Digital dynamic display multi-color signs shall be located and angled so as to reduce the need for a driver to turn their head to read them as they.
- iv. **Interaction with Traffic Signs.** Digital dynamic display multi-color signs shall be located so as not to be detrimentally affect the effectiveness of official traffic control devices. Digital dynamic display multi-color signs shall not be erected in locations that distract drivers from or prevent drivers from seeing traffic control information (i.e. road markings, traffic signs and traffic signals) in roadway settings where drivers must make decision and take actions.
- v. **Compatibility with Ambient Environment.** Digital dynamic display multicolor signs shall not be located where they will create a harsh visual contrast with the ambient environment where they will not be harmonious and appropriate in appearance with the existing or intended character of the general vicinity or where they will change the essential character of the area.

1119.06 SIGN TYPES.

(a) Purpose

- (1) This Chapter establishes the required standards for signs according to the following sign classification system as provided in Table 1119.06.1: Sign Classification Summary.

Table 1119.06.1: Sign Classification Summary

Table 11-100.1: Sign Classification Summary			
	Applicable i		Previous i
Sign Category	Sign Subcategory	Sign Type	Sign Type
On-Premise Signs	Freestanding Signs	Monument	Foundation Monument Sign Monolith Monument Sign
		Pole Sign	Traditional Monument Sign
	Attached Signs	Wall Sign	Fascia Sign
		Attached Awning/Canopy Sign	Awning Sign Canopy Sign
		Projecting Sign	Projecting Sign
		Hanging Sign	
		Window Sign	Window Sign
		Freestanding Canopy Sign	
	Incidental Signs	General Incidental Sign	Directional Sign Flag Integral Sign Swinging Sign
		Speaker Board	
Off-Premise Signs ¹		Billboard	Billboard
		Subdivision Entry Sign	Development Sign
		Bench Billboard	Bench Billboard

Temporary Signs	Temporary Signs	Temporary Signs Construction Sign Real Estate Sign Yard Sale Sign Portable Sign Trailer Sign Banner Balloon
Notes	¹ Off-Premise signs are treated as accessory uses and require a conditional use permit as approved by the BZA ² Digital dynamic displays are sign features which may subject to conditional use permit review by the BZA	

(2) This classification system provides flexibility for persons, businesses, and entities who display signs, avoids sign distinctions that depend on a sign's message, supports the communities' aesthetic goals, and avoids potential traffic hazards and clutter.

(b) Signs Allowed by District. Signs are generally allowed by zoning district as provided in Table 1119.06.2: Sign Type Allowance Summary. For more specific allowances and standards for a given sign type, refer to Sections 1119.07 1119.08 and 1119.09.

Table 1119.06.2: Sign Type Allowance Summary

Key g	T= sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only “-“ = the standard does not apply C = sign allowed by Conditional Use Permit					
District g Requirement i	R-AG R-LD P-PR P-IE	R-HD C-NC	C-LC	C-HC I-LI I-HI	C-DT P-DM	Code Location
On-Premise Signs (see Section 1119.07)						
Freestanding Signs						
Monument Sign	NR	NR	T	T	T	Section 1119.07(b)(1)
Pole Sign		NR	T	T	X	Section 1119.07(b)(2)
Attached Signs						
Wall Sign	NR	NR	T	T	T	Section 1119.07(c)(1)
Attached Awning/Canopy Sign	NR	NR	T	T	T	Section 1119.07(c)(2)
Projecting Sign	NR	NR	T	T	T	Section 1119.07(c)(3)
Hanging Sign	NR	NR	T	T	T	Section 1119.07(c)(4)
Window Sign	NR	NR	T	T	T	Section 1119.07(c)(5)
Freestanding Canopy Sign		NR	T	T	X	Section 1119.07(c)(6)
Incidental Signs						
General Incidental Signs	NR	NR	T	T	T	Section 1119.07(d)(1)
Speaker Board	X	NR	T	X	X	Section 1119.07(d)(2)
Off-Premise Signs (See Section 1119.08)						
Billboard	X	X	C	C	X	Section 1119.08(b)
Bench Billboard	-	-	-	-	-	Section 1119.08(c)
Subdivision Entry Sign	T	T	T	T	X	Section 1119.08(d)
Temporary Signs						Section 1119.09

(c) Generally. This Chapter establishes standards for individual sign types. Sections and subsections on each sign type address the following standards:

- (1) Images or graphics that illustrate the sign type; and
- (2) A table summarizing the applicable sign standards, including:
 - A. The sign type definition;
 - B. If the sign type is allowed in the designated zoning districts in the tables in Sections 1119.07 and 1119.08;
 - C. If a sign permit is required;
 - D. The maximum number of signs of each type;
 - E. Maximum sign dimensions, including:

- i. Sign area;
 - ii. Sign height;
 - iii. Sign setbacks; and
 - iv. Other requirements.
- F. If the following sign features provided in Section 1119.05 are allowed or prohibited:
- i. Illumination features;
 - ii. Changeable copies; and
 - iii. Digital dynamic display.

1119.07 ON-PREMISE SIGNS.

(a) Generally. On-premise signs are classified into three sign subcategories: freestanding signs, attached signs, and incidental signs. This Section provides regulations for each sign subcategory.

(b) Freestanding Signs. Freestanding signs are classified into one of the following sign types: monument signs or pole signs. Their associated regulations are established in this Subsection. A lot may have one freestanding sign, but not multiple unless specified elsewhere in this Subsection.

(1) Monument Signs

A. Generally. The required standards for monument signs shall comply with Table 1119.07.1: Monument Sign Standards.



Table 1119.07.1: Monument Sign Standards

Key g	T= sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only "--" = the standard does not apply C = sign allowed by Conditional Use Permit				
Definition g	<u>Monument Sign</u> : An on-premises, permanent freestanding sign mounted or appearing to be mounted directly in the ground or on a footer in the ground.				
District g Requirement i					
General					
Allowed?	NR	NR	T	T	T
Permit Required?	T	T	T	T	T
Number per Lot	1	1	1	1	1
Dimensions					
Sign Area (max.)	50 sf	50 sf	150 sf	400 sf	50 sf
Sign Height (max.)	6 ft	10 ft	15 ft	15 ft	10 ft
Distance/Setback					
From Front Property Line (min.)	5 ft	5 ft	10 ft	10 ft	5 ft
From Adjacent Property Lines (min.)	5 ft	5 ft	10 ft	10 ft	5 ft
From Another Freestanding Sign (min.)	50 ft	50 ft	50 ft	50 ft	50 ft
Features					
External Illumination	NR	NR	T	-	T
Internal Illumination	NR	NR	T	-	T
Changeable Copy	NR	NR	T	-	T
Single-Color Digital	NR	NR	T	-	T
Multi-Color Digital	X	X	C	C	C

B. Bonuses and Special Allowances. The following bonuses apply:

- i. Additional five square feet for masonry construction materials for base or framing 50% masonry minimum.
- ii. The maximum sign area for a monument sign on a lot with multiple tenants may be increased by 25%.
- iii. Any lot with multiple tenants may have up to three monument signs if each of those signs are 25% percent less than the applicable maximum sign area allowance.

(2) Pole Signs

A. **Generally.** The required standards for pole signs shall comply with Table 1119.07.2: Pole Sign Standards.



Table 1119.07.2: Pole Sign Standards

Key g	T = sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only “-“ = the standard does not apply C = sign allowed by Conditional Use Permit				
Definition g	Pole Sign: An on-premise, permanent freestanding sign mounted directly in the ground by a pole(s) or columnal support structure(s) providing open-air between the base of the sign and the ground.				
District g Requirement i					
General					
Allowed?	X	NR	T	T	X
Permit Required?	-	T	T	T	-
Number per Lot	-	1	1	1	-
Dimensions					
Sign Area (max.)	-	75 sf	150 sf	150 sf	-
Sign Height (max.)	-	20 ft	35 ft	35 ft	-
Distance/Setback					
From Front Property Line (min.)	-	5 ft	10 ft	10 ft	-
From Adjacent Property Lines (min.)	-	5 ft	10 ft	10 ft	-
Features					
External Illumination	-	NR	T	T	-
Internal Illumination	-	NR	T	T	-
Changeable Copy	-	NR	T	T	-
Single-Color Digital	-	NR	T	T	-
Multi-Color Digital	-	X	C	C	-

B. **Bonuses and Special Allowances.** The following bonuses apply:

- Additional five square feet for masonry construction materials for base or framing 50% masonry minimum.
- The maximum sign area for a pole sign on a lot with multiple tenants may be increased by twenty-five percent 25%.
- Any lot with multiple tenants may have up to three pole signs if each of those signs are 25% percent less than the applicable maximum sign area allowance.

(c) **Attached Signs.** Attached signs are classified into one of the following sign types: wall signs, attached awning/canopy signs, projecting signs, hanging signs, or window signs. Their associated regulations are established in this Subsection. A building may have multiple attached signs, unless specified elsewhere in this Subsection.

(1) Wall Signs

A. **Generally.** The required standards for wall signs shall comply with Table 1119.07.3: Wall Sign Standards.



Table 1119.07.3: Wall Sign Standards

Key g	T= sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only “-“ = the standard does not apply C = sign allowed by Conditional Use Permit				
Definition g	Wall Sign: An on-premise sign permanently affixed on an exterior building wall..				
District g Requirement i					
General					
Allowed?	NR		T		
Permit Required?	T		T		
Number per Building	No limit				
Dimensions					
Sign Area (max.)	15% of the wall's area				
Sign Height (max.)	Roofline				
Features					
External Illumination	NR		T		
Internal Illumination	NR		T		
Changeable Copy	NR		T		
Single-Color Digital	NR		T		
Multi-Color Digital	X		C		

(2) Attached Awning/Canopy Signs

- A. Generally. The required standards for attached awning/canopy signs shall comply with Table 1119.07.4: Attached Awning/Canopy Sign Standards.



Table 1119.07.4: Attached Awning/Canopy Sign Standards

Key g	T= sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only “-“ = the standard does not apply C = sign allowed by Conditional Use Permit				
Definition g	Attached Awning/Canopy Sign: An on-premise sign permanently painted, printed, attached, or otherwise applied to any facet of the covering or frame structure of an awning or attached structural canopy				
District g Requirement i	R-AG R-LD P-PR R-IE	R-HD C-NC	C-LC	C-HC I-LI I-HI	C-DT P-DM
General					
Allowed?	NR		T		
Permit Required?	T		T		
Number per Building	No limit				
Dimensions					
Sign Area (max.)	25% of the applicable attached awning/canopy’s area				
Sign Height (max.)	Top of the first story				
Features					
External Illumination	NR		T		
Internal Illumination	NR		T		
Changeable Copy	NR		T		
Single-Color Digital	NR		T		
Multi-Color Digital	X		C		

(3) Projecting Signs

A. Generally. The required standards for projecting signs shall comply with Table 1119.07.5: Projecting Sign Standard.



Table 1119.07.5: Projecting sign Standards

Key g	T= sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only “-“ = the standard does not apply C = sign allowed by Conditional Use Permit				
Definition g	Projecting Sign: An on-premise sign permanently affixed to and projects from the wall of a building and its generally perpendicular to the building facade.				
District g Requirement i	R-AG R-LD P-PR R-IE	R-HD C-NC	C-LC	C-HC I-LI I-HI	C-DT P-DM
General					
Allowed?	NR	NR	T	T	T
Permit Required?	T	T	T	T	T
Number per Building	No limit	No limit	No limit	No limit	No limit
Dimensions					
Sign Area (max.)	40 sf	40 sf	40 sf	40 sf	40 sf
Sign Clearance (min.)	12 ft	12 ft	12 ft	12 ft	12 ft

Features					
External Illumination	NR	NR	T	T	T
Internal Illumination	NR	NR	T	T	T
Changeable Copy	NR	NR	T	T	T
Single-Color Digital	NR	NR	T	T	T
Multi-Color Digital	X	X	C	C	C

(4) Hanging Signs

- A. Generally. The required standards for hanging signs shall comply with Table 1119.07.6: Hanging Sign Standards.

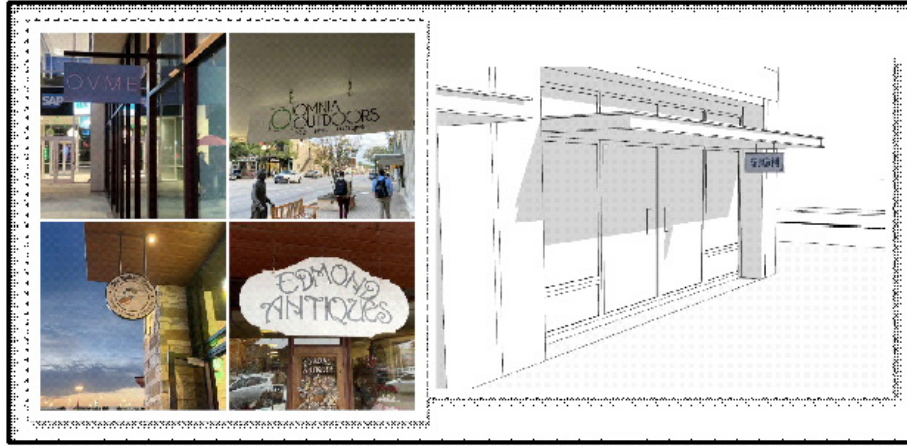


Table 1119.07.6: Hanging Sign Standards

Key g	T= sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only “-“ = the standard does not apply C = sign allowed by Conditional Use Permit				
Definition g	Hanging Sign: An on-premise sign permanently suspended or hanging from the underside of a canopy, awning, ceiling, marquee, roof overhang, a covered porch, or walkway.				
District g Requirement i	R-AG R-LD P-PR R-IE	R-HD C-NC	C-LC	C-HC I-LI I-HI	C-DT P-DM
General					
Allowed?	NR	NR	T	T	T
Permit Required?	T	T	T	T	T
Number per Building	No limit	No limit	No limit	No limit	No limit
Dimensions					
Sign Area (max.)	25 sf	25 sf	40 sf	40 sf	25 sf
Sign Clearance (min.)	12 ft	12 ft	12 ft	12 ft	12 ft
Features					
External Illumination	NR	NR	T	T	T
Internal Illumination	NR	NR	T	T	T
Changeable Copy	X	X	X	X	X
Single-Color Digital	X	X	X	X	X
Multi-Color Digital	X	X	X	X	X

(5) Window Signs

- A. Generally. The required standards for window signs shall comply with Table 1119.07.7: Window Sign Standards.



Table 1119.07.7: Window Sign Standards

Key g	T= sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only “-“ = the standard does not apply C = sign allowed by Conditional Use Permit				
Definition g	Window Sign: An on-premise sign permanently suspended or hanging from the underside of a canopy, awning, ceiling, marquee, roof overhang, a covered porch, or walkway.				
District g Requirement i	R-AG R-LD P-PR R-IE	R-HD C-NC	C-LC	C-HC I-LI I-HI	C-DT P-DM
General					
Allowed?	NR	NR	T	T	T
Permit Required?	T	T	T	T	T
Number per Window	1	1	1	No limit	1
Dimensions					
Sign Area (max.)	25% of window	25% of window	25% of window	25% of window	25% of window
Features					
External Illumination	NR	NR	T	T	T
Internal Illumination	NR	NR	T	T	T
Changeable Copy	X	X	X	X	X
Single-Color Digital	X	X	X	X	X
Multi-Color Digital	X	X	X	X	X

(6) **Freestanding Canopy Signs**

A. **Generally.** The required standards for freestanding canopy signs shall comply with Table 1119.07.8: Freestanding Canopy Sign Standards.

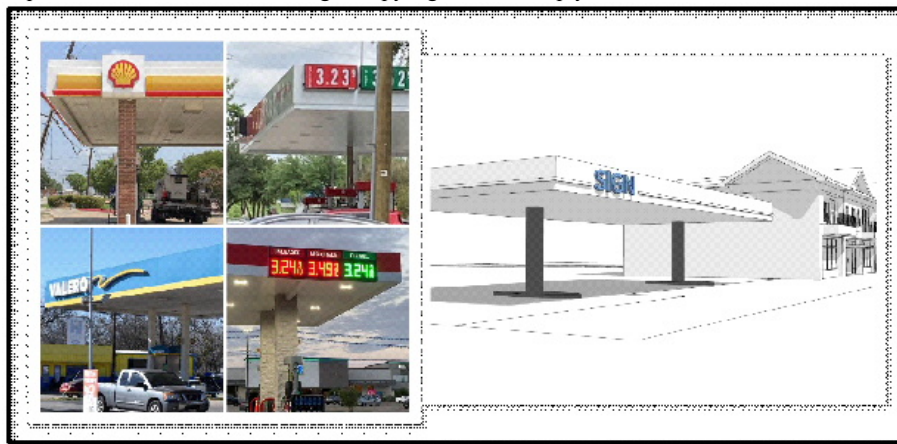


Table 1119.07.8: Freestanding Canopy Sign Standards

Key g	T= sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only “-“ = the standard does not apply C = sign allowed by Conditional Use Permit
Definition g	Freestanding Canopy Sign: An on-premise sign that is permanently allowed to a freestanding canopy.

District g Requirement i	R-AG R-LD P-PR R-IE	R-HD C-NC	C-LC	C-HC I-LI I-HI	C-DT P-DM
General					
Allowed?		NR	T	T	T
Permit Required?	-	T	T	T	-
Number per Freestanding Canopy	-	2	No limit	No limit	-
Dimensions					
Cumulative Sign Area (max.)	-	75 sf	125 sf	150 sf	-
Features					
External Illumination	-	NR	T	T	-
Internal Illumination	-	NR	T	T	-
Changeable Copy	-	NR	T	T	-
Single-Color Digital	-	NR	T	T	-
Multi-Color Digital	-	X	C	C	-

B. Design and Installation

- i. A freestanding canopy sign shall affix flush against the surface of the face of the freestanding canopy or as flush as possible while still allowing the plane of the face of the sign to remain perpendicular to the ground.
- ii. The face of a freestanding canopy sign shall not extend above the top surface of the face of the freestanding canopy to which it is attached.

(d) Incidental Signs. Incidental signs are classified into one large, general category. Their associated regulations are established in this Subsection. A building or lot may have multiple incidental signs as allowed in this Subsection.

(1) General Incidental Signs

- A. Generally. The required standards for incidental signs shall comply with Table 1119.07.9: General Incidental Sign Standards.



Table 1119.07.9: General Incidental Standards

Key g	T= sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only “-“ = the standard does not apply C = sign allowed by Conditional Use Permit				
Definition g	General Incidental Sign: A permanent on-premise sign that is freestanding or attached to a building that is in addition to the primary freestanding and attached sign types for the property, and that has a height and scale that is clearly subordinate to the primary sign types allowed for the property. Examples of general incidental signs include menu boards, flags, occupant directories, property or tenant identification names or numbers, wayfinding signs, directional signs, and signs warning the public against trespassing or danger from animals. The list of examples is not exhaustive and is provided to clarify the regulations and does not limit the content of general incidental signs.				
District g Requirement i	R-AG R-LD P-PR R-IE	R-HD C-NC	C-LC	C-HC I-LI I-HI	C-DT P-DM
General					
Allowed?	NR	NR	T	T	T
Permit Required?	NR	NR	T	T	T
Number per Lot	No limit	No limit	No limit	No limit	No limit

Dimensions					
Sign Area (max. per sign)	20 sf	20 sf	35 sf	50 sf	20 sf
Sign Area (cumulative max.)	50 sf	50 sf	75 sf	100 sf	50 sf
Sign Height (max.)	4 ft	4 ft	6 ft	6 ft	4 ft
Distance/Setback					
From Front Property Line (min.)	5 ft	5 ft	5 ft	5 ft	5 ft
From Adjacent Property Lines (min.)	5 ft	5 ft	5 ft	5 ft	5 ft
From a Freestanding Sign (min.)	20 ft	20 ft	35 ft	50 ft	20 ft
Features					
External Illumination	NR	NR	T	T	T
Internal Illumination	NR	NR	T	T	T
Changeable Copy	X	X	T	T	T
Single-Color Digital	X	X	X	X	X
Multi-Color Digital	X	X	X	X	X

B. Additional Standards

- i. There is no maximum incidental sign allowance.
- ii. The sum of the incidental sign area on a lot or building shall not exceed those established in Table 1119.07.9: General Incidental Sign Standards.

C. Design and Installation

- i. An attached incidental sign shall affix flush against the wall of the building in which it is located.
- ii. A freestanding incidental sign shall have an enclosed base and be securely and firmly embedded in the ground.
- iii. Incidental signs constructed in conjunction with a freestanding sign shall be consistent with the building elements and materials of those established on the same lot and within the development.

(2) Speaker Boards

- A. Generally. The required standards for speaker boards shall comply with Table 1119.07.10: Speaker Board Standards.

Table 1119.07.10: Speaker Board Standards

Key g	T= sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only “-“ = the standard does not apply C = sign allowed by Conditional Use Permit				
Definition g	Speaker Board: A professionally constructed and installed sign made of a durable, weather-resistant product such as metal or high-density plastic and may include a two-way speaker system for ordering from a vehicle in a drive thru lane provided the volume of the speaker does not exceed ambient noise conditions as measured at the property line.				
District g Requirement i	R-AG R-LD P-PR R-IE	R-HD C-NC	C-LC	C-HC I-LI I-HI	C-DT P-DM
General					
Allowed?	X	NR	T	X	X
Permit Required?	-	NR	T	-	-
Number per Lot	-	2	No limit	-	-
Dimensions					
Sign Area (max. per sign)	-	25 sf	40 sf	-	-
Sign Area (cumulative max.)	-	50 sf	120 sf	-	-
Sign Height (max.)	-	6 ft	8 ft	-	-
Distance/Setback					
From Front Property Line (min.)	-	25 ft	50 ft	-	-
From Adjacent Property Lines (min.)	-	15 ft	25 ft	-	-
From a Residential District (min.)	-	50 ft	100 ft	-	-
Features					
External Illumination	-	NR	T	-	-
Internal Illumination	-	NR	T	-	-
Changeable Copy	-	NR	T	-	-
Sign Color Digital	-	NR	T	-	-
Multi-Color Digital	-	X	C	-	-

B. Design and Installation

- i. A speaker board shall provide no more than three feet and no less than 18 inches of horizontal separation from the curb or edge of the

driveway the speaker board faces.

- ii. Speaker boards shall provide a minimum landscaped area of two square feet per one square foot of sign area abutting the sign base.

1119.08 OFF-PREMISE SIGNS

(a) Generally

- (1) Off-premise signs are classified into three sign types: billboards, bench billboards, and subdivision entry signs. This Section provides regulations for each off-premise sign type.
- (2) An off-premise sign is considered an accessory use that requires conditional use permit approval.
- (3) No conditional use permit shall be granted if an off-premise sign is proposed to be erected on a lot without a building or use.
- (4) An off-premise sign shall be permitted in addition to the on-premise signs permitted on a lot.
- (5) Off-premise signs which otherwise comply with every other applicable provision of this Chapter shall be specifically permitted upon properties abutting any route within the City designated by the federal or state governments, or National Road Ohio Scenic Byway Advisory Group, or any like organization, as a "Scenic Byway."

(b) Billboards

- (1) Generally. The required standards for billboards shall comply with Table 1119.08.1: Billboard Standards.

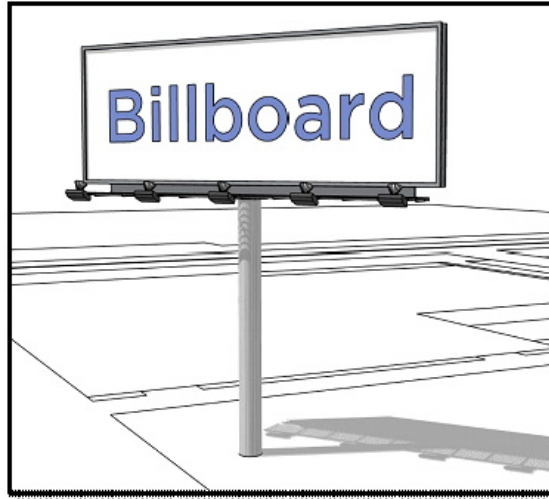


Table 1119.08.1: Billboard Standards

Key g	T= sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only "--" = the standard does not apply C = sign allowed by Conditional Use Permit				
Definition g	Billboard: A permanent off-premise freestanding sign or sign structure upon which a message is placed on a poster or panel and mounted on a pole or metal structure typically with a monopole structure constructed with tubular steel support, tubular steel framing, and a single display panel with a concrete foundation.				
District g Requirement i	R-AG R-LD P-PR R-IE	R-HD C-NC	C-LC	C-HC I-LI I-HI	C-DT P-DM
General					
Allowed?	X	X	C	C	X
Permit Required?	-	-	T	T	-
Number per Lot	-	-	1	1	-
Dimensions					
Sign Area (max.)	-	-	500 sf	500 sf	-
Sign Height (max.)	-	-	35 ft	35 ft	-
Distance/Setback					
From Front Property Line (min.)	-	-	10 ft	10 ft	-
From Adjacent Property Lines (min.)	-	-	10 ft	10 ft	-
From Another Billboard (min.)	-	-	1,000 ft	1,000 ft	-
From a Residential District (min.)	-	-	200 ft	200 ft	-
Features					
External Illumination	-	-	C	C	-
Internal Illumination	--	-	C	C	-
Changeable Copy	-	-	C	C	-
Single-Color Digital	-	-	C	C	-
Multi-Color Digital	-	-	C	C	-

(2) Additional Standards

- A. A billboard shall not be located within 200 feet of a:
- Public parking area;
 - Educational institution;
 - Religious land use;
 - Cemetery; or
 - Government use.
- B. A billboard shall not exceed the height prescribed in Table above the height of the nearest street grade.

(3) Design and Installation. A billboard is not classified as a pole sign.

(c) Bench Billboards

(1) Design

- A. The length of the bench billboard shall not exceed six feet or 72 inches.
- B. The height of the bench billboard shall not exceed three and one half feet or 42 inches from the ground.
- C. Bench billboards shall not weigh more than 250 pounds.
- D. Seats. Seat boards shall consist of two inch by six inch boards of metal, composite, or wood construction cut to appropriate lengths and sufficiently protected against weatherization.
- E. Copy Face. The back of the bench upon which sign copy may be attached may not exceed twelve square feet and is to be constructed of metal and/or a minimum one-half inch plywood. Exterior grade paint must be used for any painted surfaces.
- F. Support Legs. Support legs and required armrests are to be constructed of concrete and/or metal.
- G. Armrests. Armrests shall be required on all bench billboards exceeding 36 inches in length and shall be placed in the center and ends of the bench. Armrests are to be constructed of metal, concrete, or wood.
- H. The bench billboard must be placed on a continuous permanent dust-free surface of sufficient size and composition to maintain the stability of the bench billboard. Bench billboards shall rest completely within the footprint of the surface.
- I. Bench billboards not firmly attached to the ground shall be constructed so as to be able to withstand a wind pressure of not less than 80 miles per hour without falling over or blowing away.

(2) A property owner may allow a bench billboard to be placed on private property subject to the following limitations:

- A. A sign permit is required for each bench billboard.
- B. No bench billboard is permitted to be located within the public rights-of-way; except when the owner of the bench billboard has entered into a contract with the City for placement of bench billboards upon public rights-of-way.
- C. Bench billboards to be placed on private property may be permitted only for those locations meeting the criteria for off-premises signs set forth in this Section.
- D. Bench billboards shall be placed to not interfere with or obstruct the clear vision of pedestrians and motorists to detect approaching traffic at intersections; nor impede the ability of pedestrians to travel along public rights-of-way.

(3) All benches shall be maintained in accordance with the City's Property Maintenance Code. Any bench billboard which has fallen into such a state of disrepair or has suffered such damage and wear to be not in compliance with the City's Property Maintenance Code or is otherwise dangerous to use shall be promptly and without delay removed or repaired.

(4) Bench billboards shall be removed promptly and without delay from locations when the sign permit for the bench billboard expires and no immediately succeeding permit is obtained.

(5) Bench billboards may be located within the public rights-of-way only when the owner of the bench billboard has entered into a contract with the City authorizing placement of the bench billboard upon public rights-of-ways. And when such location meets the following requirements:

- A. Bench billboards shall be placed on locations meeting the criteria for off-premise signs set forth in this Section.
- B. Bench billboards shall be placed to not interfere with or obstruct the clear vision of pedestrians and motorists to detect approaching traffic at intersections; nor impede the ability of pedestrians to travel along public rights-of-way.
- C. No bench billboard shall contribute to visual clutter or create a dangerous distraction or obstruction for pedestrians and motorists.

(d) Subdivision Entry Sign

- (1) Generally. The required standards for subdivision entry signs shall comply with Table 1119.08.2: Subdivision Entry Sign Standards.



Table 1119.08.2: Subdivision Entry Sign Standards

Key g	T= sign allowed X = sign not allowed NR = sign allowed for nonresidential uses only “-“ = the standard does not apply C = sign allowed by Conditional Use Permit
Definition g	<u>Subdivision Entry Sign:</u> A permanent off-premise freestanding sign of the monument sign variety located at the entry of a platted subdivision from a local, collector, or arterial street.

District g Requirement i	R-AG R-LD P-PR R-IE	R-HD C-NC	C-LC	C-HC I-LI I-HI	C-DT P-DM
General					
Allowed?	T	T	T	T	X
Permit Required?	T	T	T	T	-
Distance/Setback					
Sign Area (max.)	50 sf	50 sf	75 sf	75 sf	-
Sign Height (max.)	6 ft	8 ft	8 ft	8 ft	-
Distance/Setback					
From Front Property Line (min.)	5 ft	5 ft	10 ft	10 ft	-
From Adjacent Property Lines (min.)	5 ft	5 ft	10 ft	10 ft	-
Features					
External Illumination	T	T	T	T	-
Internal Illumination	T	T	T	T	-
Changeable Copy	X	X	X	X	-
Single-Color Digital	X	X	X	X	-
Multi-Color Digital	X	X	X	X	-

- (2) **Design and Installation.** Two (2) subdivision entry signs may be located at the intersection of a local, collector, or arterial street and an entry street or private driveway into a subdivision. The signs shall be configured as follows:
- Two (2) signs with one (1) sign face each located on opposite sides of the entry street or private driveway;
 - One (1) sign with two (2) faces located within a landscaped area dividing two (2) one-way entry streets or private driveways; or
 - One (1) sign located on one (1) side of the entry street or private driveway.

1119.09 TEMPORARY SIGNS.

The Community Development Director may issue Temporary Sign Permits, subject to the following limitations:

- No temporary sign shall be permitted if displaying the sign will be injurious to or contrary to the purposes to be accomplished by this Chapter.
- If the temporary sign is not firmly attached to the ground or to a building, the temporary sign shall be constructed to be able to withstand a wind pressure of not less than 80 miles per hour without falling over or blowing away.
- No sign shall be displayed for more than 30 consecutive days.
- No more than six Temporary Sign Permits shall be issued to any one occupied unit within any one calendar year.
- No more than one Temporary Sign permit shall be issued to any one occupied unit for display of a temporary sign during any one time.
- No more than one temporary sign shall be displayed for every 100 linear feet of frontage in a nonresidential development.
- Signs shall not be located closer than 10 feet from the property line or lease line for the address separating such address from the adjacent address.
- Additional signage or exceptions to these regulations may be requested through a conditional use permit application to the Board of Zoning Appeals.
- A minimum time period of 14 consecutive days in which no temporary signage is displayed must elapse between the removal and placement of any subsequent temporary signage.
- Temporary signs must be removed upon expiration of the temporary sign permit.
- Expired and non-permitted temporary signs are to be defined and treated as 'rubbish' pursuant to Chapter 1323 of Part 13 of the Codified Ordinances of Springfield, Ohio, for the purposes of removal by the City.

CHAPTER 1120

Screening and Fencing

1120.01 Purpose.

1120.02 Applicability.

1120.03 Screening standards.

1120.04 Fencing standards.

1120.01 PURPOSE.

The purposes of this Chapter are to:

- Minimize conflicts between potentially incompatible land uses and development on abutting property;
- Ensure that screens and fences are attractive and in character with the community;
- Maintain fences by recognizing their use to create privacy; and
- Distinguish screens and fences from each other by clearly defining the two terms and applying specific standards to each term.

1120.02 APPLICABILITY.

This Chapter applies to all development within the Springfield city limits. This Chapter does not apply to residential development unless otherwise specified.

1120.03 SCREENING STANDARDS.

(a) Screening Summary

- Screening shall meet the standards and apply as provided in Table 1120.03.1: Screening Summary and Section 1120.03(b).
- Screening composition shall consist of one or a combination of the following screen types as provided in Table 1120.03.1: Screening Summary unless specified elsewhere in this Zoning Code.

Table 1120.03.1: Screening Summary

Screen Type	Composition	Applicable Screening Scenario	Screen Type Allowed	Height	
				Min.	Max.
A	An evergreen planting screen of pyramidal arbor vitae with plantings being at least three (3) feet high, spaced four (4) feet on center at time of planting	Nonresidential Development in a Nonresidential District abutting a Residential District	A, B, C, D, E	6 ft	8 ft
B	A solid opaque wall comprised of masonry (brick, stone, etc.), concrete block, or precast concrete panels	Development in a Residential District abutting a Residential District	A, C, E	6 ft	8 ft
C	A wrought-iron or tubular steel fence with masonry columns at 20 feet on center with a mix of shrubs and trees located between masonry columns	Around Waste Enclosures (see Section)	A, B, E	6 ft	10 ft
D	An earthen berm at least twenty (20) feet wide with a maximum slope height exceeding at least six (6) feet covered with grass, shrubs, and trees planted at the base between slopes	Outdoor Storage	A, B, C, D, E	6 ft	10 ft
E	Alternate equivalent screening composition that provides an exceptional screening aesthetic, meets sound structural practices and engineering design criteria, and meets the intent and function of this Chapter at the discretion of the Planning Board	Loading Areas	A, B, C, D, E	8 ft	10 ft
		Parking Row abutting and facing ROW or Residential District	A, B	3 ft	6 ft
		HVAC and Mechanical Equipment	A, B, C	3 ft	6 ft
		Other Required Screening	A, B, C, D, E	6 ft	8 ft

(3) Figure 1120.03.1: Examples of Screening Types shows examples of some of the screening types.

Figure 1120.03.1: Examples of Screening Types



(b) Screening Specifications

(1) Generally

- Applicable required screening shall be provided along the property lines of the subject property unless otherwise specified.
- Screening comprised of masonry, concrete, or metal shall not be erected or placed that would interfere with the installation or maintenance of any public utility line, service, or drainage way within a dedicated easement unless approved by the Community Development Director.
- For screening using any vegetation or plant material provided at the time of installation shall be a minimum of three (3) feet tall measured from the natural grade. Vegetation or plant material provided shall reach a maturity height of at least six (6) feet one (1) year after installation.
- Screening shall not conflict with the sight visibility triangle requirements of Section 1115.03 (e).
- Before certificate of occupancy issuance, all approved screening must be in place.

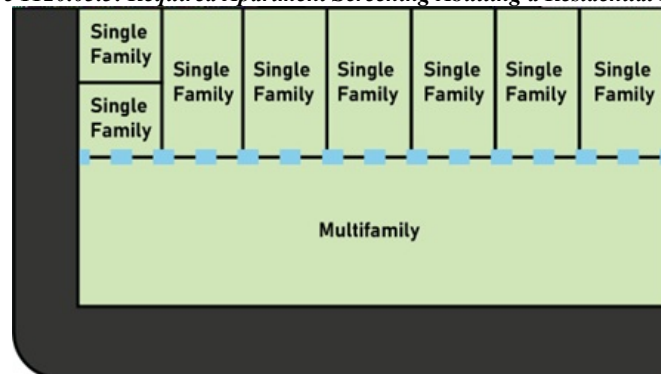
- F. All screening shall be permanently and continually maintained in a neat and orderly manner as a condition of use. The certificate of occupancy may be revoked by the Community Development Director for failure to adequately maintain such screening.
- G. Screening may be waived by the Community Development Director where the view is or will be blocked by a change in grade or by natural or human-made features to the same degree as would be provided by screening which meets the requirements of this Chapter.
- (2) Screening within Residential Contexts
- A. Any required screening provided by a more intensive use abutting a residential use or district shall be permanently and adequately maintained by the more intensive use's property owner.
- B. If there is existing screening or fence along a residential property line and a nonresidential use is proposed, the required screening shall be a living plant screen that complies with this Section and is deemed acceptable by the Community Development Director. However, this requirement may be waived if a 5-foot minimum space between two screens and fences are provided for maintenance access. The intent of these requirements is to eliminate screening situations where two screening walls or fences directly abut each other.
- C. Screening shall not be erected, placed, or planted beyond the front building line of any permitted building in a residential district, either on a corner lot or interior lot, unless otherwise allowed by the Board of Zoning Appeals through a variance request.
- D. Where a nonresidential use abuts a residential lot or use, the side and rear property lines abutting that residential lot or use shall be suitably screened by the nonresidential use so as to obscure the view from the residential lot, use, or district to the nonresidential use to a height not less than six feet (see the blue dashed line in Figure 1120.03.2: Required Screening Abutting a Residential Lot/Use).

Figure 1120.03.2: Required Screening Abutting a Residential Lot/Use



- E. Where an apartment development abuts a residential use or district, the side and rear property lines of that apartment development shall be screened from view of adjacent dwelling(s) (see the blue dashed line in Figure 1120.03.3: Required Apartment Screening Abutting a Residential Lot/Use).

Figure 1120.03.3: Required Apartment Screening Abutting a Residential Lot/Use



- F. Screening requirements are not required for educational institutions, active and passive park/recreational facilities, or religious land uses, except where a parking lot or active outdoor intensive use area (such as a playground) is adjacent to a residential lot or dwelling.
- (3) Screening for HV AC and Mechanical Equipment
- A. Ground mechanical and heating and air conditioning equipment in nonresidential and multi-family uses shall be screened from view from the public right-of-way and from adjacent residential property.
- B. Roof-mounted mechanical units shall be screened from view at a point of four feet above the property line with a parapet wall, mansard roof, or alternative architectural element.
- C. The height of the screening device shall be equal to or greater than the height of the mechanical unit provided that the device shall not extend more than six feet above the roof on a one- or two-story building or more than twelve feet above the roof on a building of three or more stories.
- D. A mechanical unit that is taller than the maximum permitted height of the screening feature shall be set back from the screen three feet plus one foot for each foot exceeding the height of the screen.
- E. Screening for mechanical units shall apply to new building construction only.
- (4) Screening for Parking
- A. Where a parking area is provided within 50 feet on the same side of the street as a lot in a Residential district, the lot shall be screened from view of that portion of the parking area within 50 feet.
- B. Where a parking area is provided on a lot within 150 feet across the street from an Residential district, the lot shall be screened from view of that portion of the parking area within 150 feet.
- C. Wherever a parking lot or driveway adjoins a residential district, such parking lot or driveway shall be separated and screened from the residential district pursuant to this Section.

1120.04 FENCING STANDARDS.

- (a) Generally
- (1) Fences are not required for any property within Springfield city limits.

- (2) No fences exceeding three (3) feet in height shall be allowed in the required front yard in any residential district.
- (3) No fence is allowed in the required right-of-way.
- (4) No fence shall conflict with the sight visibility triangle requirements of Section 1115.03 (e).
- (5) Every fenced enclosure constructed under the provisions of this Section shall have at least one gate in its perimeter.
- (6) All fences constructed under the provisions of this Section shall be maintained to comply with the requirements of this Section at all times.
The Community Development Director may order the repair or removal of a fence if it is more than 10% damaged or leaning 20 degrees from vertical. Fences shall be repaired in compliance with the provisions of this Section.

(b) Corner Lots

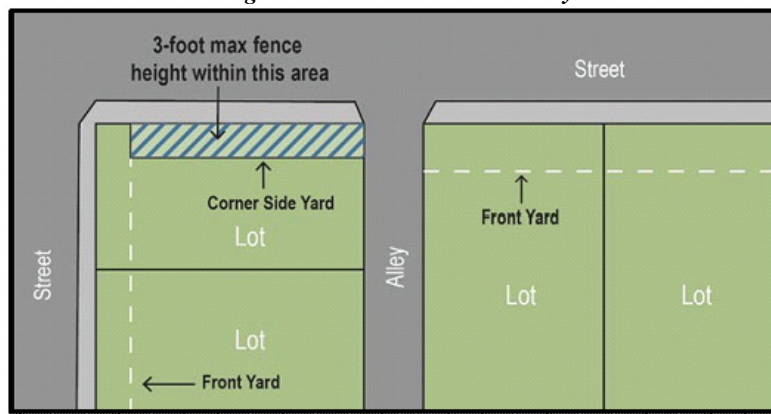
- (1) On all corner lots in residential districts that have opposing rear lot lines, fences may be constructed not to exceed six feet in height along the side and rear lot lines, as indicated in Figure 1120.04.1: 6-Foot Fence Height Limit.

Figure 1120.04.1: 6-Foot Fence Height Limit



- (2) On all residential district corner lots where the rear lot line is opposed to a side lot line across an alley from that side lot line, no fence exceeding three feet in height shall be constructed upon or within the side yard that is next to the street at a distance from the side building line greater than the minimum side yard requirement, as indicated in Figure 1120.04.2: Fence Near Alley.

Figure 1120.04.2: Fence Near Alley



(c) Design Requirements

- (1) The minimum fence height is six feet from natural grade with a maximum height of eight feet, unless otherwise specified.
- (2) Treated lumber shall be used, attached with galvanized screws to galvanized poles installed in two feet of premixed concrete.

(d) Security Fencing. Except in the R-AG district, barbed wire and electric fences are subject to the following requirements.

- (1) Barbed wire shall consist of twisted wires with barbs on each wire a minimum distance of four inches apart. Concertina wire shall be prohibited.
- (2) Except for the enclosure of agricultural operations, barbed wire fences shall be permitted only in the R-AG district, provided that the bottom strand of barbed wire shall not be less than six feet above grade.
- (3) Barbed wire may be placed on gate arms and fences and screens at least eight feet above natural grade in industrial districts.
- (4) An electric fence for the enclosure of agricultural operations shall not carry a charge greater than 25 milliamperes nor a pulsating current longer than one-tenth (1/10) second in a one second cycle. All electric fence charges shall carry the seal of an approved testing laboratory.
- (5) Barbed wire and electric fences shall be prohibited within five feet of a public sidewalk or within five feet of a street right-of-way line where a public sidewalk does not now exist.

CHAPTER 1121

Waste Management

1121.01 Purpose.

1121.02 Applicability.

1121.03 Standards.

1121.04 Alternative compliance.

1121.01 PURPOSE.

The purpose of this Chapter is to provide adequate provisions for on-site waste disposal and collection while promoting sightly development.

1121.02 APPLICABILITY.

This Chapter applies to all nonresidential development within Springfield city limits. This Chapter does not apply to residential development unless otherwise specified.

1121.03 STANDARDS.

(a) Generally. Waste facilities within the R-HD, C-NC, C-LC, C-HC, I-LI, I-HI, P-PR, P-IE, and P-DM districts shall comply with the minimum standards below.

- (1) Waste facilities require waste enclosures and shall meet the requirements established in Section 1120.03.
- (2) Waste enclosure screening materials shall be as provided in Section 1120.03 with the additional allowance of the use of metal or wood. Screening materials shall be of the colors provided on the exterior walls of the main building.
- (3) All waste enclosures shall be fully screened on all sides except for the side where the waste facility is accessed.
- (4) A solid metal gate is required, and when open, shall not encroach into any fire lane.
- (5) No solid metal gate shall exceed 10 feet in height.
- (6) Gates shall remain closed except when in use for access.
- (7) One waste enclosure is required on every lot unless a double waste enclosure is provided on an adjacent lot and access is mutually agreed upon by the two lot owners.
- (8) Waste facilities shall not be located in front of the main building unless no other option is available as determined by the Community Development Director.

(b) Design. Waste facilities within the R-HD, C-NC, C-LC, C-HC, I-LI, I-HI, P-PR, P-IE, and P-DM districts shall comply with the design specifications below.

- (1) Required waste enclosures shall have a minimum inside dimension of 12 feet by 12 feet with a waste enclosure gate opening of not less than 12 feet in width.
- (2) A turnaround area shall be provided of sufficient length to allow the collection truck to exit without backing onto a public right-of-way.

(c) Urban Waste Management Solutions. Within the C-NC and C-DT districts, City contractor approved rolling carts and wheeled dumpsters may be used to meet this Chapter's requirements.

1121.04 ALTERNATIVE COMPLIANCE.

- (a) The Community Development Director may approve the following modifications in this Chapter by the alternative compliance process:
 - (1) Reducing the 40-foot straight backing requirement by 10 feet; and
 - (2) Expanding the allowance of City-contractor approved rolling carts and wheeled dumpsters to properties other than those in the C-NC and C-DT districts.
- (b) Any modification seeking greater relief than provided above requires a variance.

CHAPTER 1122

Urban Design

1122.01 Purpose.

1122.02 Applicability.

1122.03 Standards.

1122.01 PURPOSE.

The purposes of this Chapter are to:

- (a) Establish minimum standards for the appearance of development and corresponding architectural design and site elements that enhance property values, reflecting the interest of the City's general welfare;
- (b) Promote aesthetically appealing development in Downtown Springfield;
- (c) Encourage the design of a developed environment that is built to human scale; and
- (d) Ensure buildings are compatible with its surrounding area and contributes to the unique character of Downtown Springfield.

1122.02 APPLICABILITY.

- (a) This Chapter applies to development located in the C-DT district.
- (b) This Chapter does not apply to development located in other districts.

1122.03 STANDARDS.

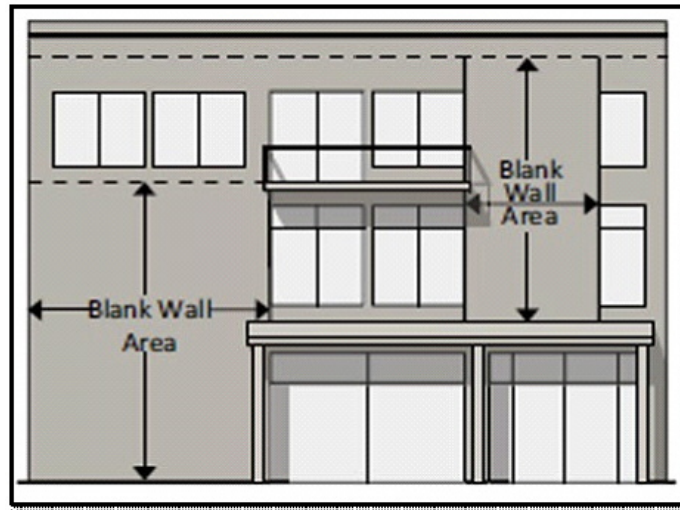
(a) Building Entrances

- (1) Building facades facing public streets shall incorporate a main entrance door on the street.
- (2) Building entrances may include doors to individual shops or businesses, lobby entrances, entrances to pedestrian-oriented plazas, or courtyard entrances to a cluster of shops or businesses.

(b) Blank Wall Area

- (1) Blank wall area means any portion of the exterior facade of the building that does not include a substantial material change; such as windows or doors, or one of the expression tools included in this Section or one of the building elements included in this Section.
- (2) Substantial material change means a change between exterior building materials such as wood, metal, glass, brick, architectural block, stone or stucco. Substantial material change should occur at an inside corner, where feasible. Paint color is not a substantial material change.
- (3) Purpose
 - A. The blank wall area regulations are intended to prevent large, monotonous expanses of undifferentiated building mass; and
 - B. The level of architectural detail should be most intense at the street level, where it is within view of the pedestrians on the sidewalk.
- (4) General Requirements

Figure 1122.03.1: Blank Wall Area Summary



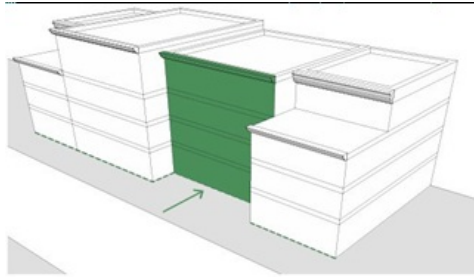
- A. The blank wall area standard applies to any portion of an exterior facade.
 - B. Blank wall area applies in both a vertical and horizontal direction.
 - C. Blank wall area applies to both ground and upper stories.
 - D. Figure 1122.03.1: Blank Wall Area Summary summarizes the blank wall area requirements.
- (c) **Expression Elements**
- (1) **Purpose.** The standards in this section are intended to ensure that expression tools utilized to satisfy the blank wall area standards are of sufficient size and design to meet the intent of the blank wall area requirement.
 - (2) **General Requirements**
 - A. In addition to the requirements of Section 1122.03 (b), the following standards must be met:
 - i. For primary building facades greater than 120 feet in length, a minimum of three expression elements must be applied. One vertical expression element and one (1) horizontal expression element (from Table 1122.03.1: Expression Element Standards) must be used. The third expression element may be selected from either the vertical or horizontal expression elements lists.
 - ii. For primary building facades 120 feet or less in length, a minimum of two expression elements must be applied. One vertical expression element and one horizontal expression element (from Table 1122.03.1: Expression Element Standards) must be used.
 - B. The standards in Table 1122.03.1: Expression Element Standards are intended to ensure that the vertical and horizontal expression elements utilized to satisfy the blank wall area standards are of sufficient size and design to meet the intent of the blank wall area requirement.

Table 1122.03.1: Expression Element Standards

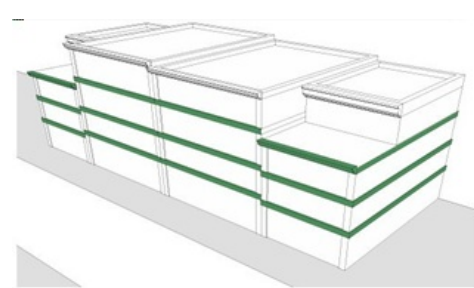
Expression Element i	Graphic
Vertical Expression Elements	
Vertical Expression Line: A vertical expression line created by molding.	
Reuirements • A vertical expression line with a minimum size of at least 4 inches in depth and 1 ft in width • The vertical expression line must occur at a minimum interval of every 60 ft across the building frontage and shall reflect historic facade widths	
Wall Notch: A front façade setback providing vertical articulation to a building façade	
Reuirements • Each wall notch must provide a front facade setback of a minimum depth of 4 ft and length of 8 ft • Wall notches shall be spaced to reflect historic facade width	
Wall Offset: An offset in façade wall into different modules	

Reuirements

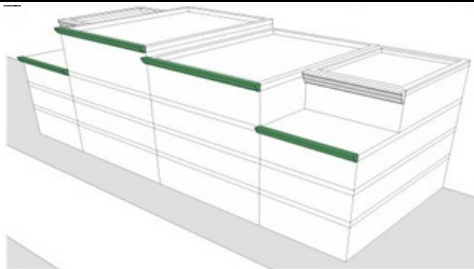
- Facade module must have a minimum 10 ft offset from an adjacent module
- The wall offset shall be located such that it relates to historic facade widths

**Horizontal Expression Elements****Horizontal Expression Line: A horizontal expression line created by molding****Reuirements**

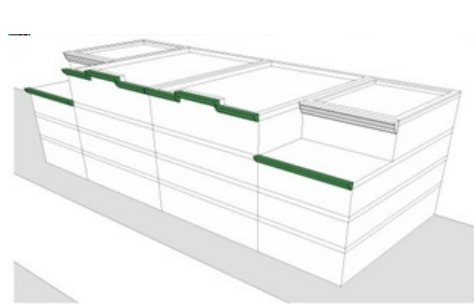
- A horizontal expression line must be a minimum of 4 inches in depth and 1 ft in height
- Incorporate horizontal expression lines at heights that align with traditional elements of historic buildings such as awnings, transoms, and cornices
- The maximum length of a horizontal expression line can run without changing height is 120 ft

**Cornice: A cornice detail providing a horizontal articulation****Reuirements**

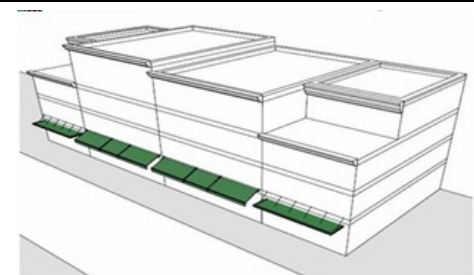
- The cornice detail must be at least 18 inches in height
- The cornice detail must be at least 6 inches deep
- The cornice detail must extend the entire width of the facade
- The cornice detail shall vary in height at widths that reflect historic facade modules

**Varied Parapet Height: A change in the height of the parapet along the length of the building****Reuirements**

- The parapet offset shall be a minimum of 2 ft in height from the adjacent parapet
- The parapet offset shall occur at a minimum interval of every 60 ft across the building frontage, and shall reflect historic precedent
- On the sections of the building that incorporate this horizontal expression element, the awning/canopy height shall also be raised a minimum of 2 ft in height from the adjacent awning/canopy heights to reflect the change in this facade module

**Awning/Canopy: A wall mounted, cantilevered structure providing shade and cover from the weather for a sidewalk****Reuirements**

- An awning/canopy must be a minimum of 7 ft clear height above the sidewalk and must have a minimum depth of 5 ft
- An awning/canopy may extend into a primary or side street setback
- An awning/canopy may encroach up to 6 ft into the public right-of-way but must be at least 2 ft inside the curb line or edge of pavement, whichever is greater

**(d) Building Elements**

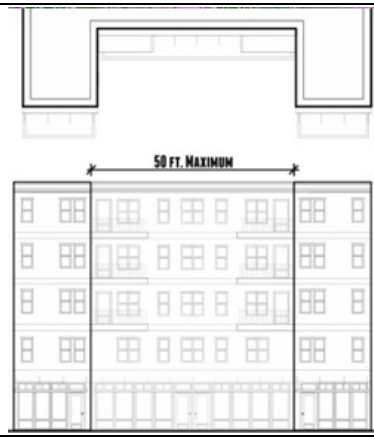
- (1) Purpose. The standards in this Subsection along with Table 1121.03.1: Expression Element Standards are intended to ensure that building elements are of sufficient size and design to meet the intent of the requirements in Section 1121.03 (b).
- (2) Building elements that do not encroach into a required setback and that are not being used to satisfy the blank wall area requirements do not need to comply with the general requirements in this section.
- (3) Right-of-Way Encroachment. A building element may encroach into the right-of-way in accordance with the standards of this Chapter.
- (4) Building Element Typology. The building elements established in Table 1122.03.2: Building Element Typology Standards shall be provided.

Table 1122.03.2: Building Element Typology Standards

Expression Element i	Graphic
Vertical Expression Elements	
Front Porch: A raised structure attached to a building that forms a covered entrance to a doorway	
Reuirements • A front porch must be at least 6 ft deep (excluding the steps and any porch posts) • A front porch shall have a minimum of 50 square feet • Front porch posts which flank the front door, entry, or access point to the unit shall be separated a minimum of 5 ft • A front porch must be contiguous with a width not less than 45% of the building facade • A front porch must be roofed and may be screened but cannot be fully enclosed • A front porch may extend up to 9 ft, including the steps, into a required front setback, provided that such extension is at least 2 ft from the vertical plane of any lot line	The diagram shows a front porch on a two-story building. The elevation view shows a porch with a roof supported by posts, with a minimum depth of 6 ft and a minimum width of 45% of the building facade. The side view shows the porch extending into a setback, with a minimum depth of 6 ft and a maximum extension of 9 ft from the lot line, provided it is at least 2 ft from the lot line.
Stoop: An exterior stair and landing for ground floor residential where the first story is elevated to provide privacy for the windows	
Reuirements • A stoop must be no more than 6 ft deep (not including the steps) and 6 ft wide • A stoop may be covered but cannot be fully enclosed • A stoop may extend up to 6 ft, including the stoeps, into a required setback, provided that such extension is at least 2 ft from the vertical plane of any lot line • A stoop may not encroach into the public right-of-way	The diagram shows a stoop on a building. The elevation view shows a stoop with a maximum depth of 6 ft and a maximum width of 6 ft. The side view shows the stoop extending into a setback, with a maximum extension of 6 ft from the lot line, provided it is at least 2 ft from the lot line.
Balcony: A platform projecting from the wall of an upper-story of a building with a railing along its outer edge, often with access from a door or window	
Reuirements • A balcony may be covered but cannot be fully enclosed • A balcony must have a clear height above the sidewalk of at least 9 ft • A balcony may extend into a primary or side street setback • A balcony may encroach up to 2 ft into the public right-of-way	The diagram shows a balcony on an upper story of a building. The elevation view shows a balcony with a railing. The side view shows the balcony extending into a setback, with a maximum extension of 2 ft from the lot line.
Forecourt: An open area at grade, or within 30 inches of grade, that serves as an open space, plaza or outdoor dining area. A forecourt is designed for pedestrian activity that is often related to the operation of the business(es) with entrances that open into the forecourt and windows that look into the forecourt.	

Reuirements

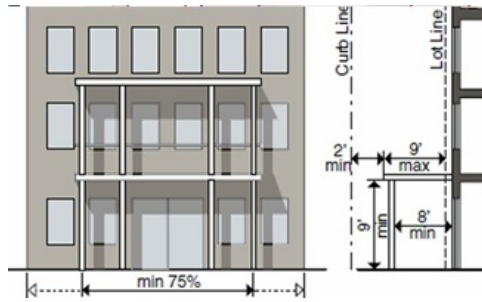
- A forecourt must be no more than one-third of the length of the building face, and in no case longer than 50 ft in width
- A forecourt must be no less than 10 ft in depth
- The depth of the forecourt should not exceed the general width
- A maximum of one forecourt is permitted per lot
- A forecourt meeting the above requirements is considered part of the building
- The forecourt shall include a landscaping feature (such as planters) and features that encourage pedestrian activity (such as benches or tables)



Gallery: A covered passage extending along the outside wall of a building supported by arches or columns that is open on 3 sides

Reuirements

- A gallery must have a clear depth from the support columns to the building's facade of at least 8 ft and a clear height above the sidewalk of at least 9 ft
- A gallery must be contiguous and extend over at least 75% of the width of the building facade
- A gallery may extend into a primary or side street setback
- A gallery may encroach up 9 ft into the public right-of-way but must be at least 2 ft inside the curb line or edge of pavement, whichever is greater



Awning/Canopy: A wall mounted, cantilevered structure providing shade and cover from the weather for a sidewalk

Reuirements

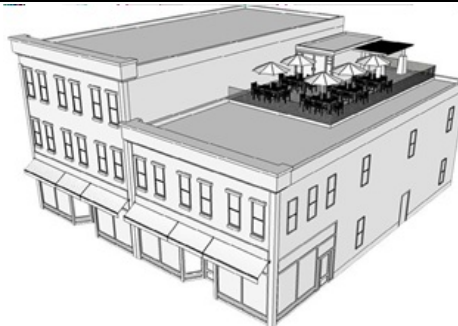
- An awning/canopy must be a minimum of 7 ft clear height above the sidewalk and must have a minimum depth of 5 ft
- An awning/canopy may extend into a primary or side street setback
- An awning/canopy may encroach up to 6 ft into the public right-of-way but must be at least 2 ft inside the curb line or edge of pavement, whichever is greater



Rooftop Deck: An outdoor area located on the roof of a building, although it is not necessarily located on the highest roof plane. For instance, it could be located on the roof of the third story, where the fourth and fifth stories of the building are stepped back from the front façade. A rooftop deck exists where an applicant chooses to utilize this outdoor space.

Reuirements

- The rooftop deck must be enclosed by a railing or partial wall. The railing of a rooftop deck must be set back from the street-facing walls of the floor beneath it by a minimum of 4 ft
- A rooftop garden must be set back from the building frontage at least 10 ft, and a green roof must be set back from the building frontage at least 5 ft and have a low profile so as not to be seen from the public realm



(e) Transparency

- (1) **Purpose.** Transparency requirements are intended to lend visual interest to street facing building facades for both pedestrians and building occupants and minimize blank wall areas. These requirements aim to ensure sight lines from the sidewalk to the goods and services provided inside the property.
- (2) **General Requirements**

Figure 1122.03.2: Transparency Summary



- A. The minimum percentage of windows and doors that must cover a ground story facade is measured between 0 and 12 feet above the adjacent sidewalk.
 - B. The minimum percentage of windows that must cover upper story facades is measured between the top of the floor plate of the upper story and the bottom of the ceiling structure (see Figure 1122.03.2: Transparency Summary).
 - C. Windows shall not be made opaque by non-operable window treatments (for example curtains, blinds or shades within the conditioned space are considered operable, whereas stationary shades such as "faux roman" shades that do not move are considered non-operable).
 - D. Glass shall be considered transparent where it has a transparency higher than 60% and external reflectance of less than 15%. Clear glazing must have a visible transmittance rate of 0.5 or greater to count towards the transparency requirement.
 - E. For all residential uses, at least 30% of each building facade facing public streets shall be transparent window glass or open.
 - F. For nonresidential uses, at least 60% of each building facade facing public streets shall be transparent window glass or open.
- (f) **Building Materials**
- (1) Hard surfaced building materials are required for all nonresidential uses.
 - (2) Acceptable building materials include:
 - A. Masonry;
 - B. Parged block;
 - C. Glass block; and
 - D. Plaster/stucco.
 - (3) Building materials used on building walls and roofs shall not be more than 30% highly reflective glass, such as tempered or mirrored glass.
 - (4) Highly tinted glass or glass tinted in unnatural colors or with a highly reflective finish shall be avoided.
 - (5) Building materials may artificially simulate natural materials that they are not.
 - (6) The following building materials for nonresidential uses shall be prohibited on visible facades from public streets:
 - A. Corrugated metal panels;
 - B. Siding; and
 - C. Wood used as a finish material.
- (g) **Parking**
- (1) Parking must be provided in rear of building as provided in Section 1116.06.
 - (2) In locations where a rear yard fronts a street or is visible within 150 feet of a street, all parking must be screened as provided in Section 1120.03 .
 - (3) Off-Street parking is not required for individual uses.
- (h) **Outdoor Lighting**
- (1) Ornamental or decorative lights mounted with brackets shall be provided when attached to the building.
 - (2) Outdoor lighting and site furniture shall be architecturally integrated with the building's style, material, and color.
 - (3) Down lighting shall be used to reinforce circulation corridors.

CHAPTER 1123

Infill

1123.01 Purpose.

1123.02 Applicability.

1123.03 Standards.

1123.04 Alternative compliance.

1123.01 PURPOSE.

The purpose of this Chapter is to accommodate and encourage compatible development in existing developed areas, while reinforcing the established character of those areas and mitigating adverse impacts on adjacent properties.

1123.02 APPLICABILITY.

This Chapter applies to all development and redevelopment within Springfield city limits unless otherwise specified.

1123.03 STANDARDS.

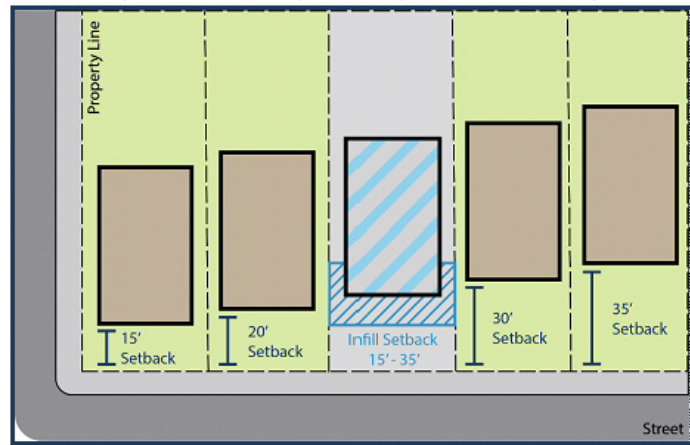
(a) Generally

- (1) Infill development shall share a similar height to surrounding buildings.
- (2) Infill development shall reflect the architectural styles on either side along the block face.
- (3) The relationship between height, width, material, and style of existing facades shall be respected.
- (4) Infill development shall have consistent setbacks with the buildings on it's block face.
- (5) Generally, infill development lots shall meet the required minimums of the zoning district in which it is located, except specified otherwise in this Chapter.

(b) Setbacks

- (1) The front setback for infill development shall be determined by assessing the as-built setbacks on the block face (see Figure 1123.03.1: Infill Development Setback Range), or the applicable zoning district's requirement, whichever is least restrictive for redevelopment.

Figure 1123.03.1: Infill Development Setback Range

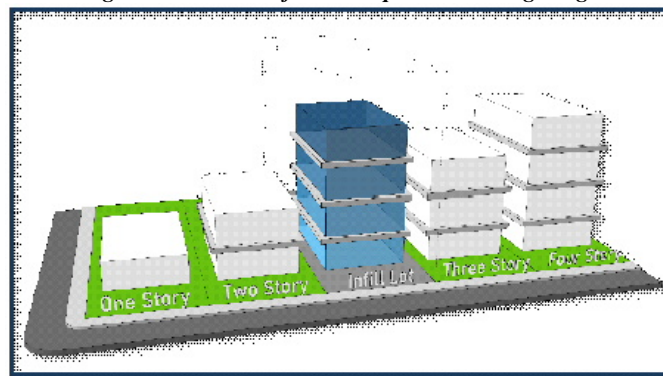


- (2) Infill development may be placed anywhere between the smallest and largest front setbacks on the block face (see Figure 1123.03.1: Infill Development Setback Range).
- (3) All other setbacks shall meet the zoning district's dimensional standards unless specified otherwise in this Chapter.
- (c) Architectural Requirements
- (1) Infill development shall use similar building materials as assessed by the as-built developments on the block face.
- (2) Color shades shall be used to facilitate blending infill development into the block face. The color shades of building materials shall draw from the range of color shades that already exist on the block or in the adjacent neighborhood. If no specified range can be determined, then infill development shall utilize earth tones.
- (3) The use of high-intensity colors, metallic colors, or fluorescent colors is prohibited.

(d) Building Height

- (1) The building height for infill development shall be determined by assessing the as built building heights on the block face (see Figure 1123.03.2: Infill Development Building Height), or the applicable zoning district's requirement, whichever is least restrictive for redevelopment.

Figure 1123.03.2: Infill Development Building Height



- (2) The building height for infill development may be placed anywhere between the shortest and tallest building height on the block face (see Figure 1123.03.2: Infill Development Building Height).
- (e) Glare. Building materials and windows shall not create excessive glare nor create a significant adverse impact on the adjacent property owners, neighborhood, or community in terms of vehicular and pedestrian safety and enjoyment of views.

1123.04 ALTERNATIVE COMPLIANCE.

- (a) Dimensional requirements may be further modified as provided by this Section.
- (b) In instances where redevelopment of a vacant lot is impractical or will otherwise prevent the future development of the lot because of the applicable zoning district's requirements, the following requirements may be modified and approved by the Community Development Director as provided in Table 1123.04.1: Infill Dimensional Modifications by the alternative compliance process specified in Section 1129.01.

Table 1123.04.1: Infill Dimensional Modifications

Requirement	Modification
Minimum Lot Area	A 20% decrease to the applicable zoning district requirement
Minimum Lot Width	A 15% decrease to the applicable zoning district requirement
Maximum Total Lot Building Coverage	A 10% increase to the applicable zoning district requirement
Minimum Front Setback	A 20% decrease to the applicable zoning district requirement
Minimum Rear Setback	A 20% decrease to the applicable zoning district requirement

- (c) These modifications may be in addition to the setback averaging method provided in Section 1123.03.
- (d) Any modification seeking greater relief than provided in Section 1123.03 and Table 1123.04.1: Infill Dimensional Modifications, requires a variance.

CHAPTER 1124

Animal Regulations

1124.01 Purpose.

1124.02 Applicability.

1124.03 Standards.

1124.01 PURPOSE.

The purpose of this Chapter is to regulate the allowance, conditions, and location of nonhousehold animals on lots.

1124.02 APPLICABILITY.

This Chapter applies to all development within Springfield city limits where non-household animals are to be provided on a property.

1124.03 STANDARDS.

(a) Generally

- (1) Non-household animals shall follow the requirements provided in Table 1124.03.1: Animal Unit Summary. A property shall not exceed the maximum animal unit requirements provided in Table 1124.03.1: Animal Unit Summary.

Table 1124.03.1: Animal Unit Summary

Animal Type	Number of Animals Per One Animal Unit	Lot Size District	Number of Animal Units Allowed Per Lot			
			< 1 acre	1-5 acres	5 - 10 acres	>10 acres
Cattle	1	R-AG	3*	6*	9*	12*
Horse, Donkey, Mule	1	R-LD	2	3	4	5
Pig	1	R-HD	1	2	3	4
Goat, Sheep, Llama, Alpaca	2	C-NC	-	-	-	-
Honeybee Colony	2	C-LC	-	-	-	-
Fowl (chicken, quail, turkey, duck, dove, geese)	4	C-HC	-	-	-	-
Notes * = animal units per acre - = not allowed		C-DT	-	-	-	-
		I-LI	-	-	-	-
		I-HI	-	-	-	-
		P-PR	2	3	4	5
		P-IE	2	3	4	5
		P-DM	-	-	-	-

- (2) An animal unit is a calculation that assigns a number of non-household animals in a flexible manner. For example, one animal unit may be one pig, two honeybee colonies, or four fowls. Four animal units could be one of the following possible combinations:
- 4 cattle
 - 4 horse, donkey, mule
 - 4 pigs
 - 8 goat, sheep, llama, alpaca
 - 8 honeybee colonies
 - 16 fowl
 - 2 cattle and 4 goat, sheep, llama, alpaca
 - 1 cattle, 1 pig, and 8 fowl
- (3) All non-household animals shall be set back at least 20 feet from all property lines unless specified otherwise in this Chapter.
- (4) The following animal types are prohibited on lots less than one acre:
- Cattle;
 - Horse, Donkey, Mule;
 - Pig; and
 - Goat, Sheep, Llama, Alpaca
- (5) Structures for cattle, horses, donkeys, mules, pigs, goats, sheep, llamas, and alpacas shall be at least 200 feet from every abutting R-LD and R-HD property lines.
- (6) Structures for fowl or small animals shall not be less than 100 feet from every abutting R-LD and R-HD property lines.
- (7) All non-household animals are prohibited from being located in front and side yards.
- (8) Exotic animals are not permitted in Springfield, except as part of a licensed circus or exhibition.

(b) Animal-Specific Regulations

(1) Honeybee Colony

- All Honeybee colonies shall be registered with the Ohio Department of Agriculture and shall comply with all requirements set forth in ORC Chapter 909.
- Honeybee colonies shall be enclosed as required below:

- i. A minimum six foot tall flyway barrier around the Honeybee colonies shall be provided;
- ii. The flyway barrier shall consist of a solid wall, fence, dense vegetation, or combination of the three; and
- iii. The flyway barrier shall extend 10 feet beyond the hive in each direction along the ground.

(2) Fowl

A. Lots Less than One Acre. The following requirements apply on lots less than one acre:

- i. Fowl shall be sheltered in a coop and shall not be allowed inside a dwelling.
- ii. A coop shall provide at least four square feet of space per fowl.
- iii. Coops shall be located at least five feet from any side property line and at least ten feet from any rear property line.
- iv. Coops shall be located at least 30 feet from any dwelling unit located on an adjacent lot.
- v. Fowl shall be kept within a coop from 6 p.m. to 6 a.m. During the other hours of the day, fowl shall have access to an unpaved outdoor roaming area of at least eight square feet per fowl.
- vi. Fowl or their coops or enclosures shall not be allowed front of the rear wall of the primary structure.
- vii. Coops shall be kept clean so as to prevent pests, infestations, and noxious odors.
- viii. Coops shall be designed, built, and maintained to prevent access by predators.
- ix. Water and food shall be always provided on-site and accessible.
- x. Any electrical or heat sources shall comply with the City Building Code.
- xi. The outdoor slaughter of fowl is prohibited.

B. Roosters

- i. Roosters are prohibited on all R-LD and R-HD properties and those lots less than one acre.
- ii. A rooster shall be kept at least 100 feet from any dwelling or building on adjacent properties.
- iii. In districts where roosters are allowed, for every eight fowl, one rooster is permitted.

CHAPTER 1125

Performance Standards

1125.01 Purpose.

1125.02 Applicability.

1125.03 Standards.

1125.01 PURPOSE.

The purpose of this Chapter is to establish regulations that protect the public from the potential negative effects of certain development by regulating the transmission of noise, vibration, odor, and harmful substances and emissions.

1125.02 APPLICABILITY.

(a) New Uses. Any commercial or industrial use established after the effective date of this Zoning Code shall comply with the minimum performance standards contained in this Chapter.

(b) Existing Uses. Existing lawfully conforming or nonconforming commercial and industrial uses which are not in compliance with the performance standards of this Zoning Code are exempt from the requirements of this Chapter. However, a use that does not comply with the standards shall not be increased in the degree of noncompliance. Such uses shall be permitted to be enlarged or altered provided that the enlargement or alteration complies with these performance standards.

(c) Certification. When necessary, the Community Development Director may require the applicant certify by a registered professional engineer or other qualified person, at the expense of the applicant, that the performance standards for a proposed use can be met.

1125.03 STANDARDS.

(a) Generally. All uses shall conform to the standards of the Ohio Environmental Protection Agency regarding glare, heat, exterior light, liquid or solid wastes, vibrations, and noise and the regulations provided below.

(b) Smoke. The emission of smoke from any operation or activity shall not exceed a density or equivalent opacity permitted below. For the purpose of grading the density or equivalent opacity of smoke, the Ringelmann Chart as published by the United States Bureau of Mines shall be used.

- (1) In Commercial districts, the emission beyond lot lines of smoke darker in shade than Ringelmann No. 1 from any chimney, stack, vent, opening or combustion process shall be prohibited.
- (2) In Industrial districts, the emission of smoke darker in shade than Ringelmann No. 2 from any chimney, stack, vent, opening or combustion process beyond district boundary lines shall be prohibited, except that the emission of smoke of a shade not to exceed Ringelmann No. 3 is permitted for not more than three minutes total in any one eight-hour period when starting or cleaning a fire.

(c) Particulate Matter. No person shall operate or cause to be operated any furnace or combustion device for the burning of coal or other natural or synthetic fuels without using approved equipment, methods, or devices to reduce the quantity of gasborne or airborne solids or fumes emitted into the open air exceeding a rate permitted below at the temperature of 500 degrees Fahrenheit. For the purpose of determining the adequacy of such devices, these conditions shall apply when the percentage of excess air in the stack does not exceed 50% at full load. The foregoing requirement shall be measured by the A.S.M.E. Test Code for dust-separating apparatus. All other forms of dust, dirt and lye ash shall be completely eliminated insofar as escape or emission into the open air is concerned.

- (1) In Commercial districts, the emission of particulate matter suspended in air shall not exceed 0.35 grains (.0023 ounces) per standard cubic foot (70 degrees F. and 14.7 psia) of air during any one-hour period or a total from all vents and stacks of one-half (½) pound per acre of lot area during any one hour period.
- (2) In Industrial districts, the emission of particulate matter suspended in air shall not exceed 0.35 grains (.0023 ounces) per standard cubic foot (70 degrees F. and 14.7 psia) of air during a one-hour period for a total from all vents and stacks of three pounds per hour per acre of lot area during any one hour period.

(d) Toxic Matter. The release of airborne toxic matter from any operation or activity shall not exceed the fractional quantities permitted below of the Threshold Limit Values adopted by the American Conference of Governmental Industrial Hygienists. If a toxic substance is not listed, verification that the proposed level of toxic matter will be safe and not detrimental to the public health or injurious to plant and animal life shall be required. The measurement of toxic matter shall be on the average of any 24-hour sampling period.

- (1) In Commercial districts, the release beyond lot lines of airborne toxic matter shall not exceed one-eighth (1/8th) of the Threshold Limit Values.

(2) In Industrial districts, the release beyond district boundary lines of airborne toxic matter shall not exceed one-eighth (1/8th) of the Threshold Limit Values.

(e) Odor. The emission of offensive odorous matter from an operation or activity shall not exceed the odor threshold concentration defined in the American Society for Testing and Material Method D1391-57 "Standard Method for Measurement of Odor in Atmosphere (Dilution Method)" as the level which will just evoke a response in the human olfactory system when measured as follows:

(1) In Commercial districts, when measured five feet above ground level, odorous matter shall not exceed the odor threshold concentration beyond lot lines.

(2) In Industrial districts, when measured five feet above ground level, odorous matter shall not exceed the odor threshold concentration beyond district boundary lines.

(f) Vibration. Earthborne vibrations from any operation or activity shall not exceed the displacement values below. Vibration displacement shall be measured with an instrument capable of simultaneously measuring in three mutually perpendicular directions. The maximum vector resultant shall be less than the vibration displacement permitted as determined by the calculations provided in Table 1125.03.1: Vibration Calculations.

Formula		Constant K by Type of Vibration			
		District and Place of Measurement	Continuous	Impulsive ¹	<8 pulses per 24-hr period
D = K/f where:	D = displacement in inches	Commercial Districts: at lot lines	0.003	0.006	0.015
	K = constant given (subsequent columns)	Industrial Districts: at district boundary lines	0.030	0.60	0.160
	f = frequency of the vibration transmitted through the ground in cycles per second	At Residential Districts, recreational area, or educational institution	0.003	0.006	0.015 boundary lines
Notes	¹ = at least 1 second rest between pulses which do not exceed 1 second duration				

(g) Glare. Glare or light from any operation and all lighting for parking areas or for the external illumination of buildings or grounds shall be directed or located in such a manner that all direct or indirect illumination shall not exceed .35 footcandles at a Residential district boundary and the source of light shall not be visible within a Residential district or within a lot of a conforming residential use in a Commercial district.

TITLE FIVE - Procedural Standards

- Chap. 1126. General Provisions.
- Chap. 1127. Common Procedures.
- Chap. 1128. Entitlement and Pre-Development Procedures.
- Chap. 1129. Site Development Procedures.
- Chap. 1130. Relief Procedures.

CHAPTER 1126

General Provisions

1126.01 Purpose.

1126.02 Applicability.

1126.03 Procedural Steps.

1126.01 PURPOSE.

The purposes of this Title are to:

- (a) Establish the appropriate workflows associated with each land development process;
- (b) Ensure that processes comply with state law;
- (c) Assign decision-making authority, completeness review, and deadlines to ensure that the processes are efficient and fair to applicants; and
- (d) For discretionary or legislative decisions, provide notice and an opportunity to be heard by persons affected by the application.

1126.02 APPLICABILITY.

This Title establishes rules and procedures for specific land use decisions under the jurisdiction of the City Commission, Planning Board, Board of Zoning Appeals, Springfield Landmarks Commission, and City Staff (where applicable).

1126.03 PROCEDURAL STEPS.

This Title establishes rules for procedures, such as notices and public meetings/hearings. It then describes the process for specific land use decisions. The procedures have a common workflow using a list of basic steps. Each step is summarized with an overview description as reflected in Table 1126.03.1: Procedural Steps.

Table 1126.03.1: Procedural Steps

Step	Overview
Applicability	This is the type of development or situation that is subject to the process.
Initiation	This is how the applicant begins the process, including which department or official receives the application.

CHAPTER 1127

Common Procedures

- 1127.01 Pre-Application.**
- 1127.02 Submitting Applications.**
- 1127.03 Noticing and public hearings.**
- 1127.04 Administrative review.**
- 1127.05 Action and decisions.**
- 1127.06 Application withdrawal.**
- 1127.07 Scope of approval.**
- 1127.08 Post-decision revisions.**
- 1127.09 Appeals.**

1127.01 PRE-APPLICATION.

- (a) Applicability. These requirements apply to any application if the applicant elects to request a pre-application conference with the City.
- (b) Initiation. Before submitting an application subject to this Title, the applicant may request a meeting with the Community Development Department concerning the plans and data as specified in this Zoning Code.
- (c) Purpose of Meeting. The purpose of the meeting is to assist an applicant prior to the submittal of an application, to coordinate the technical aspects of development, inform the applicant about potential planning and development issues, and to prepare the City for upcoming development proposals.
- (d) Scheduling. Any applicants wishing to discuss a development proposal with the Community Development Department shall schedule a meeting at least five (5) business days prior to the meeting.
- (e) Pre-Application Conference (PAC)
- (1) The pre-application conference shall include the following:
 - A. A discussion of technical studies, plans and other information deemed relevant to the specific application request;
 - B. Discussion of the anticipated level of citizen interest;
 - C. A discussion of the general project consistency with this Zoning Code and the Clark County Comprehensive Plan.
 - (2) The applicant shall provide a brief overview of the project, including proposed location, uses, densities, project layout, and design features.
 - (3) The Community Development Department will provide information and comments at the pre-application conference but will not take formal action on the application. In addition to provision of verbal information, the Community Development Department may provide a pre-application conference checklist.
 - (4) The applicant's and Community Development Department's comments are for purposes of information, but are not binding on either the City or the applicant.
- (f) Documentation
- (1) During the meeting, the Community Development Department may review and complete an informational checklist, based on the scope of the application.
 - (2) The Community Development Department will record in writing and provide the applicant any pertinent information concerning the project scope, as described by the applicant, as well as verbal guidance provided by City staff.

1127.02 SUBMITTING APPLICATIONS.

- (a) General Requirements. Applications filed under this Zoning Code must include the information as required per the application forms provided by the Community Development Department as hosted on the City of Springfield, Ohio Official Website. All applications shall be made on forms prepared by the Community Development Department.
- (b) Required Fees
- (1) The City Commission may establish fees for all applications required in this Zoning Code.
 - (2) The following application fees shall be provided as required in Table 1127.02.1: Base Application Fees. Fees may be refunded as determined by the City Commission.

Table 1127.02.1: Base Application Fees

Application	Fee	
	1 to 3 - Unit Dwellings	All other Uses/ Development Types
Amendment Condition Use Permit Variance Appeals from Landmarks Commission	\$57.00	\$285.00
Amendment Rezoning	\$285.00	
Zoning Certificate Home Occupation Appeals from Administrative Decision Alternative Compliance	\$25.00	
Communication Facility/Tower Permit	-	See 1129.06(c)(50)
Parking Lot Permit	-	\$150.00 + 1 per parking space

(c) Review for Completeness

- (1) The Community Development Department will not process incomplete applications.
- (2) An application is not complete until all required items are submitted per the application forms provided by the Community Development Department as hosted on the City of Springfield, Ohio Official Website.

- (3) Any required plans part of an application submittal, unless otherwise specified, shall be prepared by a qualified professional.
- (4) All required plans part of an application submittal, unless otherwise specified, shall be drawn at a scale at least 20 feet to the inch.
- (5) When applications are submitted, the Community Development Department will review them for completeness.
- (6) The time period to process an application does not commence until the Community Development Department determines that the application is properly submitted and the applicant has corrected any deficiencies in the application.
- (7) Review for completeness of application forms is solely to determine whether information required for submission with the application is sufficient to allow further processing.
- (8) The Community Development Department will determine whether the application is complete and will transmit the determination to the applicant. If the Community Springfield, Development Department determines that the application is not complete, the Community Development Department will specify those parts of the application that are incomplete and will indicate how they can be made complete, including a list and description of the information needed to complete the application. No approval authority is obligated to further review the application until the required information is corrected.
- (9) An approval authority may provide submittal deadlines for materials required in support of any application provided for on the City of Springfield, Ohio Official Website. Compliance with those deadlines is required to proceed with the application.

1127.03 NOTICING AND PUBLIC HEARINGS.

(a) Generally

(1) Purpose

- A. The purpose of noticing is to provide a fair and consistent method to notify the community about proposed development in which the community may provide input on a particular proposed development at a public hearing.
- B. The purpose of a public hearing is to allow the applicant and all other interested parties a reasonable and fair opportunity to be heard, to present evidence relevant to the application, and to rebut evidence presented by others.

(2) Rules of Procedure. The City Commission, Planning Board, and Board of Zoning Appeals may adopt rules of procedure for public meetings and hearings.

(b) City Commission. After the recommendations and report of the Planning Board have been filed, the City Commission shall before enacting any proposed amendment, hold a public hearing on the proposed amendment, giving notice of the time and place of the hearing, which notice shall be published in a newspaper having a general circulation in the city at least 30 days before the public hearing.

(c) Planning Board. The Planning Board shall before acting on any proposed application, hold a public hearing on the proposed application, giving notice of the time and place of the hearing, which notice shall be published at least 10 days before the public hearing.

(d) Board of Zoning Appeals

- (1) When an application or appeal has been filed in proper form and with the required data, the Secretary of the Board shall immediately place such application or appeal upon the calendar for hearing and cause notices stating the time, place and object of the hearing to be served personally or by mail at least 10 days, excluding Saturday, Sundays and holidays, prior to the day of such hearing, upon the applicant or the appellant, and to such persons as the Board of Zoning Appeals may specify in its rules and regulations which notices, if by mail, shall be sent to the last known address of the respective property owners.
- (2) The Board of Zoning Appeals shall also publish notice of such hearing in a newspaper of general circulation in Clark County at least seven days prior to the public hearing.
- (3) Any party may appear at such hearings in person or by authorized agent.
- (4) Upon the day for hearing any application or appeal, the Board of Zoning Appeals may adjourn the hearing to permit additional information to be secured, or to cause such further notice as it deems proper to be served upon such other property owners as it decides may logically be concerned with such application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of such hearing unless the Board of Zoning Appeals so decides.

1127.04 ADMINISTRATIVE REVIEW.

(a) Review by Other Departments, Divisions, and Entities. The Community Development Department staff may forward copies of the application to various local, regional (the Regional Planning Commission), state and federal entities and departments for their review and comment. The Community Development Department may ask the reviewers to respond in writing or attend an application review meeting with the Community Development Department.

(b) City Staff Review. City staff shall review the application and supporting information. This may occur in a meeting with the applicant and representatives of other entities or departments. After reviewing the information, the Community Development Director shall prepare a report summarizing the information for the approval authorities and providing a recommendation for action and any proposed conditions. The applicant or other interested parties may obtain a copy of the staff report from the department before the meeting at which the application is scheduled to be presented.

(c) Staff Report. If an individual section of this Title delegates to staff the authority to approve, approve with conditions/modify, or deny/disapprove an application, the staff report may include a written decision to that effect.

1127.05 ACTION AND DECISIONS.

(a) Generally

- (1) Action. Approval authorities shall hold regularly scheduled public meetings and hearings to receive and review public input on items required by this Zoning Code. Recommendations and decisions shall be rendered in a timely manner, based upon the specific requirements of the following:

- A. Conformance with these regulations, the Clark County Comprehensive Plan, and other adopted plans, design guidelines and policies;
- B. Recommendations of staff and approval authorities;
- C. Input of reviewing agencies and departments;
- D. Public comment and testimony received at the hearing; and
- E. Effects of the proposal on the neighborhood, area, and community-at-large.

(2) Authority to Condition Development Approvals

- A. After review of the application, other pertinent information or documents, and any evidence made part of the public record, approval

authorities may impose conditions that are reasonably necessary to assure compliance with applicable general or specific standards expressed in these regulations.

- B. The Community Development Director shall include a copy of the conditions with the record of decision.
- C. The applicant shall be notified of any conditions imposed on the application.

(b) City Staff. City staff decisions shall be rendered in a timely manner, based upon the specific requirements of the following:

- (1) Conformance with this Zoning Code, the Clark County Comprehensive Plan, and other adopted plans, design guidelines and policies; and
- (2) Input of reviewing agencies and departments.

1127.06 APPLICATION WITHDRAWAL.

(a) Generally. An application may be withdrawn at any time prior to formal consideration by an approval authority.

(b) No Public Meeting/Hearing Required. If no public meeting/hearing is required, the applicant shall give notice of the withdrawal to the Community Development Director at the earliest possible time.

(c) Public Meeting/Hearing Required. If a public meeting/hearing is required, an applicant may request a withdrawal from the Community Development Director at any time prior to the opening of the meeting. Once the public meeting/hearing is opened, the approval authority shall decide whether to approve the request and may instead act on the application.

1127.07 SCOPE OF APPROVAL.

(a) Generally. The approval authority may take any action on the application that is consistent with the notice given (if applicable), including approval of the application, conditional approval of the application, or denial of the application.

(b) Revisions. The approval authority may allow revisions to the application if the effect of the revision is to reduce the density or intensity of the original application, reduce the impact of the development, or reduce the amount of land involved from that indicated in the notices of the hearing. The approval authority may not permit a greater amount of development, a more intensive use, a larger area of land than indicated in the original application, or a greater variance than was indicated in the notice.

1127.08 POST-DECISION REVISIONS.

(a) Minor Revisions

- (1) The Community Development Director may approve minor revisions to the terms of an approved application. "Minor revisions" are those that are necessary in light of technical considerations discovered after the decision on the application, and that do not substantively change the character of the approval. Minor revisions include but are not limited to:
 - A. An increase in gross floor area not exceeding 35%;
 - B. Substitution of landscape materials if the proposed materials are of a similar shape, size, and type;
 - C. Location of trees; and
 - D. Changes to building materials, parking lot design, screening elements, building location, or similar elements of site or building design, that would improve the site or are needed because of circumstances not foreseen at the time of application approval.
- (2) Minor revisions must be authorized in writing.
- (3) Minor revisions are subject to appeal to the Board of Zoning Appeals. On appeal, no further action will be taken to process the application, and/or issued permits are stayed pending the Board of Zoning Appeal's determination.

(b) Major Revisions

- (1) A major revision is any revision that the Community Development Director determines exceeds the conditions of a minor revision.
- (2) A major revision is approved by the original approval authority and is required in accordance with the procedures established for the original consideration of the application.
- (3) In making a major revision determination, the Community Development Director may seek a recommendation from any approval authority involved in the original application process.

1127.09 APPEALS.

(a) Generally

- (1) Any decision may be appealed.
- (2) Any party aggrieved by a decision may seek judicial review in any court of competent jurisdiction pursuant to general law.
- (3) Certain decisions may be appealed to a specific approval authority as established in CHAPTER 1130 - Relief Procedures.

(b) Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Community Development Director certifies to the Board of Zoning Appeals, after notice of appeal shall have been filed, that by reason of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may, on due cause shown, be granted by the Board of Zoning Appeals after notice to the Community Development Director, or by judicial proceedings.

CHAPTER 1128

Entitlement and Pre-Development Procedures

1128.01 Amendment (Text or Map/Rezoning).

1128.02 Planned Development Zoning/Rezoning.

1128.01 AMENDMENT (TEXT OR MAP/REZONING).

Figure 1128.01.1: Amendment Flowchart

(a) Applicability. This Section applies to amend or change the regulations of this Zoning Code. This includes the regulations and boundaries or classification of property contained within this Zoning Code or a change to the Zoning Map (rezoning).

(b) Initiation. An amendment may be initiated by:

- (1) City Commission on its own motion;
- (2) Planning Board recommendation;
- (3) Community Development Department; or
- (4) On petition by a resident or their authorized agent.

(c) Completeness

- (1) Generally, refer to Section 1127.02 .
- (2) In addition to the requirements provided in Section 1127.02 (c), the following items shall be provided for any amendment to the Zoning Map:

A. A plot plan of the petitioned property and all other properties within 200 feet of the lands;

B. The names and addresses of all property owners of the petitioned property and those within 200 feet of any part of the petitioned property; however, when 10 or more contiguous properties are joined in one petition by motion of the City Commission or instigation by the Planning Board, the names and addresses of those of the petitioned properties and those within 200 feet need not be;

C. A written statement setting forth the reasons for amending the Zoning Map as petitioned; and

D. Any other documentation as necessary to process the proposed Zoning Map amendment.

(d) Notice and Hearing(s)

- (1) Noticing shall be provided twice, once for each public meeting, and shall comply with Section 1127.03 and state law, as applicable.
- (2) A City Commission public hearing is required which shall comply with Section 1127.03.

(e) Action

(1) Community Development Director Review and Recommendation. The Community Development Director shall review the amendment and provide a recommendation to the Planning Board to:

- A. Approve the amendment;
- B. Deny the amendment; or
- C. Approve the amendment with modifications.

(2) Planning Board Review and Recommendation

A. Generally. The Planning Board shall review the amendment and submit a recommendation and report to City Commission to:

- i. Approve the amendment;
- ii. Deny the amendment; or
- iii. Approve the amendment with modifications.

B. Timing

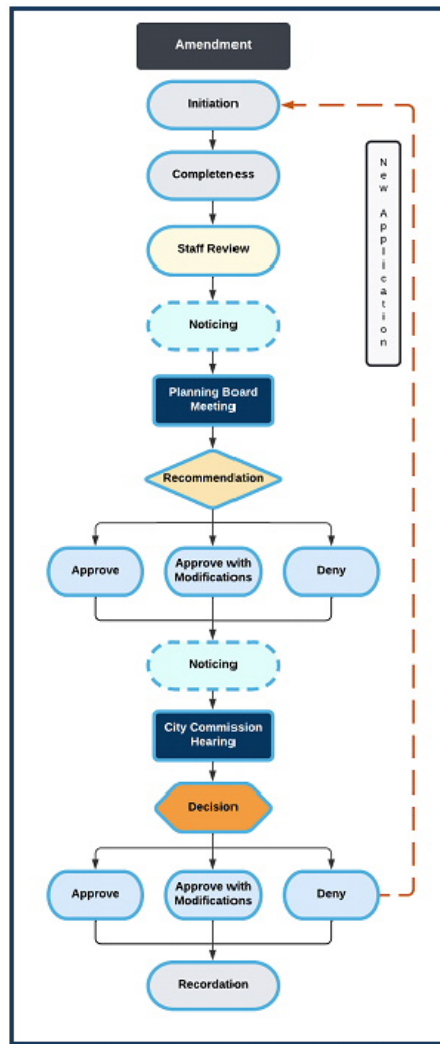
- i. The Planning Board's recommendation and report shall be provided within 45 days of the applications filing date to the City Commission.
- ii. If the Planning Board does not submit a report within 45 days of the filing date of the application, it shall be considered to have submitted a report approving the proposed amendment.
- iii. An applicant may waive this time limitation in writing.

(3) City Commission Decision. The City Commission shall consider the amendment at a public hearing after a report and recommendation has been provided by the Planning Board. After the public hearing is closed, the City Commission shall, by ordinance:

- A. Approve the amendment;
- B. Deny the amendment; or
- C. Approve the amendment with modifications.

(f) Approval Criteria. An amendment to this Zoning Code or the Zoning Map is a legislative decision subject to the City Commission's discretion. The City Commission may approve the amendment if it:

- (1) Is consistent with the Clark County Comprehensive Plan, long-range planning policies, or other strategic goals of the City; and
- (2) Promotes and protects public health, safety, and general welfare.



(g) Subsequent Applications. Not applicable.

(h) Appeals. Refer to Section 1127.09.

(i) Scope of Approval. The approval of an amendment does not authorize the development of land; however, an amendment may facilitate other Zoning Code applications, permits, or actions that are consistent with the standards and requirements of this Zoning Code.

(j) Recordation. The amendment shall be codified and published as part of the Springfield Codified Ordinances by the City Clerk.

1128.02 PLANNED DEVELOPMENT ZONING/REZONING.

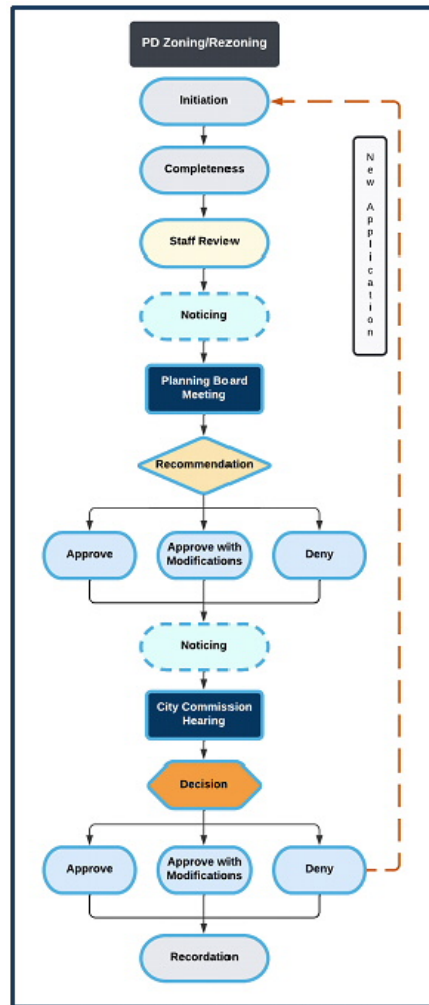
Figure 1128.02.1: PD Zoning/Rezoning Flowchart

(a) Applicability

(1) Lands Eligible for Inclusion in a PD District

A. A PD district shall be comprised only of contiguous lands forming a single, cohesive area to be developed as a unit, either at one time or in phases. No PD district may surround an island of land not included as part of the PD district.

B. No PD district shall be established unless all owners of freehold estates in the lands included within the proposed PD district have given their consent, in writing, to the establishment of the proposed PD district and to their lands being made subject to the PD Ordinance to be adopted by the City Commission and to the terms of the Master Development Plan related thereto and unless all such owners have provided all legally binding instruments the City Commission finds are necessary to the enforcement of long term obligations imposed under the said PD Ordinance and Master Development Plan.



(b) Initiation. A Planned Development Zoning/Rezoning Flowchart Zoning/Rezoning may be initiated on petition by the owner or authorized agent of the subject property.

(c) Completeness

(1) Generally, refer to Section 1127.02.

(2) Pre-application Conference

A. Prior to the submission of an application for the establishment of a PD district, the applicant (along with such consultants and professional advisors as the applicant chooses to attend) shall meet with the Community Development Director (along with such other City staff members which the Community Development Director deems appropriate) for the purpose of assisting the applicant in submitting a complete and compliant application for consideration by the Planning Board. Upon receiving a request for a pre-application conference from a prospective applicant, the Community Development Director shall schedule a pre-application conference at City Hall to be held within 25 days of the prospective applicant's request for a pre-application conference. The prospective applicant may request, in writing, that the pre-application conference be scheduled for a later date. The applicant shall have prepared and shall have delivered to the Community Development Director at least six copies of the following data at least five days prior to the scheduled pre-application conference date:

i. A sketch plan of the proposed PD district;

- ii. A statement:
 - a. Of the total number of acres in the proposed PD district;
 - b. Of the number and type of structures and lots;
 - c. Of the number of acres to be occupied by each type of use in the proposed PD district;
 - d. Explaining the objectives of the proposed Planned Development and the uses to be included within the proposed PD district; and
 - iii. Any known:
 - a. Deviations from subdivision regulations to be sought; and
 - b. Plans for private utilities, amenities, and roadways.
- Notwithstanding the foregoing, the applicant may, at the applicant's option, submit a complete draft PD district application in lieu of the above mentioned items.
- B. If the applicant fails to submit the above mentioned data to the Community Development Director at least five days prior to the scheduled pre-application conference, the Community Development Director shall reschedule a preapplication conference for a date after the above mentioned data has been delivered to the Community Development Director, but no later than thirty days after the above mentioned data has been delivered to the Community Development Director.
 - C. After the initial pre-application conference, the Community Development Director may schedule such additional pre-application conferences as the Community Development Director finds to be necessary to enable the applicant to submit a complete and compliant application for consideration by the Planning Board.
- (3) The applicant seeking to have land rezoned as a PD district shall submit to the Community Development Director six copies of a PD Rezoning Application which shall include the following:
- A. An opinion of an Ohio-licensed attorney, which is addressed to The City of Springfield, Ohio and upon which the City may rely, containing a good and sufficient legal description of the lands which are the subject of the application and stating all owners of freehold estates in such lands. If one or more applicants is a holder of a contractual right to become an owner of a freehold estate in such lands, then the application shall also include a true copy of the document establishing such contractual right and an opinion of an Ohio-licensed attorney, which is addressed to The City of Springfield, Ohio and upon which the City may rely, verifying that the said document is legally binding on the parties thereto in accordance with the terms of such document.
 - B. A Preliminary Master Development Plan which shall include the following exhibits:
 - i. A statement of objectives describing the proposed Planned Development's:
 - a. General purpose;
 - b. General character;
 - c. Permitted and prohibited uses; and
 - d. Rationale supporting the assumptions and choices made by the applicant.
 - ii. A vicinity map drawn to a scale to show an area of no less than 1,000 feet surrounding the proposed PD district (a larger area may be required if the Planning Board determines that information on a larger vicinity is needed to properly review the application) showing the location of the proposed Planned Development in relation to:
 - a. Existing streets and thoroughfares, showing the location and size of all existing utilities facilities, including drainage, water, sewer, electrical, and fire hydrants;
 - b. Existing public and private facilities, including but not limited to, schools, recreation areas, public utility facilities, stormwater detention facilities and police and fire stations;
 - c. Existing zoning and existing land uses on the proposed PD district site and on surrounding areas; and
 - d. Existing easements on the proposed PD district site;
 - iii. A boundary survey plat map and good and sufficient legal description of the lands which are the subject of the application (such legal description being compliant with the requirements of the Clark County, Ohio County Engineer for conveying interests in real estate).
 - iv. A topographic survey using the most recent United States Geological Service topographic survey if more detailed topographic information is not available.
 - v. A site analysis map drawn to the same scale as the Preliminary Master Development Plan plat map, described below, which shall indicate flood prone areas, areas with slopes greater than five percent (5%), areas of soils which are marginally suited for development purposes and a tree survey (including tree cover, existing vegetation and other natural areas of significance as indicated in an accompanying Natural Area Inventory prepared by an ecologist or similarly trained environmental specialist).
 - vi. A Preliminary Master Development Plan plot plan drawn to a scale suitable to clearly depict the following characteristics of the proposed PD district (the scale for the vicinity map being a minimum standard):
 - a. Proposed land uses within the proposed PD district and their location;
 - b. Proposed lot sizes within the proposed PD district, indicated either by lot lines drawn in their proposed location or a statement on the face of the Preliminary Master Development Plan concerning proposed lot sizes, including minimum lot sizes;
 - c. Proposed setbacks defining the distance buildings will be set back from:
 - 1. Property lines surrounding the proposed PD district;
 - 2. Proposed and existing streets and alleys, identified as either public or private;
 - 3. Other proposed buildings;
 - 4. The center line of ditches, streams, creeks and the high water line of lakes and ponds;
 - 5. Lot lines within the proposed PD district; and
 - 6. Other human-made or natural features which would be affected by building encroachment.
 - d. Proposed maximum height of buildings within the proposed PD district;
 - e. Proposed common open spaces, the intended purposes and uses of such common open spaces, their location and size and the parameters limiting use of such common open spaces;
 - f. Arterial and collector streets and thoroughfares, if any, and point(s) of connection for access roads to the Planned Development;
 - g. Local access streets and interior circulation roadways, paths and trails, public and private, vehicular and pedestrian, within the proposed PD district;
 - h. Proposed common outdoor storage areas, their location and size and the parameters limiting use of such common storage areas;
 - i. Proposed lot lines within the proposed PD district;
 - j. Proposed buffers and their location, design and a maintenance plan; and
 - k. Undeveloped areas.

- vii. A table showing proposed acreage for each category of land use within the proposed PD district.
 - viii. A table showing gross density and net residential, commercial, office, and industrial acreage.
 - ix. A statement concerning proposed floor area ratios (percent of lot in relation to building floor area) and the maximum building and impervious surface coverage expressed as a percent of the front yard, rear yard, and total site area for residential and nonresidential uses within the proposed PD district.
 - x. A proposed utility service plan pertaining to sanitary sewers, storm drainage, potable water supply, street lighting, energy supply, telecommunications and data transmission showing general locations of major water and sewer lines, lift stations, and indicating whether gravity or forced systems are planned as well as locations of other major utility infrastructure. Utility infrastructure shall be identified as either public or private.
 - xi. A proposed sign plan identifying the location, size and type of signs to be placed on the Planned Development.
 - xii. A description of each development stage of the proposed Planned Development, if the proposed PD district is to be developed in phases.
 - xiii. A proposed construction/development schedule for the Planned Development and each phase thereof.
 - xiv. Proposed deed and easement documents for public infrastructure within the PD district and proposed easement documents for proposed common areas, ingress and egress rights-of-way for lots within the proposed PD district and such other conveyance documents necessary to establish permanent rights needed by owners and occupants of the proposed Planned Development.
 - xv. Proposed land covenants necessary to provide for permanent protection of rights of land owners within the proposed PD district, to provide for long term enforcement of conditions intended to protect the interests of land owners in neighboring areas and to provide for permanent protection of land features and characteristics of the proposed Planned Development.
 - xvi. A draft proposed PD Ordinance in a format prescribed by the Community Development Director and approved by the Law Director.
 - xvii. Proposed financial assurances and security or other mechanisms necessary to effectively ensure completion of public improvements, completion of construction of Planned Development phases, long term maintenance of common areas and other amenities in the proposed Planned Development, long term maintenance and preservation of Planned Development features intended to mitigate adverse effects on neighboring areas and areas within the proposed Planned Development and preservation of the attributes of the proposed Planned Development necessary to integration of the uses permitted therein accomplish the purposes of this Chapter as pertaining to the proposed Planned Development.
- (4) At any time during the application review process, the Planning Board may require the applicant to supplement its application to provide such additional data as the Planning Board may require to evaluate the character and impact of the proposed PD district.
- (d) Notice and Hearing(s)
- (1) Noticing shall be provided twice, once for each public meeting, and shall comply with Section 1127.03 and state law, as applicable.
 - (2) A City Commission public hearing is required which shall comply with Section 1127.03.
- (e) Action
- (1) When an application to establish a PD district is in good order, complete and compliant with the requirements of this Section, it shall be submitted to the Planning Board. An applicant may waive, in writing, the 45 day deadline for consideration of a zoning amendment petition by the Planning Board.
 - (2) After the Planning Board's due consideration of an application for establishment of a PD district, the Planning Board shall prepare and submit to the City Commission a written report of its findings which form the basis of the Planning Board's recommendation and shall make its recommendation on such application to the City Commission by:
 - A. Recommending adoption of the PD district to which the applicant has consented, in writing as required in this Chapter, and tendering to the City Commission a PD Ordinance to establish the PD district; or B. Forwarding to the City Commission a PD Ordinance to establish the PD district to which the applicant has consented, in writing as required in this Chapter, but recommending that the PD district proposed in the forwarded PD Ordinance not be established.
 - (3) In the event the City Commission considers a PD Ordinance which is materially different from the PD Ordinance recommended by the Planning Board, the applicant must consent, in writing, to such modified PD Ordinance (as required in this Chapter) and the considered PD Ordinance shall be adopted only by the affirmative vote of at least four members of the City Commission.
- (f) Approval Criteria
- (1) This section is intended to provide guidance to the City staff in assisting applicants wishing to petition for establishment of a PD district and to provide guidance to the Planning Board in its consideration of and adjustment of a Preliminary Master Development Plan and in designing a PD Ordinance to be recommended to the City Commission, if a PD district is to be recommended.
 - (2) The Planning Board shall consider the following matters in reviewing and adjusting a Master Development Plan and designing a PD Ordinance to be recommended to the City Commission:
 - A. Whether the proposed PD district meets the qualifications of this Section.
 - B. What permitted uses are appropriate for the proposed PD district;
 - C. Compliance with stormwater regulations;
 - D. Conformance to density policies established by the Clark County Comprehensive Plan or by the City Commission;
 - E. The location and sizing of buildings so as to provide adequate light and ventilation to protect the health of the occupants and users of the Planned Development;
 - F. The location and sizing of buildings so as to provide necessary access for fire apparatus and other emergency vehicles;
 - G. The location and sizing of buildings so as to provide a reasonable degree of privacy for residents and occupants of the Planned Development;
 - H. Establishing appropriate setback and yard requirements for the proposed Planned Development;
 - I. Ingress and egress for the proposed Planned Development from and to public thoroughfares and traffic circulation within the proposed PD district and avoidance of overburdening existing public thoroughfares;
 - J. Establishing appropriate open space for recreation and to establish an attractive environment that is beneficial to the public health, safety and welfare;
 - K. Determine whether appropriate land will be dedicated to public use for public roadways, public utilities, public recreation facilities and public parks;
 - L. The location and sizing of public utilities within the proposed PD district to ensure adequate service within the proposed PD district and to

avoid overburdening existing public utilities;

- M. The use of and design of buffers within and on the boundary of the proposed PD district to separate uses and to mitigate substantially adverse effects on property within the proposed PD district and on property in neighboring areas and compliance of buffers with CHAPTER 1117 - Landscaping and CHAPTER 1120 - Screening and Fencing of this Zoning Code;
- N. The provision of adequate parking, the location of parking facilities and whether off-street parking should be permitted which deviates from the requirements of CHAPTER 1116 - Parking and Loading of this Zoning Code;
- O. The grouping of buildings and the variety and design of building types;
- P. The compatibility of land uses within the proposed PD district and the compatibility of land uses permitted in the proposed PD district with lawful land uses existing in neighboring areas;
- Q. The impact of land uses within the proposed PD district on environmental features of the proposed PD district which are to be preserved and on environmental features in neighboring areas;
- R. The need for limitation on land uses within the proposed PD district in furtherance of the purposes of this Chapter and the compatibility of land uses within the proposed PD district and with land uses in neighboring area;
- S. The form of ownership interests intended for the Planned Development;
- T. Access to public transportation systems;
- U. The location and design of landscaping within the proposed PD district and compliance with the Zoning Code;
- V. The location and design of signs within the proposed PD district and compliance with the Zoning Code;
- W. The appropriate size for subdivision lots within the proposed PD district for the various uses permitted within the proposed PD district;
- X. Every lot within the proposed PD district is required to have access to a public thoroughfare either directly or by means of a private road;
- Y. Streets within the proposed PD district, public or private, are required to conform to the minimum requirements of Part Twelve of the Codified Ordinances and to the specifications for public roadway structures adopted by the City Engineer, whether the roadway is public or private, but alleys may deviated from the minimum requirements of Part Twelve of the Codified Ordinances if the City Fire Chief determines that such deviation will not prevent access to abutting properties by fire apparatus;
- Z. How is development of the proposed PD district to be completed in progressive phases and whether the proposed schedule development of the PD district is practical and will accomplish build out of phases of the Planned Development within a reasonable time;
- AA. What land covenants, easements, other interests in real estate and financial assurances and security are necessary to ensure completion of public improvements, completion of construction of the Planned Development phases, long term maintenance of common areas and other amenities in the Planned Development, long term maintenance and preservation of Planned Development features intended to mitigate adverse effects on neighboring areas and areas within the Planned Development and preservation of the attributes of the Planned Development necessary to integration of the uses permitted in the proposed PD district;
- BB. What precautions are to be taken to preserve environmental attributes of the proposed PD district which are to be retained and on environmental features in neighboring areas;
- CC. What standards should the PD Ordinance contain to govern exercise of Planning Board discretion in administering the PD Ordinance and approving modifications to the Master Development Plan over time; and
- DD. What uses should be specifically prohibited within the proposed PD district.

(g) Subsequent Applications

- (1) This Subsection applies if:
 - A. The applicant withdraws a Planned Development Zoning/Rezoning application after notice of hearing is published; or
 - B. The City Commission denies a Planned Development Zoning/Rezoning application.
- (2) If the above requirements apply, the applicant shall not submit a Planned Development Zoning/Rezoning application for the same zoning district request on the same property for at least six months.
- (3) The above waiting period begins with either the date of withdrawal of the prior application before the Planning Board or City Commission or the date of the City Commission's denial of the prior application.

(h) Appeals. Not applicable.

(i) Scope of Approval

- (1) An approval letter shall be issued certifying the PD zoning request is compliant with the conditions of this Zoning Code which may permit the applicant to apply for other permits and plans.
- (2) The Planning Board shall administer each PD Ordinance in accordance with the standards for such administration established in the PD Ordinance and shall administer such PD Ordinance in a manner consistent with accomplishing the purposes of this Chapter set forth in Section 1113.01. Administration of a PD Ordinance may include modification of the Master Development Plan; provided such modification is in compliance with the standards for administration established in the PD Ordinance and is consistent with accomplishing the purposes of this Chapter set forth in Section 1113.01.
 - A. Property owners seeking a modification of the Master Development Plan governing their land may file a written request for modification with the Planning Board describing the modification requested and providing all data needed by the Planning Board to determine whether such requested modification can be approved under the standards established in the PD Ordinance governing such land.
 - B. The Planning Board shall consider a request for modification only when all owners of freehold estates in the subject land have joined in making the request.
 - C. The Planning Board may require that a request be supplemented with such additional data as the Planning Board determines is necessary to determine whether a requested modification should be granted.
 - D. The Planning Board shall grant the requested modification if the Planning Board is able to find that the requested modification is in compliance with the standards for administration established in the PD Ordinance and is consistent with accomplishing the purposes of this Chapter set forth in Section 1113.01.
- (3) If all or a portion of a Planned Development is rezoned, the Planning Board shall direct the Community Development Director to submit an affidavit to the Clark County, Ohio County Recorder giving notice to the public that the relevant portion of the Planned Development is no longer subject to the PD Ordinance. The affidavit shall be in a form approved by the Law Director.
- (4) The Board of Zoning Appeals shall perform the functions delegated to it pertaining to a PD district.
- (5) No building permit shall be issued for any construction within a PD district until after the applicant has achieved full and complete

compliance with the requirements of this Section, as specified in the PD Ordinance.

(j) Recordation

- (1) After adoption of a PD Ordinance by the City Commission, the land owners within the PD district shall record with the Clark County, Ohio County Recorder an affidavit notifying the public that the lands described in the PD Ordinance have been made subject to the PD Ordinance. The affidavit shall be in a form approved by the Law Director.
- (2) After adoption of a PD Ordinance by the City Commission, the land owners within the PD district shall also record with the Clark County, Ohio County Recorder such other deeds, easements declarations of land covenants and such other conveyances of interests in real property as the PD Ordinance requires.
- (3) After adoption of a PD Ordinance by the City Commission, the applicant shall deliver to the City proof acceptable to the City Manager and Law Director that such financial assurances, security and other mechanisms as are required under the PD Ordinance are in place, properly funded and enforceable.
- (4) If a Planned Development or a phase of a Planned Development is not under substantial construction within 24 months after the commencement date for the relevant portion of the Planned Development, as specified in the Development Schedule adopted in the PD Ordinance; then, upon a determination by the City Commission that the PD Ordinance shall not be amended to allow an extension of time to commence substantial construction of the relevant portion of the Planned Development, the Planning Board shall proceed to consider whether such lands included in the portion of the Planned Development may be rezoned and shall make its recommendation to the City Commission.

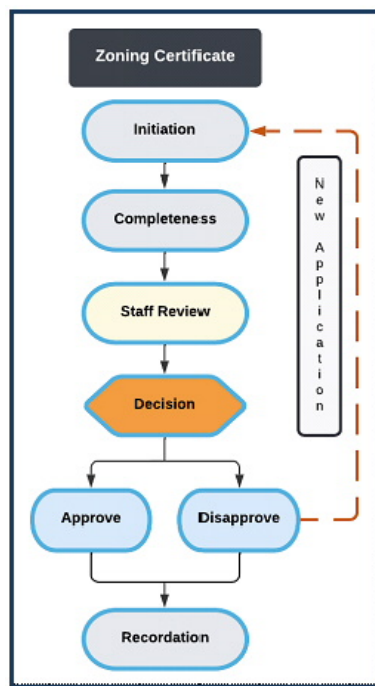
CHAPTER 1129

Site Development Procedures

- 1129.01 Zoning certificate.**
- 1129.02 Conditional use permit.**
- 1129.03 Site plan.**
- 1129.04 Parking lot permit.**
- 1129.05 Certificate of appropriateness.**
- 1129.06 Communication facility/tower permit.**
- 1129.07 Home occupation permit.**

1129.01 ZONING CERTIFICATE.

Figure 1129.01.1: Zoning Certificate Flowchart



(a) Applicability

- (1) No land or structure shall be used or converted nor a building permit issued for the construction of a building or structure until a zoning certificate has been issued by the Community Development Director.
- (2) Failure to obtain a zoning certificate is a Zoning Code violation.

(b) Initiation. The applicant shall submit a zoning certificate application to the Community Development Director once all required permits and applications are approved.

(c) Completeness

- (1) Generally, refer to Section 1127.02 .
- (2) In addition to the requirements provided in Section 1127.02 (c), the following items shall be provided:

- A. Name, address and phone number of the applicant;
- B. Legal description of the property;
- C. Existing and proposed uses of the property; and
- D. Zoning district of the proposed use.

(d) Notice and Hearing(s). Not applicable.

(e) Action. Within five working days after a receipt of a zoning certificate application, the Community Development Director shall review and act to:

- (1) Approve the zoning certificate; or
- (2) Disapprove the zoning certificate.

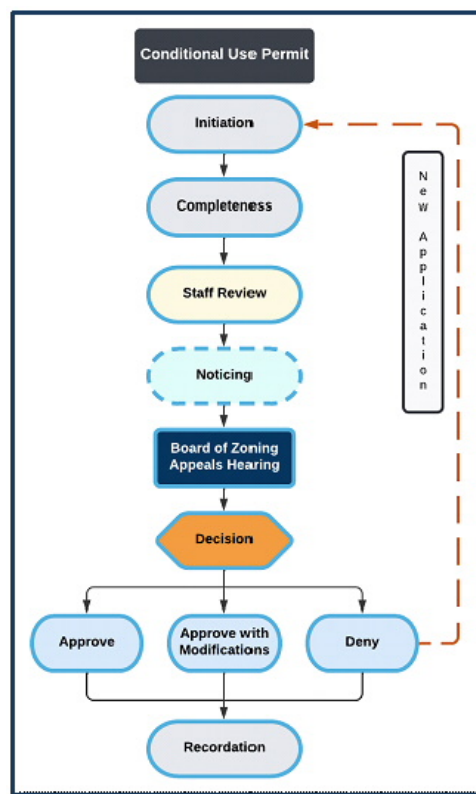
(f) Approval Criteria. The Community Development Director shall approve the zoning certificate application if it complies with:

- (1) All applicable requirements and provisions of this Zoning Code;
- (2) All applicable requirements of the Codified Ordinances, including the Building Code and Fire Code; and

- (3) Any conditions of any currently applicable and unexpired rezoning, conditional use permit, development plan, variance, or appeal decisions that apply to the property. If any of these prior approvals have expired, the applicant must obtain a new approval before applying for a zoning certificate.
- (g) Subsequent Applications. Not applicable.
- (h) Appeals. Not applicable.
- (i) Scope of Approval
- (1) Generally
- An approval letter shall be issued certifying the zoning certificate is compliant with the conditions of this Zoning Code which may permit the applicant to apply for other permits and plans.
 - A zoning certificate authorizes the use of land and occupancy of a building or structure as shown in the approved application.
 - A zoning certificate shall remain in effect as long as the use of such building or land is in full conformity with the provisions of this Zoning Code and with any conditions upon which such certificate was issued.
 - A temporary zoning certificate may be issued when a delay in the planting of trees is warranted, or a delay in the paving of parking and stacking spaces, driveways or aisles is warranted.
- (2) Revocation
- A use shall be established on the basis of the application and plans approved with a zoning certificate by the Community Development Director. Any use established contrary to that authorized shall be deemed a violation of this Zoning Code.
 - The Community Development Director may issue a revocation notice to revoke a zoning certificate that was issued contrary to the code based upon false information or misrepresentation in the application.
 - Written notice of such revocation shall be given to the person holding the zoning certificate together with notice that further work, as described in the canceled zoning certificate, shall not proceed unless and until a new zoning certificate has been obtained or an extension granted.
- (3) Expiration
- If the work described in any zoning certificate has not been completed within the time specified, the zoning certificate shall expire.
 - The zoning certificate shall be revoked by the Community Development Director according to the procedures prescribed in Section 1129.01(i)(2).
- (j) Recordation
- The Community Development Department shall maintain a record of all zoning certificates, and copies shall be furnished upon request to any person.
 - When plans are required, one copy of the plans shall be returned to the applicant after the Community Development Director has marked such copy either as approved or disapproved and so attested by signing the copy. One copy of the plans, similarly marked, shall be retained by the Community Development Director.

1129.02 CONDITIONAL USE PERMIT.

Figure 1129.02.1: Conditional Use Permit Flowchart



- (a) Applicability. This Section applies to any application for approval of:
- A use designated as a conditional use in Table 1104.03.1: Use Table;
 - Any person who desires to replace a lawful nonconforming use with another nonconforming use; or
 - Any other unique development activity requiring action by the Board of Zoning Appeals during initial review as determined by the Community Development Director.
- (b) Initiation. A conditional use permit may be initiated by the owner or applicant of the subject property.
- (c) Completeness
- Generally, refer to Section 1127.02.

- An applicant shall specify the section of this Zoning Code under which the conditional use permit is sought and may suggest, in a draft conditional use permit, such proposed conditions as the applicant believes are necessary and sufficient to warrant issuances of the conditional use permit applied for.
- The application shall include such evidence as is necessary and sufficient to demonstrate that issuance of the applied for conditional use permit is warranted when the standards identified in this Section are applied.

- (4) A conditional use permit application shall include the following:
- A. A site and development plan at an appropriate scale showing:
 - i. Proposed placement of structures on the subject property;
 - ii. Provisions for ingress and egress;
 - iii. Off-street parking and off-street loading areas;
 - iv. Refuse and service areas; and
 - v. Required yards and other open spaces;
 - B. Plans showing proposed locations for utility connections;
 - C. Plans for proposed screening and buffering, if any, with reference as to type, dimensions, and character;
 - D. The type, dimensions, and character of any proposed:
 - i. Landscaping;
 - ii. Signs; and
 - iii. Site lighting; and
 - E. If applicable, compliance with any additional regulations required for a particular conditional use as provided in TITLE Three -Use Standards.

(d) Notice and Hearing(s)

- (1) Noticing shall comply with Section 1127.03 and state law, as applicable.
- (2) A public hearing is required and shall comply with Section 1127.03 .

(e) Action

- (1) Community Development Director Review and Recommendation. The Community Development Director shall review the conditional use permit and provide a recommendation to the Board of Zoning Appeals to:
 - A. Approve the conditional use permit;
 - B. Deny the conditional use permit; or
 - C. Approve the conditional use permit with conditions or modifications.
- (2) Board of Zoning Appeals Decision. The Board of Zoning Appeals shall consider the conditional use permit at a public hearing after a recommendation has been provided by the Community Development Director. After the hearing is closed, the Board of Zoning Appeals shall act to:
 - A. Approve the conditional use permit;
 - B. Deny the conditional use permit; or
 - C. Approve the conditional use permit with conditions or modifications.

(f) Approval Criteria

(1) Decision to Approve

- A. Generally. The Board of Zoning Appeals shall review the facts and circumstances of the conditional use permit application and shall approve a conditional use permit only if the applicant demonstrates that the proposed conditional use:
 - i. Would not be hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood by reason of noise, smoke, odor, vibration, dust and dirt, cinders, noxious gases, glare and heat, fire and safety hazards, sewage wastes and pollution, transportation and traffic, aesthetic and psychological effects.

Note: The Board of Zoning Appeals may use and give recognition to those performance standards which are available in model codes or ordinances, or have been developed by planning, manufacturing, health, architectural and engineering organizations, and can be applied to the proposed use, to assist it in reaching a fair and objective decision;

- ii. Is in fact a conditional use as established under the provisions of this Zoning Code as eligible to be permitted in the district involved;
- iii. Will be harmonious with and in accordance with the general objectives, or with any specific objective of this Zoning Code;
- iv. Will be designed, constructed, operated and maintained as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that the use will not change the essential character of the same area;
- v. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
- vi. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
- vii. Will have ingress and egress for the subject property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares and which shall not be detrimental to vehicular and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
- viii. Will locate off-street parking, loading areas, refuse deposit locations, service areas, utility connection facilities, signs and site lighting so as not be detrimental to vehicular and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe and so as not to result in detrimental economic, noise, glare or odor effects on adjoining properties and properties generally in the district.
- B. Compatibility. In considering the compatibility of the proposed conditional use with all adjacent uses and structures, the Board of Zoning Appeals shall consider:
 - i. The existing land use pattern;
 - ii. The impact of the proposed conditional use upon the load on public facilities such as schools, utilities, and streets;
 - iii. Changed or changing conditions which find the proposed use to be advantageous to the community and the neighborhood;
 - iv. The impact of the proposed use upon living conditions in the neighborhood;
 - v. The impact of proposed use upon traffic congestion and public safety matters;
 - vi. The impact of the proposed use upon stormwater drainage;
 - vii. The impact of the proposed use upon light and air to adjacent areas;
 - viii. The impact of the proposed use upon property values in the adjacent area;
 - ix. The impact of the proposed use upon the improvement or development of adjacent property in accordance with existing regulations; and
 - x. The impact of the proposed use with regard to the scale of needs of the neighborhood or the community.

C. Upon Authorization

- i. Upon authorizing a conditional use, the Board of Zoning Appeals shall impose such requirements and conditions with respect to location, construction, maintenance and operation, in addition to those expressly stipulated in this Zoning Code for the particular conditional use, as the Board of Zoning Appeals may deem necessary for the protection of adjacent properties and the public interest in furtherance of the purpose of this Zoning Code.
- ii. The Board of Zoning Appeals shall issue written findings of fact and its written determination that the standards specified in this Section, when applied to the conditional use permit applied for, warrant issuance of the conditional use permit.

(2) Decision to Deny

- A. If the Board of Zoning Appeals is unable to find adequate evidence showing that the proposed conditional use is warranted when the standards specified in this Section are applied, then no conditional use permit shall be issued.
- B. In denying a conditional use permit, the Board shall issue written findings of fact and its written determination that the standards specified in this Section when applied to the conditional use permit applied for do not warrant conditional use permit approval.

(g) Subsequent Applications. The applicant shall not file a subsequent application for a conditional use permit for a particular parcel of property, or part thereof, until the expiration of 12 calendar months from the denial decision date of the initial conditional use permit applied for; unless the Board of Zoning Appeals specifically waives the waiting period based upon a determination that either:

- (1) That the new application proposes a conditional use materially different from the initial conditional use which was denied;
- (2) That not waiving the waiting period will impose a substantial hardship on the applicant resulting from the applicant's mistake or inadvertence; or
- (3) That newly discovered matters warrant waiving the waiting period.

(h) Appeals. Not applicable.

(i) Scope of Approval

- (1) Generally. The approval of a conditional use permit does not authorize the development of land. A conditional use permit allows the applicant to initiate other Zoning Code applications (i.e., building permit, zoning certificate, sign permit, etc.).
- (2) Violations. Any conditional use permit is in violation of this Zoning Code and shall be suspended or revoked if:
 - A. A court having jurisdiction or a jury find the holder of the conditional use permit guilty of a violation or if a holder of a conditional use permit pleads guilty of violating.
 - B. Any requirement or term or condition of the conditional use permit or has not conformed, at any time, with any or all of the requirements or terms or conditions as set out in the conditional use permit as approved by the Board of Zoning Appeals.
 - C. The activity authorized by the conditional use permit commences prior to the institution of all conditions imposed by the conditional use permit.
 - D. The use for which the conditional use permit was authorized does not commence within six months of the effective date of the conditional use permit. The Community Development Director may grant an extension of up to six months for good cause shown, upon petition of the conditional use permit holder.
 - E. The use for which the conditional use permit is authorized is discontinued for six consecutive months.
- (3) Notification. If the use discontinues or fails to commence as stipulated in this Zoning Code, the Community Development Director will issue written notification to the property owner. Ten days after issuance of this notice, the Community Development Director shall issue the permit holder written notification of the conditional use permit's official revocation and removal.

(j) Recordation

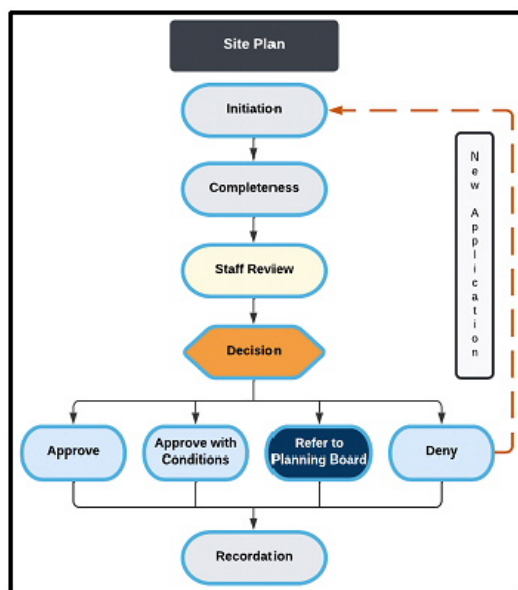
- (1) The certified decision of the conditional use permit application shall be recorded at the expense of the applicant with the Board of Zoning Appeals.
- (2) A certified copy of the decision shall be maintained by the Community Development Department.
- (3) The applicant shall retain a copy of the decision from the Community Development Department.

1129.03 SITE PLAN.

Figure 1129.03.1: Site Plan Flowchart

(a) Applicability

- (1) Generally. Site plan approval is required for all development except one unit dwellings, two-unit dwellings, three-unit dwellings, four-unit dwellings, and for all instances that meet the following thresholds:
 - A. New construction or expansion of an existing building or structure that increases the existing floor area by 35%; or
 - B. New construction or expansion of parking lots that increase the existing impervious area by 35%.



- (2) Deviations Prohibited. A site plan shall not authorize deviation from any applicable development standards normally required by the existing underlying zoning, including, but not limited to signs, landscaping, parking, or dimensional requirements.

- (3) Waiver of Site Plan. The Community Development Director may waive the requirement to prepare a site plan based on site characteristics and the nature of the proposed changes being suitable for field verification or integration with a building permit.
 - (4) Exceeding the Required Thresholds. Any site plan that exceeds the thresholds provided in this Section shall apply for a variance and shall follow the requirements provided in Section 1130.02.
- (b) Initiation. The applicant shall submit a site plan application to the Community Development Director.
- (c) Completeness
- (1) Generally. Generally, refer to Section 1127.02.
 - (2) Other Plans. In addition to the requirements of above, the following plans and items shall be provided to make a complete site plan submittal:
 - A. Plot Plan. The plot plan shall show:
 - i. The proposed location of all structures identified by type, size, height and use;
 - ii. The assignment of all lands subdivided; and
 - iii. The location of all structures within 200 feet of properties adjoining the proposed development.
 - B. Plat and Topography Map. The plat and topography map shall show the proposed development area's:
 - i. Property lines;
 - ii. Easements;
 - iii. Street rights of way;
 - iv. Topographic contours; and
 - v. Landscape features.
 - C. Circulation Plan. The circulation plan shall show:
 - i. Analysis of the traffic impacts of the proposed use;
 - ii. On-site vehicular and pedestrian circulation patterns, including cross lot access;
 - iii. The location and dimensions of proposed driveways and walkways (points of egress and ingress); and
 - iv. The locations and arrangement of parking spaces and loading facilities.
 - D. Architectural Plan (in the C-DT district only). These documents shall include plans and designs for all structures and other such other information to explain the purpose, appearance, materials, and construction. More specifically, the architectural plan shall show:
 - i. All proposed exterior building materials and their corresponding colors;
 - ii. The design and specifications of all buildings and structures;
 - iii. The proposed fenestration all buildings and structures; and
 - iv. The floor plan of all buildings and structures.
 - E. Landscape Plan. The landscape plan shall show:
 - i. All proposed and required landscaping;
 - ii. The landscape treatment;
 - iii. Plazas, parks and other landscape features and amenities; and
 - iv. The proposed grading and drainage plan.
 - F. Lighting Plan. The lighting plan shall show:
 - i. All proposed site lighting locations; and
 - ii. The design and specifications of all proposed site lighting.
 - G. Other Items. Any other information needed to address the proposed development's impacts as determined and required by the Community Development Director.
- (d) Notice and Hearing(s). Not applicable.
- (e) Action
- (1) Community Development Director Review and Decision. The Community Development Director shall review the site plan and shall act to:
 - A. Approve the site plan;
 - B. Deny the site plan;
 - C. Approve the site plan with conditions; or
 - D. Refer the site plan to the Planning Board for its review and final action.
 - (2) Authorization to Impose Conditions
 - A. Generally. The Community Development Director may impose conditions necessary to maintain the integrity of the City's zoning districts, to ensure the proposed use is consistent with the Comprehensive Plan, conforms with this Zoning Code, is appropriate to its location and compatible with neighboring uses, and does not cause undue traffic congestion or significant deterioration of the environment.
 - B. Conditions Supplementary. All requirements imposed by a site plan are in addition to and supplement this Zoning Code's requirements.
 - C. Authorized Conditions. Authorized conditions include, but are not limited to:
 - i. Site Plan Features. Limitations or requirements regarding the area, setbacks, open space, landscaping, buffering, lighting, fencing, signage, off-street parking, and similar site plan features of the proposal.
 - ii. Operations. Limitations or requirements regarding the proposed use's operating characteristics, duration, or any similar feature of the proposed use.
 - iii. Duration. If the Community Development Director or Planning Board limits the duration of a site plan, a six month grace period, starting from the final approval date, is afforded to the applicant in addition to the time period stipulated in the site plan conditions.
- (f) Approval Criteria
- (1) Generally. The site of the proposed use or any associated improvements is not in violation of any local, state, or federal law (other than a zoning violation).
 - A. The use and site plan for the proposed use conforms, at a minimum, with all applicable provisions of this Zoning Code for the existing underlying zoning designation, including but not limited to:
 - i. Site Development Standards. All parking, landscaping, signage, lighting, improvement, and dimensional regulations as required in TITLE Four - Site Development Standards.

- ii. Zoning District Standards. The purpose of the zoning district in which the proposed use is to be located and any dimensional standards applicable to the particular proposed use.
- iii. Use-Specific Standards. All use-specific standards applicable to the proposed use as required in TITLE Two - Use Standards.
- B. Site plans are only authorized for the proposed use(s).
- (2) Suitability. The characteristics of the proposed site are suitable for the proposed use considering the size, shape, location, topography, and location of improvements and natural features.
- (3) Timeliness. The proposed use or development is timely, considering the adequacy of transportation systems, public facilities, and services, existing or planned for the area affected by the proposed use.
- (4) Compatibility to Surrounding Area. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs, or precludes the use of surrounding properties for the principal uses listed as allowable by the underlying zoning district.
- (5) Comprehensive Plan. The proposed use satisfies any applicable goals and policies of the Comprehensive Plan that apply to the proposed use.
- (6) Use Appropriate and Compatible. The use is appropriate to its proposed location and compatible with the character of neighboring uses, or enhances the mixture of complementary uses and activities in the immediate vicinity.
- (7) Traffic. The use shall not cause undue traffic congestion, dangerous traffic conditions or incompatible service delivery, parking, or loading problems. Necessary mitigating measures shall be proposed by the applicant.
- (8) Nuisance. The operating characteristics of the use do not create a nuisance and the impacts of the use on surrounding properties are minimized with respect to noise, odors, vibrations, glare, and any other similar conditions.
- (9) Environment. The use shall not cause significant deterioration to water resources, wetlands, wildlife habitat, scenic characteristics, or other natural features. As applicable, the proposed use shall mitigate its adverse impacts on the environment.
- (g) Subsequent Applications. Not applicable.
- (h) Appeals. A site plan decision may be appealed to the Board of Zoning Appeals as provided in Section 1130.04.
- (i) Scope of Approval
 - (1) Generally
 - A. An approval letter shall be issued certifying the site plan is compliant with the conditions of this Zoning Code which may permit the applicant to apply for other permits and plans.
 - B. After the site plan is approved, the process of obtaining a building permit or certificate of occupancy consistent with any conditions of site plan approval may commence.
 - (2) Site Plan Revisions
 - A. Generally. Any revision to an approved site plan, other than those that qualify as minor pursuant to this Subsection, require amendment of the approved or existing site plan. Revisions to an approved site plan shall only be authorized by the Community Development Director pursuant to the procedures established in this Subsection, and subject to appeal as provided in Section 1130.04.
 - B. Minor Revisions to an Approved Site Plan
 - i. The Community Development Director may approve minor revisions to a previously approved site plan without notice or a public hearing. A minor revision is one that becomes necessary during the use's actual implementation, which could not be reasonably anticipated during its review, and that does not significantly change the original approval granted.
 - ii. A minor revision includes:
 - a. Building revisions/expansions that do not increase the height of a building or building area more than 35%;
 - b. Changes in the number of parking spaces (adding, removing, or relocating twenty (20) parking spaces or less), provided that parking requirements are met;
 - c. Adjustments to waste facilities;
 - d. Minor revisions to approved elevations; and
 - e. Substitution of similar plant materials on an approved landscape plan.
 - C. Major Revisions to an Approved Site Plan
 - i. A change outside the scope of minor revisions or to any of the following site plan requirements below is not considered minor:
 - a. Use - Those activities allowed on site by the site plan.
 - b. Operational Characteristics - The gross limitations or requirements regarding the proposed use's operating characteristics.
 - c. Site Plan Features - The gross limitations or requirements regarding the area, setbacks, open spaces, landscaping, buffering, lighting, fencing, signage, or the off-street parking of the proposal.
 - d. Duration - Requirements governing the duration of the permit.
 - e. Permit Holder - Requirements regarding the person or entity to whom the permit is issued.
 - ii. Major Revisions initiate a new site plan submittal subject to the standards of this Section and those provided in Section 1127.08.
 - (3) Revocation
 - A. Criteria. An approved site plan is considered in violation of this Zoning Code and shall be revoked if a court of law finds the use in violation of any of the following conditions:
 - i. The use established on site does not conform, at any time, with any or all approved permit condition(s) and or any local, state, or federal law.
 - ii. The activity authorized by the site plan commences prior to the institution of all conditions imposed by the site plan.
 - iii. Discontinuance of the approved use for at least six consecutive months.
 - iv. The approved use does not commence within six months of the final approval date.
 - B. Revocation Procedures. If the Community Development Director's inspection reveals noncompliance with this Zoning Code, site plan revocation procedures shall commence as follows:
 - i. The Community Development Director shall, upon discovery of site plan noncompliance, issue a written warning, granting a grace period of at least 30 calendar days. During this time, the use may be brought into compliance with the current approved site plan for that location.
 - ii. If noncompliance persists after the conclusion of the warning grace period, a Community Development Director shall issue written citation.
 - iii. If the citation results in a guilty verdict, the site plan is considered revoked.

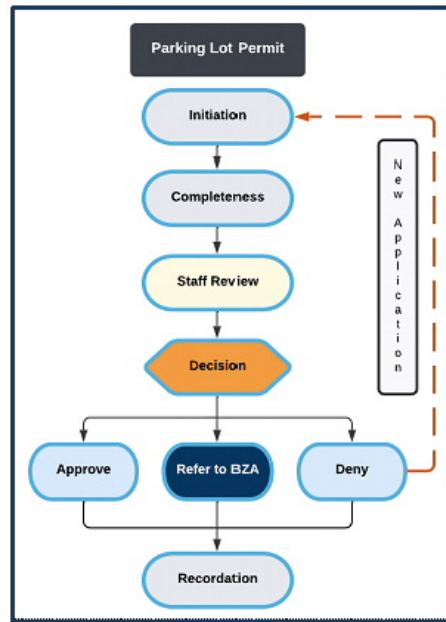
iv. The Community Development Director shall issue the permit holder written notification of the site plan's official revocation.

v. In the event of discontinuance or failure to commence as stipulated above, Community Development Director shall issue written notification to the applicant. Ten calendar days after issuance of Community Development Director notification of discontinuance or failure to commence, the Community Development Director shall then issue the permit holder written notification of the site plan's official revocation.

(j) Recordation. The applicant and Community Development Director shall maintain a copy of the approved site plan.

1129.04 PARKING LOT PERMIT.

Figure 1129.04.1: Parking Lot Permit Flowchart



(a) Applicability. The construction of new or modified parking lot areas, except those associated with new development projects, requires approval of a parking lot permit.

(b) Initiation. A parking lot permit shall be initiated by the owner or applicant of the subject property.

(c) Completeness.

- (1) Generally, refer to Section 1127.02.
- (2) In addition to the requirements provided in Section 1127.02 (c), the following items shall be provided:

A. Proof of Ownership or Ownership Affidavit;

B. Site Plan that includes the number of parking spaces with landscaping and drive/aisle area to scale;

C. Stormwater Management Plan and Report (Includes Stormwater Calculations (Refer to Chapter 961 of the Springfield Codified Ordinances);

D. Stormwater Pollution Prevention Plan (SWPPP) required for sites that disturb one acre or more;

E. Notice of Intent (NOI) from Ohio EPA for sites that disturb one (1) acre or more; and

F. Application fee as required in Table 1126.02.1: Base Application Fees. (Additional review fees apply if more than one (1) acre of land is disturbed - see Chapter 961)

(d) Notice and Hearing(s). Not applicable.

(e) Action. The Community Development Director shall review the parking lot permit application and act to:

- (1) Approve the parking lot permit;
- (2) Deny the parking lot permit; or
- (3) Refer the parking lot permit decision to the Board of Zoning Appeals.

(f) Approval Criteria. The Community Development Director shall approve the parking lot permit application if it complies with:

- (1) All applicable requirements of this Zoning Code;
- (2) All applicable requirements of the Code of Ordinances, including the Building Code and Fire Code; and
- (3) Any conditions of any currently applicable and unexpired rezoning, conditional use permit, development plan, variance, or appeal decisions that apply to the property. If any of these prior approvals have expired, the applicant must obtain a new approval before applying for a parking lot permit application.

(g) Subsequent Applications. Not applicable.

(h) Appeals. A parking lot permit decision by the Community Development Director may be appealed to the Board of Zoning Appeals as provided in Section 1130.04.

(i) Scope of Approval

(1) Generally

- A. A parking lot permit authorizes construction or expansion of a parking area as shown in the approved permit.
- B. A parking lot permit does not authorize the occupancy of a building or structure.
- C. A parking lot permit shall remain in effect as long as development is in full conformity with the provisions of this Zoning Code and with any conditions upon which the parking lot permit was issued. Upon the service of notice of any violation of such provisions or conditions, the parking lot permit shall become null and void, and a new parking lot permit shall be required for any further use of the parking area.

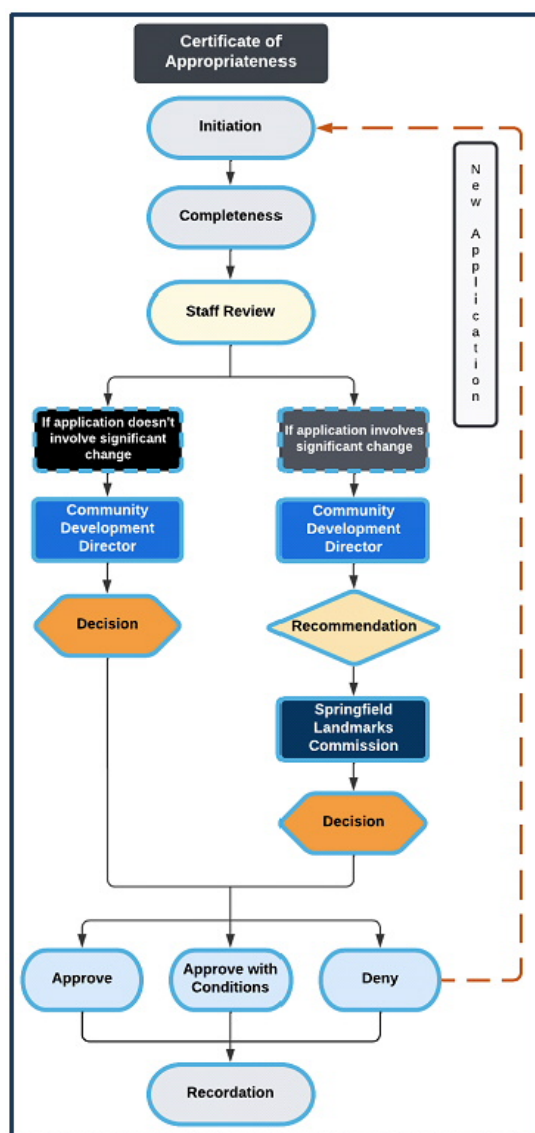
(2) Construction Timing

- A. Upon approval of the parking lot permit application the owner/developer has (12) months to complete the construction of a parking area.
- B. The owner/developer shall notify the Community Development Director of the completion of construction activities.
- C. At that time the Community Development Director and the City Engineer will inspect the lot and determine whether it conforms to the approved plans.
- D. If the parking area construction has been approved, the Community Development Director will issue a certificate of completion to the owner/developer of the parking area.

- (j) Recordation. The Community Development Department and applicant shall maintain a copy of the parking lot permit decision.

1129.05 CERTIFICATE OF APPROPRIATENESS.

Figure 1129.05.1: Certificate of Appropriateness Flowchart



- (a) Applicability. It shall be unlawful for any person to:

- (1) Carry out or allow any construction, reconstruction, alteration, restoration, rehabilitation, installation, or relocation of any portion of or any exterior feature of any contributing property in a designated historic district, or of any landmark or heritage property, or of any state or federally designated historic resource; or
- (2) Construct or install any new structure within a designated historic district or in a designated historic landmark or heritage property, or in any state or federally designated historic resource, until after an application for a certificate of appropriateness of such work has been approved by the Springfield Landmarks Commission.

Additionally, a building or demolition permit may not be granted contributing property within a historic district or in a designated historic landmark or heritage property, unless the Springfield Landmarks Commission issues a certificate of appropriateness. Neither shall anyone carry out or allow any material change in the light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements visible from any street, which affects the appearance and cohesiveness of any contributing property in a designated historic district, or of any landmark or heritage property, or of any state or federally designated historic resource, unless the Springfield Landmarks Commission issues a certificate of appropriateness.

- A. A certificate of appropriateness shall be required prior to beginning any work in any historic resource, excluding work claimed to be ordinary repair or maintenance. No building permit shall be issued for property that requires a certificate of appropriateness unless and until the Community Development Director certifies to the Building Official that such a certificate of appropriateness has been granted, advising as to any conditions attached to such a certificate.
- B. A review of the plans or proposed work shall be undertaken by the Community Development Director for submission of a recommendation to the Springfield Landmarks Commission, or by the Springfield Landmarks Commission directly,

after the property owner files a completed application.

- C. Decisions of the Springfield Landmarks Commission and by the Community Development Director shall be in writing and shall state the findings of the Springfield Landmarks Commission.
- D. A certificate of appropriateness shall be valid for 12 months and shall expire thereafter.
- E. An applicant may resubmit an application for a certificate of appropriateness after 12 months from the date of a denial decision.
- F. Certificates of appropriateness may be issued for distinct and separate phases of an ongoing project.

(b) Initiation. A certificate of appropriateness shall be initiated by the owner or applicant of the subject property.

(c) Completeness. Generally, refer to Section 1127.02.

(d) Notice and Hearing(s). Not applicable.

(e) Action

(1) Generally

A. A certificate of appropriateness may be approved by either the Community Development Director or the Springfield Landmarks Commission.

B. A certificate of appropriateness involving ordinary repairs, demolition alterations or additions may be approved by the Community Development Director.

C. A certificate of appropriateness involving significant repairs, demolition alterations or additions shall be approved by the Springfield Landmarks Commission.

(2) Community Development Director Review and Decision. If the Community Development Director, guided by the adopted design guidelines, and where applicable, criteria established by the Secretary of the Interior, determines that the application involves ordinary repair or maintenance, change, restoration, color or removal of any exterior architectural feature of a historic resource which does not involve significant change in the architectural or historic value, style, general design or appearance, shall review the certificate of appropriateness and shall act to:

A. Approve the certificate of appropriateness;

B. Deny the certificate of appropriateness; or

C. Approve the certificate of appropriateness with conditions.

(3) Springfield Landmarks Commission Review and Decision

A. Recommendation from the Community Development Director. If the Community Development Director determines that the application involves a repair, demolition alteration, addition, change, restoration, or removal of an external architectural feature of a historic resource which involves a significant change in the architectural or historic value, style, general design, or appearance or for any other reason does not desire to act under the subsection above and is within a historic district or is a designated landmark or heritage property, the Community Development Director shall provide a recommendation to the Springfield Landmarks Commission to:

i. Approve the certificate of appropriateness;

ii. Deny the certificate of appropriateness; or

iii. Approve the certificate of appropriateness with conditions.

B. Springfield Landmarks Commission Decision

i. The Springfield Landmarks Commission shall conduct a public hearing on the certificate of appropriateness application and shall render its decision after the hearing is closed.

ii. The Springfield Landmarks Commission shall:

a. Approve the certificate of appropriateness;

b. Deny the certificate of appropriateness; or

c. Approve the certificate of appropriateness with conditions.

(f) Approval Criteria. In determining the recommendation and action on an application for a certificate of appropriateness, the Community Development Director and the Springfield Landmarks Commission shall review and decide the appropriateness of the proposed repair, demolition alterations or additions, and its compliance with:

(1) Any applicable City of Springfield Design Guidelines for designated local landmark and heritage properties;

(2) The Secretary of the Interior's Standards for Treatment of Historic Properties and Guidelines for Preservation, Rehabilitation and Reconstruction; and

(3) The applicant's conformity with any revisions, stipulations or requirements as the Springfield Landmarks Commission finds appropriate.

(g) Subsequent Applications. Not applicable.

(h) Appeals

(1) A certificate of appropriateness decision by the Community Development Director may be appealed to the Springfield Landmarks Commission pursuant to this Section.

(2) A certificate of appropriateness decision by the Springfield Landmarks Commission may be appealed to the Board of Zoning Appeals as provided in Section 1130.03.

(i) Scope of Approval. No building permit applications shall be accepted nor shall any permit be issued, and no work shall be performed until after approval of a certificate of appropriateness, and not until five business days have elapsed from its transmission to the Building Official, with any advice as to conditions which may have been attached to the certificate of appropriateness.

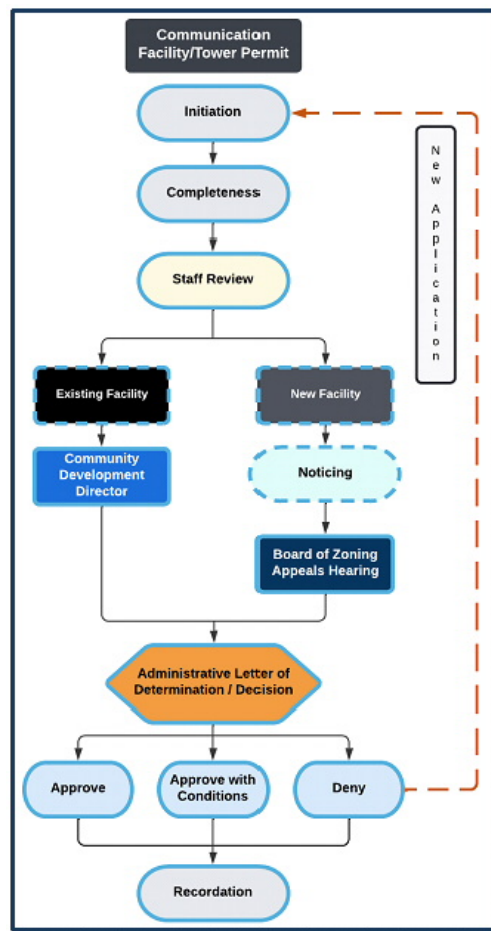
(j) Recordation. The Community Development Department and applicant shall maintain a copy of the certificate of appropriateness decision.

1129.06 COMMUNICATION FACILITY/TOWER PERMIT.

Figure 1129.06.1: Communication Facility/Tower Permit

(a) Applicability

- (1) No wireless telecommunications facility shall be constructed within the City unless and until a communication facility/tower permit shall have been issued authorizing such construction unless the City Manager or designee has issued a written determination that the proposed Wireless Telecommunications Facility has no appreciable impact.
- (2) Any wireless communication facility lawfully constructed within the City prior to the adoption of this Zoning Code, is a nonconforming use, unless and until a communication facility/tower permit shall have been issued with respect to such wireless communication facility.
- (3) A communication facility/ tower permit application shall not be required for location of a Wireless Telecommunication facility in the City's rights of way. Such facilities must conform to the City's ordinances rules and procedures governing the rights of way.



(b) Initiation

- (1) A communication facility/tower permit application may be initiated by the owner or applicant of the subject property.
- (2) A communication facility/tower permit application shall be submitted to the Community Development Department on such forms as the City Manager shall prescribe.

(c) Completeness

(1) Generally

- A. A communication facility/tower permit application shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the City, any false or misleading statement in the application may result in denial of the application without further consideration or opportunity for correction.
- B. A communication facility/tower permit application not meeting the requirements stated in this Section or that are otherwise incomplete may be rejected by the City.

(2) Contents. A communication facility/tower permit application shall contain the following:

A. Conditional Use Permit Application;

B. Co-location of a wireless telecommunications facility on existing structure including:

- i. Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily and essentially within the City. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;
- ii. A plot plan shall indicate all building and land uses within two hundred (200) feet of the proposed facility. Aerial photos and renderings may augment the plot plan.
- iii. The location of the nearest residential structure;
- iv. The location, size and height of all proposed and existing antennae and all appurtenant structures;
- v. The number, type and design of the tower(s) and antenna(s) proposed and the basis for the calculations of the tower's capacity to accommodate multiple users. The applicant shall list the location of every tower, building, or structure within a reasonably proximity that could support the proposed antenna;
- vi. A description of the proposed antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- vii. A "Zone of Visibility Map" which shall be provided in order to determine locations from which the antenna may be seen;
- viii. Pictorial representations of "before" and "after" views from key viewpoints both inside and outside of the City, as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided concerning the appropriate key sites at a pre-application conference, if requested by the applicant.

C. Telecommunications Structures. An applicant for a new telecommunication structure shall also submit,

- i. The type, locations and dimensions of all proposed and existing landscaping, and fencing;
- ii. A comprehensive report inventorying existing towers and other suitable structures within four miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable;
- iii. The make, model and manufacturer of the tower and antenna(s);
- iv. An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
- v. Proof of the availability of the insurance required and the removal bond required.
- D. If applicant petitions recognition of no appreciable impact, then a statement of no appreciable impact shall be submitted to the City Manager.
- E. Technical Certification data according below.
- F. Statement of demonstration of necessity according to conditions set forth below.
- (3) Technical Certifications. A communication facility/tower permit application shall contain, the following, each certified by an engineer or other qualified professional as appropriate to that item:
 - A. A topographic and geomorphologic study and analysis taking into account the subsurface and substrata, and the proposed drainage plan, assuring the stability of the proposed wireless telecommunications facilities on the proposed site.
 - B. The frequency, modulation and class of service of radio or other transmitting equipment;
 - C. The actual intended transmission and the maximum effective radiated power of the antenna(s);
 - D. The direction of maximum lobes and associated radiation of the antenna(s);
 - E. Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC;
 - F. Certification that the proposed antenna(s) will not cause interference with other telecommunications devices; and
 - G. A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities.
- (4) Required Demonstrations. The application shall contain demonstrations that the granting of the application will further the objectives stated in this Section. Such demonstrations shall include:
 - A. A demonstration the need for the wireless telecommunications facility to provide service primarily and essentially within the City. Such demonstration shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites.
 - B. In the case of a new tower, a demonstration that the proposed facility has been sited and designed so as to employ the least visually and physically intrusive means that are not commercially impracticable under the facts and circumstances. Such report must include evidence that fair and thorough consideration was given to the following:
 - i. Sharing an existing tower or other facility with another provider;
 - ii. Locating the facility atop or within an existing structure;
 - iii. Locating the facility upon publicly owned land;
 - iv. Making any new tower accessible to co-location of additional antennas of other providers;
 - v. Locating the facility so as to minimize the impact upon the following types of Zoning Districts in the following order:
 - a. Historical Districts;
 - b. Residential Districts;
 - c. Commercial Districts;
 - d. Industrial Districts;
 - vi. Minimizing the height of towers and other structures; and
 - vii. Employing camouflage or other stealth technology.
 - C. A demonstration of the ability of any proposed new tower to accommodate future demand for at least five additional commercial applications, such as future co-locations, without causing interference. This requirement may be waived, provided that the applicant demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
 - i. The foreseeable number of FCC licenses available for the area; and
 - ii. The kind of wireless telecommunications facilities site and structure proposed.
 - D. Agreements between providers limiting or prohibiting co-location shall not be accepted as a valid basis for a claim of commercial impracticability or hardship. An assertion that the proposed site is the only site under option or lease shall not be accepted as a valid basis for a claim of commercial impracticability or hardship.
 - E. If after review of the "Zone of Visibility Map" submitted, the City determines that the proposed facility is likely to have adverse visual or aesthetic impact, the City may require the applicant to perform a balloon test at the applicant's expense, described as follows:
 - i. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three foot in diameter brightly colored balloon at the maximum height of the proposed new tower.
 - ii. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the applicant 7 and 14 days in advance of the first test date in a newspaper with a general circulation in the City.
 - iii. The applicant shall inform the City, in writing, of the dates and times of the test, at least 14 days in advance.
 - iv. The balloon shall be flown for at least four consecutive hours sometime between 7:00 a.m. and 4:00 p.m. on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday.
- (5) Fees and Deposit
 - A. At the time that a person submits an application for a conditional use permit for a new tower, such person shall pay a non-refundable application fee of \$5,000.00 to the City. If the application is for a conditional use permit for co-locating on an existing tower or other suitable structure, where no increase in height of the tower or structure is required, the non-refundable fee shall be \$2,000.00. At the time that a person submits an application for a determination of no appreciable impact, such person shall pay a non-refundable fee of \$1,000.00 to the City.
 - B. No application fee is required in order to rectify a conditional use permit for wireless telecommunications facilities, unless there has been a visible modification of the wireless telecommunications facility since the date of the issuance of the existing conditional use permit for which the conditions of the conditional use permit have not previously been modified. In the case of any modification, the fees provided in this Section shall apply.
 - C. In addition to the non-refundable application fee set forth in this Section, as required, an applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant and expert evaluation and consultation to the City in connection with the review of any application, including the construction and modification of the site, once

permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500.00 with the City shall precede the pre-application conference. The City will maintain a separate escrow account for all such funds. The City's consultants/experts shall invoice the City for services in reviewing the application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than \$2,500.00, the applicant shall immediately, upon notification by the City, replenish the escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the City before any further action or consideration is taken on the application. If the amount held in escrow by the City is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

(d) Notice and Hearing(s). Noticing and hearing requirements shall follow those prescribed in Section 1127.03.

(e) Action

(1) Community Development Director Review.

A. Administrative Letter of Determination. The Community Development Director shall review the communication facility/tower permit and act to:

- i. Approve an administrative letter of determination for the communication facility/tower permit;
- ii. Deny an administrative letter of determination for the communication facility/tower permit; or
- iii. Approve an administrative letter of determination for the communication facility/tower permit with conditions or modifications.

B. Recommendation. If an administrative letter of determination for a communication facility/tower permit is denied, does not apply, or if the communication facility/tower permit is for a new facility, the Community Development Director shall review the communication facility/tower permit and provide a recommendation to the Board of Zoning Appeals to:

- i. Approve the communication facility/tower permit;
- ii. Deny the communication facility/tower permit; or
- iii. Approve the communication facility/tower permit with conditions or modifications.

(2) Board of Zoning Appeals Decision. The Board of Zoning Appeals shall consider the communication facility/tower permit at a public hearing after a recommendation has been provided by the Community Development Director. After the hearing is closed, the Board of Zoning Appeals shall act to:

- A. Approve the communication facility/tower permit;
- B. Deny the communication facility/tower permit; or
- C. Approve the communication facility/tower permit with conditions or modifications.

(f) Approval Criteria

(1) Decision to Approve. A communication facility/tower permit shall be approved when:

A. All of the following criteria is met (subsections i - iv below):

- i. It is reasonably determined that approval of the communication facility/tower permit will serve the objectives set forth in this Section;
- ii. It is reasonably determined that the applicant has clearly and convincingly demonstrated the matters required by this Section;
- iii. The application shows compliance with the standards set forth in this Section; and
- iv. The application demonstrates compliance with other applicable provisions of the Zoning Code.

B. Or, if the communication facility/tower permit application is for the modification of an existing tower or base station that does not substantially change the physical dimensions of the tower or base station and involves a collocation of new transmission equipment or removal of transmission equipment or replacement of transmission equipment, then a communication facility/tower permit shall be granted for the collocation, removal, or replacement.

(g) Subsequent Applications. Not applicable.

(h) Appeals. Not applicable.

(i) Scope of Approval

(1) Effect of Approved Communication Facility/Tower Permit. An approved permit shall entitle the permit holder to construct a wireless telecommunication facility upon the issuance of a building permit obtained from the Building Official, and to operate the facility for a period of five years from the date of issuance, subject to compliance with the provisions below.

(2) Continuing Obligations of Permit Holder. The permit holder shall:

A. Maintain the facility in continuous operation. "Continuous operation" means that the facility has not been inactive for a period in excess of 60 consecutive calendar days, unless such inactivity has been caused by a supernatural event, or force majeure, and repair or reconstruction has commenced within such 60 day period;

B. Operate and maintain the facility in accordance with the terms of the application, and any applicable license issued by the FCC;

C. Maintain in full force and effect the liability and other insurance required under the terms of this Section;

D. Negotiate in good faith for the shared use of any tower by other wireless service providers in the future, and shall:

- i. Respond within 60 days to a request for information from a potential shared use applicant;
- ii. Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

E. Failure to abide by the conditions outlined above may be grounds for revocation of the communication facility/tower permit for the facility.

(3) Required Insurance

A. A permit holder shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the communication facility/tower permit in amounts as set forth below:

i. Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence; \$2,000,000 aggregate;

B. The Commercial General Liability insurance policy shall specifically include the City and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.

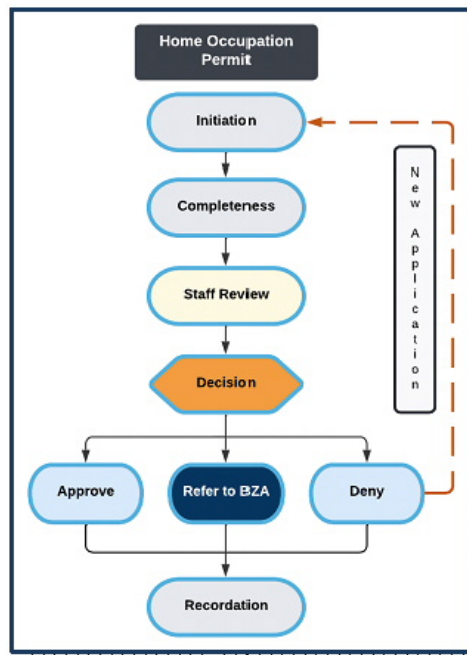
C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with a

Best's rating of at least A.

- D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least 30 days prior written notice in advance of the cancellation of the insurance.
 - E. Renewal or replacement policies or certificates shall be delivered to the City at least 15 days before the expiration of the insurance that such policies are to renew or replace.
 - F. Before construction is initiated, but in no case later than 15 days after the granting of the communication facility/tower permit, the permit holder shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.
- (4) Facility Removal. The City may require that a telecommunication facility be removed upon the occurrence of any of the following events:
- A. The facility was not constructed in accordance with any applicable permit;
 - B. The facility has deteriorated from lack of maintenance or other cause so that it has become a danger to public safety;
 - C. More than 90 days have elapsed since the expiration of the facility's communication facility/tower permit and no application for renewal is pending;
 - D. The facility has been inactive for a period of at least 90 consecutive calendar days; or
 - E. The permit holder has not fulfilled the holder's continuing obligations of this Section.
- (5) Assurance of Removal
- A. In order to assure the prompt removal of a wireless communication facility when required by the City, the City shall require the permit holder to maintain in full force and effect a removal bond. A removal bond shall:
 - i. Be written by a surety company authorized to do business in the State;
 - ii. Be in an amount sufficient to pay the cost of removal of the facility, and not less than \$75,000;
 - iii. Provide that upon written notice from the City Manager to the surety company and the holder that the City has caused the removal of the facility, the surety shall pay to the order of the City the City's cost of removal of the facility, up to and including the maximum amount of the bond.
 - B. If the bond required is unavailable or insufficient to pay the City's cost of removal, the City may issue an assessment in the amount of its removal costs against the parcel or parcels of real estate upon which the facility was located, in accordance with law.
- (j) Recordation
- (1) The certified decision of the communication facility/tower permit application shall be recorded at the expense of the applicant with the Board of Zoning Appeals.
 - (2) A certified copy of the decision shall be maintained by the Community Development Department.
 - (3) The applicant shall retain a copy of the decision from the Community Development Department.

1129.07 HOME OCCUPATION PERMIT.

Figure 1129.07.1: Home Occupation Permit Flowchart



- (a) Applicability. The allowance of a home occupation as designated in Table 1110.03.1: Use Table, requires approval of a home occupation permit.
- (b) Initiation. A home occupation permit shall be initiated by the owner or applicant of the subject property.
- (c) Completeness. Refer to Section 1127.02.
- (d) Notice and Hearing(s). Not applicable.
- (e) Action. The Community Development Director shall review the home occupation permit application and act to:
- (1) Approve the home occupation permit; or
 - (2) Deny the home occupation permit.
- (f) Approval Criteria. The Community Development Director shall approve the home occupation permit application if it complies with:
- (1) All applicable requirements of this Zoning Code;
 - (2) All applicable requirements of the Code of Ordinances, including the Building Code and Fire Code; and
 - (3) Any conditions of any currently applicable and unexpired rezoning, conditional use permit, development plan, variance, or appeal decisions that apply to the property. If any of these prior approvals have expired, the applicant must obtain a new approval before applying for a home occupation permit application.
- (g) Subsequent Applications. Not applicable.
- (h) Appeals. A home occupation permit denial decision by the Community Development Director may be appealed to the Board of Zoning Appeals as provided in Section 1130.04.
- (i) Scope of Approval. A home occupation permit authorizes the approved business within a residential use.
- (j) Recordation. The Community Development Department and applicant shall maintain a copy of the home occupation permit decision.

Relief Procedures

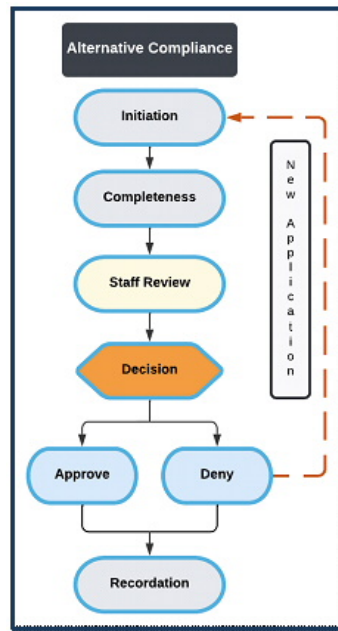
- 1130.01 Alternative compliance.
 1130.02 Variance.
 1130.03 Appeals from Landmarks Commission.
 1130.04 Appeals from administrative decision.
 1130.05 Zoning code/map interpretation.

1130.01 ALTERNATIVE COMPLIANCE.

Figure 1130.01.1: Alternative Compliance Flowchart

(a) Applicability Alternative Compliance

- (1) This Section establishes provisions for alternative compliance associated with the review and approval of a development plan, including improvements to existing structures or site features.
- (2) The purpose of alternative compliance is to ensure that:
- A. A proposed development complies with the purpose and intent of this Zoning Code;



- B. A proposed project meets requirements that are appropriate for lots or sites and site-specific development challenges by applying a flexible approval procedure. A development may be interpreted to include redevelopment of lots or sites with existing improvements and encumbrances that may pose unique challenges to complying with the requirements of this Zoning Code; and
- C. To allow for different standards that are in agreement with the Clark County Comprehensive Plan and that produce a substantially equivalent effect as the requirements of this Zoning Code.
- (3) The applicable zoning district standards for a project shall not be reduced or varied using the alternative compliance process unless the standard is specifically cited as qualifying for alternative compliance in this Zoning Code.
- (4) Alternative compliance may be considered for the following standards:
- Required zoning district setbacks may be modified by 10%;
 - Required maximum building and structure heights may be modified by 10%;
 - Required maximum sign dimensions, including but not limited to height, area, and setbacks may be modified by 20%; and
 - The placement, arrangement, and substitution of required landscaping may be modified, including but not limited to plant materials, plant size, and planting space along street frontage.
- (5) Any alternative compliance request that exceeds the thresholds provided in this Section shall be considered a variance request and shall follow the requirements provided in Section 1130.02.

(b) Initiation. A request for alternative compliance, as specifically cited within this Zoning Code, may be submitted for review and approval along with the plan for a project, or along with the project's initial application (as applicable for the project).

(c) Completeness

- (1) Generally, refer to Section 1127.02 .
- (2) Additionally, alternative compliance requests must be clearly delineated graphically or in narrative format, as appropriate, on the plan (or on the project's initial application), including a reference to the specific section within this Zoning Code that allows consideration of an alternative compliance standard provided in TITLE Four - Site Development Standards.

(d) Notice and Hearing(s). Not Applicable.

(e) Action. The Community Development Director shall review the project site plan's alternative compliance request and shall act to:

- Approve the alternative compliance request; or
- Deny the alternative compliance request.

(f) Approval Criteria. The Community Development Director shall approve an alternative compliance request only if:

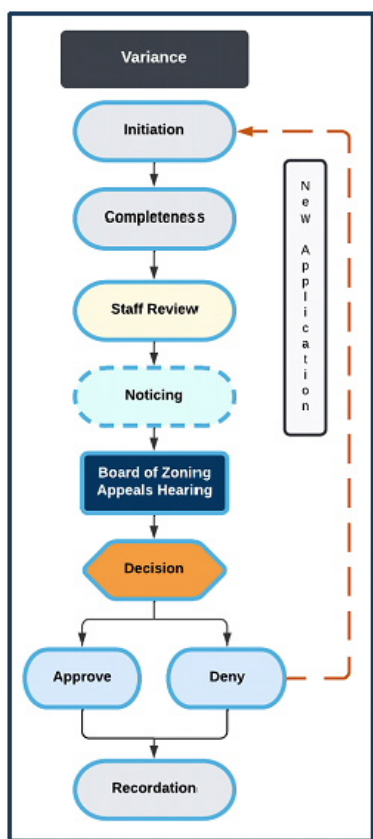
- The alternative compliance request is consistent with the recommendations and policies of the Clark County Comprehensive Plan;
- The alternative compliance request does not reduce a standard unless it is, to the greatest extent practical, equally mitigated or improved by increasing the standards of other requirements; and

- (3) The alternative compliance request does not modify the land uses allowed in the zoning district in which the subject property is located, or to add a land use not normally allowed in the zoning district.
- (g) Subsequent Applications. Not applicable.
- (h) Appeals. An alternative compliance denial decision by the Community Development Director may be appealed to the Board of Zoning Appeals as provided in Section 1130.04.
- (i) Scope of Approval
- (1) An approval letter shall be issued certifying the approved alternative compliance is compliant with the conditions of this Zoning Code which may permit the applicant to apply for other permits and plans.
 - (2) After the alternative compliance request is approved, the Community Development Director may apply the approval to a pending plan review. Once the alternative compliance request and the plan are approved, a building permit or certificate of occupancy consistent with any conditions of the alternative compliance and plan approval may be issued.
- (j) Recordation. The applicant and the Community Development Director shall maintain a copy of the alternative compliance decision.

1130.02 VARIANCE.

Figure 1130.02.1: Variance Flowchart

- (a) Applicability
- (1) The Board of Zoning Appeals may authorize, in specific cases due to hardship, a variance from the terms of this Zoning Code.
 - (2) Any person who deems their property to suffer such physical limitations of size, shape, slopes of ground or other physical conditions as to require a variance of the regulations of this Zoning Code in order to enable them to make reasonable use of their property.
- (b) Initiation. An application for a variance shall be submitted to the Community Development Director by the applicant.
- (c) Completeness. Generally, refer to Section 1127.02.
- (d) Notice and Hearing(s)
- (1) Noticing shall comply with Section 1127.03 and state law, as applicable.
 - (2) A public hearing is required and shall comply with Section 1127.03.
- (e) Action
- (1) The Board of Zoning Appeals shall conduct a public meeting on the variance and shall render its decision after the meeting is closed.
 - (2) The Board of Zoning Appeals may, in whole or in part:
 - A. Approve the variance; or
 - B. Deny the variance.
- (f) Approval Criteria
- (1) No variance from the strict application of any provision of this Springfield Zoning Code which permits the use of land which is prescribed or which will result in a use of land in a manner inconsistent with the basic character of the district in which such land is located, shall be granted by the Board of Zoning Appeals unless it finds that strict application of this Springfield Zoning Code would result in unnecessary hardship. The Board of Zoning Appeals shall find unnecessary hardship only when all the following facts and conditions exist:
 - A. The land in question cannot yield a reasonable return if used only for a purpose allowed in the district. To establish the inability of land to yield a reasonable return, the owner must demonstrate factually, by dollars and cents proof, an inability to realize a reasonable return under existing permissible uses in the district. An owner does not suffer hardship sufficient to warrant the granting of a variance simply because the land would be more valuable or yield more profits if the variance were granted. The requisite degree of hardship exists only when the only permissible uses are not economically feasible and strict application of the provisions or the Springfield Zoning Code deprive the owner of economically viable use of the land.
 - B. The plight of the owner is due to unique circumstances and not to other general conditions in the neighborhood which may reflect the unreasonableness of the Springfield Zoning Code itself.
 - C. The use to be authorized by the variance will not alter the essential character of the neighborhood.
 - (2) No variance from the strict application of any provision of this Springfield Zoning Code that does not involve the use of land which is prescribed or which will result in a use of land in a manner inconsistent with the basic character of the district in which such



land is located shall be granted by the board unless it finds that strict application of this Springfield Zoning Code would result in practical difficulties which will unreasonably deprive the owner of a permitted use of his property. Such area variances include, by way of example and not of limitation, relief from a set back requirement, height requirement, restrictions on the bulk of buildings, the extent of lot coverage or yard requirements. the Board of Zoning Appeals shall consider and weigh the following factors and such other factors as the Board of Zoning Appeals may determine have a bearing on finding whether strict application of any provision of this Springfield Zoning Code would result in practical difficulties which will unreasonably deprive the owner of a permitted use of their property; however, no one of such factors shall control in a determination of whether such practical difficulty exists:

- A. The property in question cannot yield a reasonable return and there can be no beneficial use of the property without the variance, the variance would relieve a clearly demonstrable situation where strict application of the provisions of this Zoning Code created a practical difficulty that will deprive the owner of economically viable use of the land, as distinguished from a special privilege or convenience to the owner.
- B. The variance is not substantial.
- C. The essential character of the neighborhood will not be substantially altered or suffer a substantial detriment as a result of the variance.
- D. The variance will not adversely affect the delivery of governmental services such as police and fire protection, water and sewer services, and solid waste regulation and disposal.
- E. The property owner purchased the property without knowledge of the zoning restrictions.
- F. The property owner's predicament feasibly can be obviated through some method other than granting a variance.
- G. The property possesses conditions involving irregular, narrow, shallow or steep lots, or other exceptional physical conditions and because of such exceptional physical conditions, strict application of a provision or provisions of this Zoning Code would be unreasonable.
- H. The spirit and intent behind the zoning requirement will be observed and substantial justice done by granting the variance.

(g) Subsequent Applications. If the variance request is denied, the applicant shall not submit a variance request of similarity on the same property for at least six months.

(h) Appeals. Any decision by the Board of Zoning Appeals shall be a final appealable order and the applicant may seek judicial review of the action in any court of competent jurisdiction pursuant to general law.

(i) Scope of Approval. After a final decision on the variance is rendered, the applicant and any party in interest may file any further permits or applications, undertake construction, or establish a use consistent with that decision.

(j) Recordation. The Community Development Department shall maintain the variance decision in its files, and the applicant shall maintain an original signed copy of the variance decision.

1130.03 APPEALS FROM LANDMARKS COMMISSION.

(a) Applicability. Certificate of Appropriateness decisions made by the Springfield Landmarks Commission may be appealed to the Board of Zoning Appeals.

(b) Initiation. To make an appeal, the aggrieved party shall file a notice of appeal within 30 days of the Springfield Landmarks Commission's final action.

(c) Completeness

- (1) Generally, refer to Section 1127.02 .
- (2) In addition to the requirements of Section 1127.02 (c), the applicant shall provide the following information:
 - A. Summary of any reasons provided by the Springfield Landmarks Commission concerning the decision made in the case;
 - B. Reasons the applicant of the appeal contends that the Springfield Landmarks Commission erred in its decision;
 - C. Reasons the applicant of the appeal believes that the public health, safety, welfare, and morals would be better served if the Springfield Landmarks Commission's action were reversed; and
 - D. Any new and pertinent information bearing on the case which may not have been available or have been overlooked by the Springfield Landmarks Commission or which may have come to light following the meeting at which the Springfield Landmarks Commission made its decision.

(d) Notice and Hearing(s)

- (1) Noticing shall comply with S Section 1127.03 and state law, as applicable.
- (2) A public hearing is required and shall comply with Section 1127.03 .

(e) Action. The Board of Zoning Appeals shall act to:

- (1) Reverse the Springfield Landmarks Commission's decision; or
- (2) Affirm the Springfield Landmarks Commission's decision.

(f) Approval Criteria. The Board of Zoning Appeals shall review all appeals to determine the reasonableness of the decision(s) made by the Springfield Landmarks Commission considering the following criteria for applications for Certificates of Appropriateness:

- (1) The application fully complies with the purpose set forth in the Codified Ordinances for the Springfield Landmarks Commission;
- (2) The application meets the Secretary of the Interior's Standards for Rehabilitation and the specific design guideline requirements in the Codified Ordinances;
- (3) The application meets the general standards for review as outlined in this Section and in the Codified Ordinances.

(g) Subsequent Applications. Not applicable.

(h) Appeals. Not applicable.

(i) Scope of Approval. Depending on the appeal decision, the applicant may apply for any permits or approvals required for development, as provided in this Zoning Code.

(j) Recordation. The Community Development Department shall maintain the decision in its files, and the applicant shall maintain an original signed copy of the decision.

1130.04 APPEALS FROM ADMINISTRATIVE DECISION.

(a) Applicability. Decisions made by the Community Development Director or any other City staff personnel may be appealed to the Board of Zoning Appeals.

(b) Initiation. To make an appeal, the aggrieved party shall file a notice of appeal within 30 days of the Community Development Director's final action.

(c) Completeness

(1) Generally, refer to Section 1127.02 .

(2) In addition to the requirements of Section 1127.02 (c), the applicant shall provide the following information:

- A. Summary of any reasons provided by the Community Development Director concerning the decision made in the case;
- B. Reasons the applicant of the appeal contends that the Community Development Director erred in its decision;
- C. Reasons the applicant of the appeal believes that the public health, safety, welfare, and morals would be better served if the Community Development Director's action were reversed; and
- D. Any new and pertinent information bearing on the case which may not have been available or have been overlooked by the Community Development Director or which may have come to light following the meeting at which the Community Development Director made its decision.

(d) Notice and Hearing(s)

- (1) Noticing shall comply with Section 1127.03 and state law, as applicable.
- (2) A public hearing is required and shall comply with Section 1127.03.

(e) Action. The Board of Zoning Appeals shall act to:

- (1) Reverse the Community Development Director's decision; or
- (2) Affirm the Community Development Director's decision.

(f) Approval Criteria

- (1) The applicant bears the burden of proof to demonstrate to the Board of Zoning Appeals that the items provided below have led to error in judgment by the Community Development Director.
- (2) The Board of Zoning Appeals shall consider the evidence submitted by the applicant, the report and decision of the Community Development Director and, where the property is located within the City's corporate limits, any recommendations from City staff, and the following, as applicable:
 - A. Consistency with the Comprehensive Plan,
 - B. Adverse impacts on neighboring properties, and
 - C. Health, safety, and welfare of the City.
- (3) If new information is placed before the Board of Zoning Appeals that, in the opinion of the Board of Zoning Appeals, would affect the Community Development Director's decision, the Board of Zoning Appeals may refer the case back to the Community Development Director for further study, including the new information, and recertification.

(g) Subsequent Applications. Not applicable.

(h) Appeals. Not applicable.

(i) Scope of Approval

- (1) An approval letter shall be issued certifying the appeal decision is compliant with the conditions of this Zoning Code which may permit the applicant to apply for other permits and plans.
- (2) Depending on the appeal decision, the applicant may apply for any permits or approvals required for development, as provided in this Zoning Code.

(j) Recordation. The Community Development Department shall maintain the decision in its files, and the applicant shall maintain an original signed copy of the decision.

1130.05 ZONING CODE/MAP INTERPRETATION.

(a) Applicability. The Board of Zoning Appeals may decide any question involving the interpretation of the Zoning Code text or map, as follows:

- (1) In case there is question as to the intended meaning of any provision of the Zoning Code text, the Board of Zoning Appeals may interpret its meaning as it applies to a particular property. Before reaching a decision in response to any request, the Board of Zoning Appeals shall obtain the opinion of the City Law Director.
- (2) Where the street or lot layout actually on the ground, or as recorded differs from the street and lot lines as shown on the Zoning Map, the Board of Zoning Appeals, after notice of public hearing to the owners of the property, shall interpret the Zoning Map in such a way as to carry out the intent and purpose of this Zoning Code for the particular section or district in question. In case of any question as to the location of any boundary line between districts, an application for interpretation of the Zoning Map may be made to the Board of Zoning Appeals and a determination shall be made by such Board of Zoning Appeals by following the procedure established in this Title.
- (3) Where a specific use is proposed that is not listed or provided for in this Zoning Code, The Board of Zoning Appeals may make a determination that the proposed use is substantially similar to a specific use that is listed or provided for in the Zoning Code. If the Board of Zoning Appeals finds that a use is substantially similar to a specific use listed in this Zoning Code, the substantially similar use is deemed to be a substantially similar permitted use in those districts where the specific use is a permitted use, and a substantially similar conditional use in those districts where the specific use is a conditionally permitted use. In formulating a determination that a proposed use is a substantially similar use, the Board of Zoning Appeals shall

include in its written findings the reasoning upon which the decision is based. The following standards shall be considered by the Board when making a determination that a use is substantially similar to a permitted or a conditional use within a specific district:

- A. The compatibility of the proposed use with the general use classification system as specified in this Zoning Code.
- B. The nature, predominant characteristics, and intensity of the proposed use in relation to those uses specified by this Zoning Code as being permitted, or in the case of a conditional use, conditionally permitted in that district.
- C. The size, dimensional requirements, parking requirements, traffic generation potential, and other regulatory considerations normally associated with uses as specified in this Zoning Code.
- D. Should a use be determined to be substantially similar to a specific permitted or conditionally permitted use provided for in this Zoning Code, it shall then be permitted in the same manner and under the same conditions and procedures as the use is permitted to which it has been found to be substantially similar. The Community Development Director shall maintain, as a public record, a listing of all uses which have been determined to be substantially similar. For each such use the record shall include the use as listed in the Zoning Code, the use unlisted in the Zoning Code about which the determination of substantial similarity was made, and the dates of any actions thereupon by the Board of Zoning Appeals. This record shall also contain the same information for all uses which have been determined not to be substantially similar. The Community Development Director shall consult this record in the process of issuing zoning permits.

(b) Initiation. An interpretation request shall be submitted by a property owner or applicant to the Community Development Director for the Board of Zoning Appeals review and determination.

(c) Completeness. Generally, refer to Section 1127.02.

(d) Notice and Hearing(s)

- (1) Noticing shall comply with Section 1127.03 and state law, as applicable.
- (2) A public hearing is required and shall comply with Section 1127.03.

(e) Action. The Board of Zoning Appeals may, in its discretion, take any of the following actions:

- (1) Review and evaluate the request;
- (2) Consult with City staff or the Planning Board;
- (3) Render an opinion; or
- (4) Provide an interpretation in writing.

(f) Approval Criteria. The Board of Zoning Appeals shall consider this Zoning Code, the Zoning Map, the Comprehensive Plan, and any other relevant information to make a final interpretation decision.

(g) Subsequent Applications. Not applicable.

(h) Appeals. Not applicable.

(i) Scope of Approval. Depending on the interpretation decision, an applicant may apply for any permits or approvals required for development, as provided in this Zoning Code.

(j) Recordation

- (1) The certified interpretation decision shall be recorded with the Board of Zoning Appeals.
- (2) A certified copy of the interpretation decision shall be maintained by the Community Development Department.

TITLE SIX - Nonconforming Standards

Chap. 1131. General Provisions.

CHAPTER 1131

General Provisions

1131.01 Classification and effect of nonconforming status.

1131.02 Determination and effect of abandonment or destruction.

1131.03 Repair and maintenance.

1131.04 Restrictions on alterations.

1131.05 Accessory buildings, features, and uses.

1131.06 New residential construction on nonconforming lots.

1131.07 Restrictions on alterations of lots and signs.

1131.08 Determination and loss of sign legal nonconformity.

1131.01 CLASSIFICATION AND EFFECT OF NONCONFORMING STATUS.

(a) Classification of Nonconformities. Lots, uses of lands, structures, signs, or combinations thereof may exist which were lawfully established prior to the effective date or amendment of this Zoning Code, but that do not comply with the effective terms of this Zoning Code. Such legally established lots, uses of lands, structures, and signs shall be considered as nonconformities.

(b) Burden of Proof on Property Owner. The burden of establishing that any use or building is lawfully nonconforming under the provisions of this Zoning Code shall, in all cases, be upon the owner of such nonconformity and not upon the City of Springfield.

(c) Effect of Nonconforming Status. Legally established nonconformities shall be permitted to remain in place and continue their use, as applicable, but are prohibited from being altered, moved, extended, expanded, or replaced without the approval of the Board of Zoning Appeals, except where otherwise specifically provided for in this Zoning Code.

(d) New Nonconformities Restricted. Nonconforming uses and buildings shall not be replaced with any other prohibited uses or buildings without the approval of the Board of Zoning Appeals, except where otherwise specifically provided for in this Zoning Code.

1131.02 DETERMINATION AND EFFECT OF ABANDONMENT OR DESTRUCTION.

- (a) Effect of Abandonment or Vacancy. If any nonconforming building, feature, or use is abandoned, vacated, or voluntarily discontinued for 2 years or more, any future uses or any future alterations to such nonconformity shall be in conformity with all applicable standards of this Zoning Code, including the applicable zoning district.
- (b) Restoration Following Damage or Destruction. Nothing in this Zoning Code shall prevent the restoration of a nonconforming building, feature, or use that is destroyed or damaged, provided:
- (1) That the extent of the damage or destruction is less than 60% of the reproduction value;
 - (2) That the property owner(s) shall file with the Community Development Director a notice of intention to continue the nonconformity within 6 months of such damage or destruction; and
 - (3) That the restoration or construction is commenced within one year of the date that such notice is given to the Community Development Director.
- (c) Failure to Provide Notice Following Damage or Destruction. If a notice of intention to continue a damaged or destroyed nonconformity is not provided to the Community Development Director within 6 months of such damage or destruction, the nonconformity shall be deemed abandoned and shall not be restored except in compliance with this Zoning Code.
- (d) Exception to Restoration Limit. The Board of Zoning Appeals may review and decide upon the restoration of a nonconforming use damaged by fire, explosion, or Supernatural Event to the extent of more than 60% of its reproduction value.

1131.03 REPAIR AND MAINTENANCE.

- (a) Ordinary Repairs Allowed. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of walls, fixtures, wiring, or plumbing, provided that the footprint and height of the structure as it existed, when it became nonconforming, shall not be increased.
- (b) Major Repairs Allowed with Limitations. Nothing within this Zoning Code shall be deemed to prevent the strengthening or restoring to safe condition of any building, or part thereof, declared to be unsafe by any official charged with protecting the public safety, upon order of such official. Where appropriate, a building permit for such activities shall be required.

1131.04 RESTRICTIONS ON ALTERATIONS.

- (a) Required Yards and Setbacks. Nonconforming buildings, features, and uses shall not be altered in a manner that reduces provided yards or setbacks below minimum requirements.
- (b) Alterations to Nonconforming Uses
- (1) Nonconforming uses shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Zoning Code. The Board of Zoning Appeals shall only grant such alteration to a nonconforming use upon finding that the manner of increase or improvement in the useable area of the nonconforming use will have minimal adverse impact upon adjacent properties and permitted land uses in the surrounding neighborhood; or upon finding that the increase or improvement can be made compatible with the adjacent properties and the uses in the surrounding neighborhood upon compliance with specified conditions.
 - (2) Nonconforming uses may be extended throughout any parts of an associated building that were arranged or designed for such use at the time of adoption or amendment of this Zoning Code. No such use shall be extended to occupy any land outside such building.
 - (3) Any structure or structure and land in combination in or on which a nonconforming use is replaced with a conforming use shall thereafter conform to the applicable regulations of this Zoning Code. The prior nonconforming use may not be resumed.
 - (4) Nonconforming uses that are altered shall be required to meet all setbacks of the applicable zoning district.
- (c) Substitution of Nonconforming Uses. If no structural alterations are made, any nonconforming use of a structure or of a structure and land in combination may, upon appeal to the Board of Zoning Appeals, be changed to another nonconforming use provided that the Board shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such a change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accord with other provisions of this Zoning Code.
- (d) Alterations to Nonconforming and Associated Buildings. Buildings that are associated with a nonconforming use shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to an allowed use, except as authorized by the Board of Zoning Appeals.
- (e) New Construction Prohibited. Construction of new buildings associated with nonconforming uses of land shall be prohibited.

1131.05 ACCESSORY BUILDINGS, FEATURES, AND USES.

- (a) Applicability. Accessory buildings, features, and uses that were legally established prior to the effective date of this Zoning Code which do not comply with applicable setback or coverage requirements shall still be considered in compliance with this Zoning Code.
- (b) Compliance for New Modifications. Any modifications of existing accessory buildings, features, and uses proposed after the effective date of this Zoning Code shall only be permitted in compliance with all applicable standards of this Zoning Code.

1131.06 NEW RESIDENTIAL CONSTRUCTION ON NONCONFORMING LOTS.

- (a) Construction Allowed. Within a zoning district where one-unit or two-unit dwellings are permitted, a one-unit or two-unit dwelling and any allowed accessory buildings and features may be erected on a nonconforming single lot of record that is in separate ownership from any abutting lots, even where such lot does not meet minimum applicable lot area or lot width standards.
- (b) Minimum Required Dimensional Standards. Construction of dwellings on a nonconforming lot shall meet all applicable yard and setback standards, except where the infill development standards are utilized, or a variance has been approved.

1131.07 RESTRICTIONS ON ALTERATIONS OF LOTS AND SIGNS.

(a) Alterations to Lot Area and Width. Nonconforming lots shall not be subdivided or otherwise altered in a manner that reduces the provided lot area or lot width below the prescribed minimum requirements.

(b) Alterations to Signs. The replacement or upgrading of defective parts of a nonconforming sign may not result in increasing the degree of nonconformity of such sign.

1131.08 DETERMINATION AND LOSS OF SIGN LEGAL NONCONFORMITY.

(a) Determination of Legal Nonconformity. All signs legally existing before the effective date of the amendment of this resolution may be continued, even though such sign may not conform with the provisions (excluding safety, maintenance, and repair) of this resolution, provided, such signs are properly maintained and do not endanger the public health, safety, or general welfare.

(b) Loss of Legal Nonconforming Status. A legal nonconforming sign will lose its designation of legal nonconformity if:

- (1) The sign is relocated;
- (2) The sign is replaced;
- (3) The structure or size of the sign is altered in any way except towards compliance with this Zoning Code - exempting general maintenance, changeable marquees, or face and copy changes; or
- (4) The sign is on a lot that discontinues active operation for a period of two or more years.

(c) Maintenance and Repair of Nonconforming Signs

- (1) Legal nonconforming signs are subject to all requirements of this Zoning Code regarding safety, maintenance, and repair. However, if the sign suffers damage to an extent greater than 60% of the estimated replacement value, unless such damage was caused by vandalism, a Supernatural Event, or other causes outside the influence of the owner or user, the sign shall be replaced with a sign that complies with this Zoning Code.
- (2) The Community Development Director shall be authorized to determine whether a legal nonconforming sign is properly maintained and does not endanger the public or constitute a nuisance.

TITLE SEVEN - Enforcement Standards

Chap. 1132. General provisions.

Chap. 1133. Violation Noticing.

Chap. 1134. Penalties, Fines, and Remedies.

CHAPTER 1132

General Provisions

1132.01 Enforcement responsibility.

1132.02 Generally.

1132.03 Complaints regarding violations.

1132.04 Entry and inspection of property.

1132.01 ENFORCEMENT RESPONSIBILITY.

The Community Development Director holds primary responsibility for enforcing all provisions of this Zoning Code. Other officers of the City, designated by the City Manager, share responsibility for enforcing provisions of this Zoning Code.

1132.02 GENERALLY.

(a) General Unlawful Activity. Any building erected, constructed, altered, enlarged, converted, moved or used contrary to any of the provisions of this Zoning Code, and any use of any land or building which is conducted, operated or maintained contrary to any of the provisions of this Zoning Code shall be unlawful.

(b) Specific Violations. Any of the following violates this Zoning Code and are subject to the penalties and enforcement protocol as provided in this Title.

- (1) Buildings or Structures. To erect, construct, reconstruct, alter, repair, convert, or maintain a building or structure in a manner inconsistent with the requirements of this Zoning Code or a condition of approval.
- (2) Use of Land. To use any land or premises in a manner inconsistent with the requirements of this Zoning Code or a condition of approval.
- (3) Establish Use, Structure, or Sign Without Permit or Approval. To establish or place any use, structure, or sign upon land that is subject to this Zoning Code without all of the approvals required by this Zoning Code.
- (4) Development Without Permit or Approval. To engage in any development, construction, remodeling, or other activity of any nature upon land that is subject to this Zoning Code without all of the approvals required by this Zoning Code.
- (5) Development, Use, or Sign Inconsistent with Permit. To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other form of authorization required to engage in those activities.
- (6) Development, Use, or Sign Inconsistent with Conditions of Approval. To violate, by act or omission, any term, condition, or qualification placed by an approval authority upon any permit or other form of authorization.
- (7) Development or Sign Inconsistent with this Zoning Code. To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure, or sign, or to engage in development in violation of any zoning, sign, or other regulation of this Zoning Code.
- (8) Making Lots or Setbacks Nonconforming. To reduce or diminish any lot area so that the lot size, setbacks, or open spaces are smaller than required by this Zoning Code.
- (9) Increasing Intensity or Density of Use. To increase the intensity or density of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this Zoning Code.
- (10) Removing or Defacing Required Notice. To remove, deface, obscure, or otherwise interfere with any notice required by this Zoning Code.
- (11) Failure to Remove Signs. To fail to remove any sign installed, created, erected, or maintained in violation of this Zoning Code or for which the sign permit expired.

1132.03 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this Zoning Code occurs or is alleged to have occurred, any person may file a complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Community Development Director. The Community Development Director shall properly record such complaint, investigate such complaint, and take action as provided by this Title.

1132.04 ENTRY AND INSPECTION OF PROPERTY.

The Community Development Director is authorized to make inspections of properties and structures 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 Community Development Director shall attempt to obtain the permission of the owner or occupant to inspect the property or structure. If such permission is denied or cannot be obtained, the Community Development Director shall request the assistance of the City Law Director in securing a valid search warrant prior to entry.

CHAPTER 1133

Violation Noticing

1133.01 Notice of violation.

1133.01 NOTICE OF VIOLATION.

(a) Whenever the Community Development Director determines that there is a violation of any provision of this Zoning Code, a warning shall be issued and shall serve as a notice of the violation. Such notice shall:

- (1) Be in writing;
- (2) Identify the violation;
- (3) Include a reference to the sections of this Zoning Code being violated;
- (4) State the time by which the violation shall be corrected; and
- (5) State the corrective action.

(b) Service of notice of violation shall be as follows:

- (1) By personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of suitable age and discretion;
- (2) By certified mail deposited in the United State Post Office addressed to the person or persons responsible at a last known address;
- (3) If a certified mail envelope is returned with endorsement showing that the envelope is unclaimed, then service shall be sent by ordinary mail, and the mailing shall be evidenced by a certificate of mailing. Service shall be deemed complete when the fact of mailing is entered of record, provided the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery; or
- (4) By posting a copy of the notice form in a conspicuous place on the premises found in violation.

CHAPTER 1134

Penalties, Fines, and Remedies

1134.01 Penalties and fines.

1134.02 Remedies.

1134.01 PENALTIES AND FINES.

(a) It shall be unlawful to erect, establish, locate, construct, reconstruct, enlarge, change, convert, move, repair, maintain or structurally alter any building, structure or land in violation of any provisions of this Zoning Code or any subsequent amendment.

(b) Any person who violates this Zoning Code or fails to comply with any of its requirements shall upon conviction be guilty of a minor misdemeanor and be fined according to CHAPTER 1324 of the Codified Ordinances.

(c) Each day such violation continues after receipt of a violation notice shall be considered a separate offense.

(d) The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this Title.

1134.02 REMEDIES.

(a) Nothing in this Zoning Code shall be deemed to abolish, impair or prevent other additional remedies as provided by law.

(b) In the event of a violation of any provision or requirement of this Zoning Code, or in the case of an imminent threat of such a violation, the City Law Director, may, in addition to other recourses provided by law, institute mandamus, injunction, abatement or other appropriate actions to prevent, remove, enjoin or terminate such violation.

TITLE EIGHT - Administrative Bodies.

Chap. 1135. General Provisions

Chap. 1136. Quasi-Legislative Bodies and Personnel.

Chap. 1137. City Administrative Bodies and Personnel.

CHAPTER 1135

General Provisions

1135.01 Generally.

1135.01 GENERALLY.

This Title introduces and establishes recommending and approval authorities, describes their composition, and summarizes their authority.

CHAPTER 1136

Quasi-Legislative Bodies and Personnel

- 1136.01 City Commission.**
- 1136.02 Planning Board.**
- 1136.03 Regional Planning Board (CEDA).**
- 1136.04 Board of Zoning Appeals.**
- 1136.05 Springfield Landmarks Commission.**

1136.01 CITY COMMISSION.

See CHAPTER 111 of the Codified Ordinances.

1136.02 PLANNING BOARD.

See CHAPTER 157 of the Codified Ordinances.

1136.03 REGIONAL PLANNING BOARD (CEDA).

See CHAPTER 157 of the Codified Ordinances.

1136.04 BOARD OF ZONING APPEALS.

This Section is reserved².

(² This section will reference the Board of Zoning Appeals chapter in the Codified Ordinances.)

1136.05 SPRINGFIELD LANDMARKS COMMISSION.

This Section is reserved.

CHAPTER 1137

City Administrative Bodies and Personnel

- 1137.01 Department of Community Development.**
- 1137.02 Community Development Director.**

1137.01 DEPARTMENT OF COMMUNITY DEVELOPMENT.

See CHAPTER 129 of the Codified Ordinances.

1137.02 COMMUNITY DEVELOPMENT DIRECTOR.

See CHAPTER 129 of the Codified Ordinances.

TITLE NINE - Definitions.

Chap. 1138. General Provisions.

Chap. 1139. General Terms and Definitions.

CHAPTER 1138

General Provisions

- 1138.01 General interpretation meanings.**
- 1138.02 Words and terms not expressly defined.**

1138.01 GENERAL INTERPRETATION MEANINGS.

For the purpose of this Zoning Code, certain terms, words, and graphics are interpreted or defined as follows:

- (a) Words used in the present tense include the future tense.
- (b) The singular includes the plural.
- (c) The word "person" includes a corporation, trust, individual, or group of individuals.
- (d) The terms "shall" and "must" are always mandatory.
- (e) The term "may" is discretionary.
- (f) A reference to an official includes a designee of that official.
- (g) When the calculation of a number for a required standard results in a fraction, that fraction is rounded up to the next whole number.
- (h) When this Zoning Code requires a distance or spacing buffer from a property, lot, use, or other specified item (i.e., a use separation, sign spacing, etc.), the distance shall be measured extending from the subject property lot lines as indicated in Figure³.
- (i) All text in this Zoning Code is regulatory.

(³ Graphic to be provided.)

1138.02 WORDS AND TERMS NOT EXPRESSLY DEFINED.

Words and terms not expressly defined in this Zoning Code are to be construed according to the normally accepted meaning of those words or terms. Where no definition appears, then according to their customary usage in the practice of planning and engineering shall be used, as determined by the Community Development Director.

CHAPTER 1139

General Terms and Definitions

- 1139.01 General definitions.**

1139.01 GENERAL DEFINITIONS.

- (a) A Terms
 - (1) Abandoned Sign

Any sign that remains in place more than 365 days after its associated use ceases operations or any sign that is not maintained in accordance with this Zoning Code.

- (2) **Abandonment**
The voluntary cessation of a use or activity but excluding short-term interruptions to a use or activity during periods of remodeling, maintenance, improvements, vacation, seasonal closure, active listing of the property for a change in ownership or leasehold interests, or other similar interruptions.
- (3) **Abut/Abutting**
Contiguous; having a boundary, wall or property line in common.
- (4) **Access**
The place, means, or way by which pedestrians or vehicles have ingress and egress to a lot, structure or parking area.
- (5) **Accessory Building**
A building or structure that is subordinate in use, area, extent, and purpose to a principal structure or a principal use located on the same lot, except as otherwise provided by this Zoning Code.
- (6) **Accessory Use**
A use that is subordinate in use, area, extent, and purpose to a principal structure or a principal use located on the same lot, except as otherwise provided by this Zoning Code.
- (7) **Addition**
Extension of a building or structure or increase in floor area or height of a building or structure.
- (8) **Adjacent**
To be next to or adjoining.
- (9) **Aisle**
A surface which is connected directly to a parking or loading space and designed to permit ingress or egress of a vehicle to or from the parking or loading space. (In no case can an aisle be a drive)
- (10) **Alley**
Any public or private way whose primary function is to furnish secondary access to the side or rear of a lot having its principal access to a street.
- (11) **Alteration**
A change in the appearance, character, construction, or use of a building or structure.
- (12) **Alternative Compliance**
A modification of the strict terms of the relevant regulations through other preapproved standards provided in this Zoning Code and applied at the discretion of City staff, acting in an official and authorized capacity.
- (13) **Animated Sign**
Any sign depicting movement or the illusion of movement through features such as, but not limited to, flashing lights, digital displays, moving parts, or visual effects created by mechanical, electrical, or digital means.
- (14) **Appeal**
An application to a higher administrative body or court for a decision to be modified, reversed, or otherwise altered.
- (15) **Applicant**
An individual or corporation, including any individual or corporation contracted or employed by such individual or corporation, who files a formal application with any governmental body.
- (16) **Architectural Detailing**
Any construction appertaining to but not being an integral part of the building, structure, or sign and consisting of landscaping or structural features that embellish the site in general. Architectural detailing includes, but is not limited to, aesthetic embellishments such as flower plantings, wood carving, wrought or cast iron ornamentation, stone or brick ornamentation, or metal work decoration.
- (17) **Arterial Street**
A street whose principal function is to provide for through traffic and is designed to carry large volumes of traffic.
- (18) **Attached Awning/Canopy Sign**
An on-premise sign permanently painted, printed, attached, or otherwise applied to any facet of the covering or frame structure of an awning or attached structural canopy.
- (19) **Attached Building**
A building attached to another building by a common wall, such wall being a solid wall with or without windows and doors, and/or a common roof with a common horizontal dimension of eight (8) feet or more.
- (20) **Authorized Agent**
The individual or corporation who represents the property owner, resident, or applicant and has the legal authority to make decisions on their behalf.
- (21) **Awning**
A sheet of canvas or similar material connected to a frame and projected from the exterior of a building for the purpose of redirecting rays of sunshine, protecting pedestrians from the natural elements, or increasing the aesthetic appearance of such building.
- (b) **B Terms**
- (1) **Balcony**
A covered or uncovered platform area projecting from the wall of a building, enclosed by a railing, accessible from above grade, and not attached to the ground.
- (2) **Belt Course**
A horizontal, continuous row of stones, bricks, or similar architectural materials designed to visually separate floors from the exterior of a building.
- (3) **Bench Billboard**
An off-premise sign on which poster panels, bulletins, and/or copy are mounted and which is designed to function and appear like a bench for seating.
- (4) **Billboard**
A permanent off-premise freestanding sign or sign structure upon which a message is placed on a poster or panel and mounted on a pole or metal structure typically with a monopole structure constructed with tubular steel support, tubular steel framing, and a single display panel with a concrete foundation.
- (5) **Block Face**
The collective facades of all buildings on one side of one block.

- (6) Board of Zoning Appeals
The City of Springfield's appointed Board of Zoning Appeal responsible for making recommendations and decisions as provided in this Zoning Code, as amended.
- (7) Boundary
A line marking the limits of an area and dividing one area from another.
- (8) Buffer
Any area between parcels, lots, or different zoning districts set aside to mitigate the visual, light, or noise effects of one parcel, lot, or zoning district on an adjacent parcel, lot, or zoning district. May be an earthen berm or any natural material like trees or shrubs or otherwise mandated by this document or the various jurisdictions.
- (9) Build
To construct, assemble, erect, convert, structurally enlarge, or reconstruct a building or structure.
- (10) Buildable area
The area of a lot remaining after the minimum yard requirements of the Zoning Code have been deducted.
- (11) Building Area
The area of a building within its largest outside dimensions computed on a horizontal plane at the first floor level, exclusive of open porches, breezeways, terraces, and exterior stairways.
- (12) Building Height
The vertical distance from the established grade to the roof line.
- (13) Building Line
A line extending parallel to the lot line from the part of the building nearest to the lot line and defining the front, side, and rear yard. The building line may or may not coincide with the lot line.
- (14) Building
A combination of materials to form a structure having a roof that is safe and stable and designed or intended for the support, enclosure, shelter or protection of persons, animals, or property. A building does not include a tent, trailer, trailer coach, or mobile home. Although one part of a structure may be separated from another part by a "Fire Wall," as defined by the Ohio Basic Building Code, both parts constitute one building as do structures which are joined together by structural members.

(c) C Terms

- (1) Canopy
An overhead roof or structure over which a fabric or metal covering is attached for the purpose of redirecting rays of sunshine, protecting pedestrians from the natural elements, or increasing the aesthetic appearance of such building.
- (2) CEDA Planning Board
A regional planning board established by exercise of the City Planning Board's powers for a territory within the corporate boundaries of the Springfield governed by a Cooperative Economic Development Agreement entered into pursuant to Section 701.07 of the Ohio revised Code.
- (3) Certificate of Appropriateness
An official certification allowing the construction of a new structure or the reconstruction, alteration, restoration, installation, or relocation of any portion of an existing structure on a property within a designated historic district and granted in accordance of this Zoning Code.
- (4) Certificate of Occupancy
An official certification that a premise, use, building, or structure complies with the provisions of this Zoning Code and such other ordinances as may be applicable. Such a certificate is granted upon completion of new construction or for alterations or additions to existing structures.
- (5) City Clerk
The City Clerk of the City of Springfield, Ohio.
- (6) City Commission
The duly elected governing body of the City of Springfield, Ohio.
- (7) City Engineer
The person hired or designated by the City Manager to supervise or oversee the engineering matters in the City of Springfield, Ohio, and to exercise the authority of the City Engineer. This term includes the City Engineer's designee.
- (8) City Planning Board
The City of Springfield's appointed Planning Board.
- (9) Collector Street
A street whose principal function is for carrying traffic from local streets to arterial streets.
- (10) Commercial District
Those zoning districts where commercial land uses are the primary uses. Commercial zoning districts are those designated as C-NC, C-LC, C-HC, and C-DT, unless specified otherwise.
- (11) Common Open Space
Common open space is an area of land, an area of water, or a combination of land and water which is for the benefit of or open to use by multiple tenants, occupants, or the public.
- (12) Community Development Department
The City governmental department responsible for overseeing development in Springfield, Ohio.
- (13) Community Development Director
The person hired or designated by the City Manager to supervise or oversee the City's Community Development Department, and to exercise the authority of the Community Development Director. This term includes the Community Development Director's designee.
- (14) Compatibility
The ability of land a use to coexist with surrounding land uses in a stable fashion over time such that none of the uses are subjected to substantially adverse effects which outweigh the benefits to the community derived from the uses being permitted to exist in proximity to each other and which will not result in an existing lawful use becoming impractical as a result of its proximity to the proposed new use.
- (15) Conditional Use
A principal or accessory use which is allowable when the provisions are met and when the facts and conditions specified elsewhere in this Code, as those upon which the exception is permitted, are found to exist by the Board of Zoning Appeals.

- (16) Coniferous Tree
Any tree bearing needle-shaped or scalelike leaves, including forms with true cones such as pines.
 - (17) Conversion
Any change of one principal use to another principal use.
 - (18) Cornice
An ornamental molding attached to the top of a wall where the wall and roof connect.
 - (19) Covenant
A legally binding written promise or pledge to do or not to do a particular act.
 - (20) Cross Access
A service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system.
 - (21) Curb
The lateral boundary - raised or otherwise - of a roadway intended for vehicular use, whether or not the public right-of-way continues laterally.
 - (22) C-NC
The acronym or abbreviated form of the Neighborhood Commercial district.
 - (23) C-LC
The acronym or abbreviated form of the Local Commercial district.
 - (24) C-HC
The acronym or abbreviated form of the Heavy Commercial district.
 - (25) C-DT
The acronym or abbreviated form of the Downtown district.
 - (26) C-DT-C
The acronym or abbreviated form of the Downtown Core subdistrict.
 - (27) C-DT-E
The acronym or abbreviated form of the Downtown Edge subdistrict.
- (d) D Terms
- (1) Deck
An uncovered platform area projecting from the wall of a building, accessible at or from above grade, and attached to the ground.
 - (2) Deed Restriction
A legal restriction on the use of property contained in the deed to the property.
 - (3) Deed
A legal document certifying the transfer, and any conditions attached thereof, of ownership of property.
 - (4) Development Standards
Standards controlling the size of structures and the relationships of structures and uses to each other and to open spaces and lot lines. Development standards include but are not limited to regulations controlling maximum height, minimum lot area, minimum lot frontage, minimum size of yards and setbacks, maximum lot coverage, and maximum density.
 - (5) Development
Any human-made changes to improved or unimproved property, including but not limited to construction, reconstruction, extraction, dredging, filling, grading, paving, excavating, drilling operations, or the storage of equipment and materials.
 - (6) Developmentally Disabled
A person certified by a medical doctor as having a physical or mental impairment which is expected to be of long-continued and indefinite duration, substantially impedes the ability to live independently, and is of a nature that the ability to live independently could be improved by more suitable housing conditions. Such disabilities are attributable to but not limited to a physical impairment; mental retardation, cerebral palsy, epilepsy, autism, or another similar neurological condition; dyslexia resulting from an above disability; or a mental or nervous disorder which disability originates before such individual attains age 18. Developmentally disabled does not include current, illegal use of or addiction to a controlled substance as defined in Section 102 of the Controlled Substances Act (21 u.s.c. 802).
 - (7) Discontinuance
The cessation of a nonconforming use.
 - (8) District
See Zoning District.
 - (9) Double Frontage Lot
A lot having frontage on two parallel or approximately parallel streets.
 - (10) Driveway
A surface designed to provide vehicular access to a parking area or to a loading space(s). A driveway is also the means for providing access to a garage or off-street parking for dwellings and residences. A driveway, as distinguished from an aisle, usually provides access to a parking area from another parking area or from a street.
 - (11) Dwelling Unit
Any habitable room or group of adjoining habitable rooms within a dwelling and forming a single unit with facilities which are used or intended to be used for living, sleeping, sanitation, cooking, and eating of meals.
 - (12) Dwelling
A building which is wholly or partially used or intended to be used for residential occupancy by a person for 30 or more consecutive days. A tent, recreational vehicle, motel, or hotel is not considered a dwelling.
- (e) E Terms
- (1) Earth Berm
A low, usually linear mound of earth covered with grass or other landscape materials used to define, screen, protect, and/or enhance the appearance of a particular space or area of land.
 - (2) Easement
A right given by the owner of land to another person for specific limited use of that land, such as but not limited to allowing access to another property or for utilities.

- (3) Eaves
Any part of a roof that overhangs a wall.
 - (4) Elevation
The height above a specified grade.
 - (5) Enclosed
Surrounded by walls and/or fences. See "Unenclosed Structure."
 - (6) Enclosure
An area surrounded by fencing, screening, walls, or other protective structures.
 - (7) Enlargement/Expansion.
An increase in the volume of a building, an increase in the area of land or building occupied by a use, or an increase in the number of occupants or dwelling units.
 - (8) Evergreen
See "Deciduous."
 - (9) Excavation
The act or process of forming a cavity by cutting, digging, or scooping. Excavation does not include activities associated with agricultural uses.
 - (10) External Illumination
A light source that illuminates an object's exterior surface from a distance.
 - (11) Extraction
The withdrawal of natural resources such as but not limited to sand, gravel, or top soil as a business venture. Extraction does not include activities associated with an agricultural use or with the process of grading a lot preparatory to the construction of a building.
- (f) F Terms
- (1) Facade
The exterior face of a building that fronts a public street, public right-of-way, or open space.
 - (2) Fence
A permanent barrier that is not classified as screening, but offers privacy between uses. Fences are typically located on residential lots between two residential uses.
 - (3) Final Plan
A completed and full set of plans, drawings, data, and any and all other materials needed to evaluate and review a subdivision's conformance with local subdivision regulations and which follow the approved preliminary plan as well as conformance with other applicable regulations.
 - (4) Flag
A flat piece of cloth or similar material having one end of the cloth attached to a staff either directly or by a rope and all other ends free-flowing under natural conditions.
 - (5) Floor Area
The total area of all floors of a building or portion thereof measured to the outside surface of exterior walls or the centerline of walls to separate uses or attached buildings. It does not include garages, porches, balconies, and other appurtenances. Space in the basement and all other space is included as floor area if used for a principal or accessory use permitted in the zoning district in which the building is located.
 - (6) Flyway Barrier
A fence or wall used to force bees to fly upward when leaving the hive for the purpose of limiting contact with people.
 - (7) Footcandle
A unit of illuminance measurement. One lumen per square foot, unit of illuminance.
It is the luminous flux per unit area in the Imperial system.
 - (8) Freestanding Canopy Sign
An on-premise sign that is permanently affixed to a freestanding canopy.
 - (9) Freestanding Sign
A sign anchored directly to the ground or supported by one or more posts, columns, or other vertical structures. All freestanding signs are classified as either Monument Signs or Pole Signs.
 - (10) Front Lot Line
A lot line separating the lot from the street. On corner lots, the front lot line is the shortest lot line abutting a street, except that if the lot is square or almost square (has dimensions between the ratios 3:2 and 3:3), then the front lot line may be along either street.
 - (11) Front Yard Line
A line parallel to the front lot line and as far forward from the front lot line as required by this Code, extending from one side lot line to an opposite side yard line.
 - (12) Front Yard
The required area between the front yard line and the street right-of-way line and extending across the entire lot. In the case of a double frontage lot, the front yard is along the local street and the rear yard is along the arterial street.
 - (13) Frontage
The distance along a street line from one intersecting street to another, or from one intersecting street to the end of a dead-end street or cul-de-sac.
- (g) G Terms
- (1) General Incidental Sign
A permanent on-premise sign that is freestanding or attached to a building that is in addition to the primary freestanding and attached sign types for the property, and that has a height and scale that is clearly subordinate to the primary sign types allowed for the property. Examples of general incidental signs include menu boards, flags, occupant directories, property or tenant identification names or numbers, wayfinding signs, directional signs, and signs warning the public against trespassing or danger from animals. The list of examples is not exhaustive and is provided to clarify the regulations and does not limit the content of general incidental signs.
 - (2) Grade

The top surface elevation of lawns, walks, driveways, or other improved surfaces after completion of construction, grading, and landscaping. For the purpose of determining height of a building, the grade is the average level of the perimeter of the exterior walls of the building.

(3) Ground Area

See "Floor Area."

(4) Ground Floor/First Floor. The lower-most floor of a building in which the floor is at or above the grade.

(h) H Terms

(1) Hazardous Sign

A sign which, because of its construction or state of disrepair, may fall or cause injury to passersby, as determined by the Springfield Inspection Services Division, including a sign which because of its location, color, illumination, or animation interferes with, obstructs the view of, or is confused with any authorized traffic sign, signal, or device or interferes with, misleads, or confuses traffic.

(2) Hearing

A formal proceeding before an administrative body or court.

(3) Hedge

A boundary formed by a row of closely planted shrubs or bushes.

(4) Height

The vertical distance from a specified point to the existing grade directly below the specified point.

(5) High-Rise

A building with more than five stories entirely above grade.

(6) Highway

A rural and suburban thoroughfare with high vehicular speeds and capacities.

(7) Homeowner's Association

A private association, partnership, LLC, or any legal entity of homeowners established by a developer with local government approval, whose purpose it is to own, operate, and maintain various common properties, including but not limited to open space, private streets, and recreation facilities.

(i) I Terms

(1) Illuminated Sign

A sign in which a source of light other than sunlight is used to make the message readable.

(2) Illumination

The use of a lighting source to increase visibility in a given area.

(3) Incidental Sign

(4) Industrial District

Those zoning districts where industrial land uses are the primary uses. Industrial zoning districts are those designated as I-LI and I-HI, unless specified otherwise.

(5) Infill Development

The redevelopment of an existing built-out site or property.

(6) Interior Lot

A lot other than a corner lot or double frontage lot and bounded by a street on only one side.

(7) Internal Illumination

A light source that illuminates an object's exterior surface from within the sign.

(8) I-LI

The acronym or abbreviated form of the Light Industrial district.

(9) I-HI

The acronym or abbreviated form of the Heavy Industrial district.

(j) J Terms

(1) Junk

Those materials and products of older scrap copper; brass; rope; rags; batteries; paper; trash; rubber; debris; waste; junked, dismantled, scrapped or wrecked motor vehicle or associated parts; iron; steel; or other old or scrap materials.

(k) K Terms (Reserved)

(l) L Terms

(1) Landscaping

Any of the following or combination thereof: materials such as but not limited to grass, hardy ground covers, shrubs, vines, hedges, and trees; and non-living durable material commonly utilized in landscaping, such as but not limited to rocks, pebbles, sand, and other earth materials, but not including paving as a principal design element.

(2) Large Deciduous Tree

A deciduous tree classified as a large tree under this Zoning Code.

(3) Light Fixture

An assembly that houses any light bulb, lamp or lamps, or LED(s), including but not requiring housing; mounting brackets or pole sockets; a lamp holder; a ballast; a driver; a reflector or mirror; and a refractor or lens.

(4) Limited Access Highway

A public freeway or expressway designed for through traffic and to which abutting properties have no legal right to direct access.

(5) Livestock

See "non-household animal".

(6) Local Street

A street used primarily for access to abutting property.

(7) Lot Area

The total area within the lot lines of a lot excluding any area located within a public or private street.

- (8) Lot Depth
The horizontal distance between the midpoint of the front lot line and the midpoint of the rear lot line measured at a right angle to the front lot line.
- (9) Lot Frontage
The continuous width of a lot measured along the front lot line, the front or rear lot line of a double frontage lot, or of a front or side lot line of a corner lot. The frontage is measured parallel to the centerline of the street(s) and never constitutes the end width of a dead end street.
- (10) Lot Line
A line oriented in terms of stable points of reference which establish one boundary of a lot.
- (11) Lot of Record
A lot which is part of a subdivision or a parcel of land which is described by metes and bounds, the map and/or description of which have been recorded in the office of the County Recorder or County Auditor.
- (12) Lot Width
The distance parallel to the front property line, measured at the front setback line. Lot width on a curving front property line means the distance parallel to the tangent of the front property line at the building setback line. The lot width and the lot frontage may have different lengths on an irregularly shaped lot as they are measured at different points on the lot.
- (13) Lot
A lot of record or a lot that is leased which is occupied or intended to be occupied by a principal building or use and an accessory building or use and is of sufficient size to meet the minimum requirements for a principal use.
- (14) Low-Rise
A building with a total of three or less stories entirely above grade.
- (m) M Terms
- (1) Major Revisions
Those revisions to an approved plan or permit that exceed the thresholds required to be considered minor revisions.
- (2) Marquee
Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building for the purpose of redirecting rays of sunshine, protecting pedestrians from the natural elements, or increasing the aesthetic appearance of such building.
- (3) Master Development Plan
A comprehensive document outlining a future planned development, including but not limited to maps, drawings, narrative, tables, and other information about the proposed use of specific land and/or water.
- (4) Medium Deciduous Tree
A deciduous tree classified as a medium tree under this Zoning Code.
- (5) Mid-Rise
A building with a total of three to five stories entirely above grade.
- (6) Minor Revisions
Those revisions to an approved plan or permit that are necessary in light of technical considerations discovered after the decision on the application, and that do not substantively change the character of the approval.
- (7) Mixed Use
The blending of residential, commercial, cultural, institutional, and/or industrial uses together in one building.
- (8) Monument Sign
An on-premise, permanent freestanding sign mounted or appearing to be mounted directly in the ground or on a footer in the ground.
- (n) N Terms
- (1) Native Plants/Species
Any plant species listed as a native plant in the State of Ohio by the Ohio Department of Natural Resources.
- (2) Nonconforming Building/Structure
A building or structure or portion thereof that was lawful at the time of its establishment but that does not now conform to the provisions of this Zoning Code relative to height, yards, or building coverage for the zoning district in which it is located by reason of the adoption of this Zoning Code, as amended.
- (3) Nonconforming Lot
A lot that was lawful at the time of its establishment but does not now conform to the provisions of this Zoning Code relative to lot frontage, width or area for the district in which it is located by reason of the adoption of this Zoning Code, as amended.
- (4) Nonconforming Sign
A sign, other than a prohibited sign, that does not comply with the regulations of the sign district in which it is located by reason of these or any other regulations adopted after the erection of the sign.
- (5) Nonconforming Use
Any use that was lawful at the time of its establishment but that is not now allowed within the zoning district in which it is located or any way in which land or a building is used that is not in compliance with the provisions of this Zoning Code by reason of the adoption of this Zoning Code, as amended.
- (6) Non-Household Animal
Any animal that is not a common domesticated household pet that needs adequate space, air, and facilities for safekeeping. Non-household animals include cows, horses, poultry, bees, sheep, goats, alpacas, llamas, pigs, and the like. A nonhousehold animal does not include exotic animals (big game cats, elephants, rhinos, and other large mammals, alligators, crocodiles, venomous or poisonous reptiles). Exotic animals are prohibited unless specified otherwise. Common domesticated household pets include dogs, cats, fish, and parrots.
- (7) Nonresidential District
Those zoning districts designated as C-NC, C-LC, C-HC, C-DT, I-LI, I-HI, P-PR, P-IE, and P-DM unless specified otherwise.
- (8) Notice
Any legally required public notification for a certain development application as required by this Zoning Code.

(o) O Terms

(1) Off Premises Sign

A sign which directs attention to an off-site use or to products or services sold elsewhere.

(2) Off-Street Loading Space

An area logically and conveniently located and designed for bulk pickups and deliveries, scaled to the delivery vehicles expected to be used, and accessible to such vehicles when off-street parking spaces are occupied.

(3) Open Space

Any portion of a lot substantially open to the sky. The area may include natural environmental features, patios, water areas, swimming pools, tennis courts, and other recreational areas and facilities. Streets, parking areas, structures for habitation, and the like are not included.

(4) Owner

Any person who, alone or jointly or severally with others, has legal title to any land or structure, with or without accompanying actual possession thereof; has charge, care or control of any land or structure as owner or agent of the owner; or serves as executor, administrator, conservator, trustee, or guardian of the estate of the owner. Any person representing the actual owner shall be bound to comply with the provision of this Zoning Code and of rules and regulations adopted pursuant thereto, to the same extent as if they were the owner.

(p) P Terms

(1) Parcel

A unit of land as designated by the Clark County Auditor.

(2) Parking Area

An off-street facility providing vehicular parking spaces, along with adequate aisles and tree islands, for the parking of more than four motor vehicles.

(3) Parking Lot Permit

An official certification authorizing the owner of a lot to construct a new commercial parking area on a designated lot.

(4) Parking Row

A group of parking spaces that are parallel and adjacent to each other.

(5) Parking Space

An area exclusive of driveways, aisles, and tree islands intended for off-street vehicular parking. Such space is not intended for the storage or display of motor vehicles.

(6) Performance Standard

A minimum requirement or maximum allowable limit on the effects or characteristics of a use, written in the form of regulatory language.

(7) Permitted/Allowed Sign

A sign which is allowed in the zoning district in which it is located subject to compliance with the standards of this Zoning Code.

(8) Permitted/Allowed Use

A principal use which is allowed in the zoning district in which it is listed subject to compliance with the dimensional requirements and special requirements (if any) of the zoning district in which it is listed and general requirements of this Zoning Code.

(9) Person

Any individual or group of individuals, corporation, partnership, association, or any entity, including state and local governments and agencies.

(10) Planned Development

A type of development which is planned to integrate residential, commercial, industrial, or any other land use.

(11) Planning Board

See the "City Planning Board".

(12) Planter Boxes

The element of the public frontage, which accommodates street trees or other plants whether continuous or individual.

(13) Planting Area

An unpaved pervious area used or intended to be used for the placement of a tree or other plant materials.

(14) Pole Sign

An on-premise, permanent freestanding sign mounted directly in the ground by a pole(s) or columnal support structure(s) providing open-air between the base of the sign and the ground.

(15) Porch

A covered entrance to a building consisting of a platform area, with open or partially enclosed sides.

(16) Pre-Application Conference

A meeting with applicable City staff Development (Planning, Engineering, Fire, Building, etc.) that occurs before an application submittal. This term is abbreviated in this Zoning Code as PAC.

(17) Preliminary Master Development Plan

A Master Development Plan proposed by the applicant and made a part of the application, as required by this Zoning Code, to be submitted to the Planning Board for their consideration.

(18) Premises

A general term meaning part or all of any lot, parcel, or tract or part or all of any building or structure or group of buildings or structures located thereon.

(19) Principal Building

A building which contains the principal use.

(20) Principal Use

The primary use(s) of land or a structure as distinguished from an accessory use, e.g., a house is a principal use in a residential area and a garage or pool is an accessory use.

(21) Private Street

A right-of-way or easement in private ownership, not dedicated or maintained as a public street, and which affords the principal means of access to two or more lots or to condominium units.

(22) Prohibited Sign

Any sign which is forbidden from being erected or displayed.

(23) Projecting Sign

An on-premise sign permanently affixed to and projects from the wall of a building and is generally perpendicular to the building facade.

(24) Projection

Any part of a building such as architectural features which protrude into the required yard or yards.

(25) Property Line.

See Lot Line.

(26) Property

A piece of real property or land.

(27) Public and Institutional District

Those zoning districts where public and institutional land uses are the primary uses. Public and Institutional zoning districts are those designated as P-PR, P-IE, and PDM, unless specified otherwise.

(28) P-DM

The acronym or abbreviated form of the Downtown Medical district.

(29) P-PR

The acronym or abbreviated form of the Parks and Recreation district.

(30) P-IE

The acronym or abbreviated form of the Institutional and Educational district.

(q) Q Terms

(1) Qualified Professional

A licensed or state/nationally registered design, building, engineering, construction, architectural, or planning professional or any person involved with the development process who maintains an accredited collegiate degree in the construction, development, planning, engineering, or architectural field.

(r) R Terms

(1) Rear Lot Line

The lot line opposite and most distant from the front lot line.

(2) Rear Yard Line

A line parallel to the rear lot line and as far forward from the rear lot line as required by this Zoning Code, extending from one side lot line to an opposite side yard line. See "Rear Lot Line."

(3) Rear Yard

The required area between the rear yard line and the rear lot line and extending from one side yard line to an opposite side yard line.

(4) Recommended Tree List

The recommended tree list of the City of Springfield, Ohio.

(5) Reconstruct

To rebuild a structure that has been destroyed or demolished. For purposes of this definition, reconstruct does not apply to the removal and replacement of all or part of a building or structure in the same configuration.

(6) Record Plan

A drawing or set of drawings of an approved final subdivision prepared for appropriate signatures and recording in the County Recorder's office and for distribution to applicable agencies.

(7) Remodel/Repair

Any improvement to a building which is not a structural enlargement or reconstruction.

(8) Residential District

Those zoning districts where commercial land uses are the primary uses. Residential zoning districts are those designated as R-AG, R-LD, and R-HD, unless specified otherwise.

(9) Right-of-Way

A strip of land taken or dedicated for use as a public way. As a roadway, it normally incorporates the curbs, tree lawns, sidewalks, lighting and drainage facilities, and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges.

(10) Road

A local, rural, or suburban thoroughfare of low-to-moderate vehicular speed and capacity.

(11) Roof Line

The deck line of a mansard roof, the ridge of a saddle, hip, gable, gambrel, or ogee roof; or the highest point of the coping of a flat roof for a multi-family dwelling or a nonresidential use or the midpoint of a mansard roof; the midpoint between the ridge and eaves of a saddle, hip, gable, gambrel, or ogee roof; or the highest point of the coping of a flat roof for a single or two family dwelling.

(12) Roof

The outside surface attached to the top of a building.

(13) R-AG

The acronym or abbreviated form of the Agricultural district.

(14) R-LD

The acronym or abbreviated form of the Low Density Residential district.

(15) R-HD

The acronym or abbreviated form of the High Density Residential district.

(s) S Terms

(1) Scenic Area

An area presenting a view of natural and human-made elements of the visual environment with the characteristics of offering strikingly distinct and a pleasing and memorable visual experience.

(2) Screening

A barrier of permanent material of sufficient height and density so that the objects being screened are not visible from any point on the property line when viewed from the ground level.

- (3) Seasonal Decoration
A display pertaining to celebration of a holiday or commemoration of a historic event or personage, observed during a particular season of the year. A seasonal decoration is not a sign.
- (4) Setback Line
A line established by this Zoning Code that is parallel with and measured from the lot line and defines the limits of a yard within which no building or structure may be located above ground, except as may be provided by this Zoning Code. The area between the setback line and the lot line is referred to in this Zoning Code as the required yard.
- (5) Setback
A line, generally parallel with and measured from the property line, defining the limits of a yard in which no building, other than accessory buildings nor structure may be located above ground, except as may be provided in this Zoning Code. See "Yard" for additional clarity.
- (6) Side Lot Line
Any lot line which meets the end of a front lot line and any lot line which is not a front lot line or rear lot line.
- (7) Side Yard Line
A line parallel to the side lot line and as far from the side lot line as required by this Zoning Code, extending from the front yard line to the rear yard line.
- (8) Side Yard
The required area (yard) between the primary building and the adjacent side property line, and extending entirely from a front yard to the rear yard.
- (9) Sidewalk
That portion of the street right-of-way outside the vehicular traveled surface which is improved for the use of pedestrian traffic.
- (10) Sight Visibility Triangle
The triangular-shaped area at the intersection of two points that must be kept clear to ensure visibility for pedestrians and motorists at the intersection.
- (11) Sign Face
The surface of the sign upon which is affixed reading material, letters, numerals, pictorial representations, emblems, trademarks, inscriptions and/or patterns.
- (12) Sign Permit
An official certification authorizing an individual or corporation to erect, alter, or relocate a sign.
- (13) Sign
A visual display of an object or device that includes elements such as colors, lights, motion, symbols, images, icons, shapes, letters, numerals, figures, characters, or combines any of those elements, that is intended to communicate, advertise, identify, announce, direct, inform, or attract attention and that is visible from a public right-of-way. The term "sign" includes a structure used to support or display a sign. The term "Sign" does not include public art, sculptured landscaping, seasonal decorations, directional symbols on paved surfaces or messages painted on or otherwise permanently attached to the body of a motor vehicle or a trailer designed to transport freight.
- (14) Small Deciduous Tree
A deciduous tree classified as a small tree under Chapter 1117 of this Zoning Code.
- (15) Speaker Board
A professionally constructed and installed sign made of a durable, weather-resistant product such as metal or high-density plastic and may include a two-way speaker system for ordering from a vehicle in a drive thru lane provided the volume of the speaker does not exceed ambient noise conditions as measured at the property line.
- (16) Special Vehicle
A vehicle more than seven and one-half feet in height or more than 20 feet in length which is or may be transported or drawn upon a highway, street, or body of water. Such vehicles include but are not limited to a truck, trailer, tractor, wagon, or watercraft exceeding these dimensions. Such vehicles do not include temporary construction trailers when associated with an active construction project on the premises.
- (17) Springfield Landmarks Commission
The City of Springfield's appointed Landmarks Commission responsible for making recommendations and decisions as provided in this Zoning Code, as amended.
- (18) Stacking Lane
A 9-foot-wide lane containing multiple stacking spaces.
- (19) Stacking Space
An asphalt, concrete or similar permanent dust free surface which is designed to accommodate a motor vehicle waiting for entry to an automobile and truck oriented use, which is located in such a way that a parking space or access to a parking space is not obstructed, and which is at least nine feet in width and 19 feet in length.
- (20) Stoop
A roofless structure extending from the public right-of-way to an elevated entryway or ground floor of an associated building or structure.
- (21) Storage Area
A space used for the incidental storage of items related to the principal use of a building or structure.
- (22) Story
The habitable portion of building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six feet above grade as defined herein for more than 50% of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.
- (23) Street Grade
The elevation of a public roadway established by construction or usage and measured at the centerline of the roadway.
- (24) Street
A way that is open to the public for use of vehicular traffic as a matter of right, and has a driving surface which either meets the City's specifications or is acceptable to the City Engineer for vehicular traffic. A street may exist as a public street if it is owned or controlled by the City or as a private street if it is owned and maintained by persons other than the City. This

definition includes the term avenue, boulevard, circle, drive, highway, lane, parkway, road, thoroughfare, or any other similar term.

(25) Structural Enlargement

Any change in the configuration of the exterior walls, foundation or the roof of a building which results in an increase in the area, height or volume of the building.

(26) Structure

Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

(27) Subdivision Entry Sign

A permanent off-premise freestanding sign of the monument sign variety located at the entry of a platted subdivision from a local, collector, or arterial street.

(28) Substantial Construction

Substantial construction is achieved at the point in development when all required permits necessary to build a Planned Development phase have been obtained and actual construction of public improvements, or stormwater management systems on the Planned Development phase is either complete or in active progress.

(29) Supernatural Event

A severe, unanticipated, or uncontrollable natural event for which no human is responsible including but not limited to earthquakes, tornadoes, blizzards, windstorms, wild fires, and the like.

(30) Suspended Sign

A sign suspended from the underside of a canopy, awning, ceiling, marquee, roof overhang, a covered porch, or walkway.

(t) T Terms

(1) Temporary Sign Permit

An official certification authorizing an individual or corporation to erect, alter, or relocate a temporary sign.

(2) Temporary Sign

A sign not permanently affixed to the ground or a building and not intended for display in perpetuity. Banners, portable signs, trailer signs, and other similar nonpermanent signs are regulated as temporary signs.

(3) Temporary Structure/Building

Any building or structure which is placed on a lot without a permanent foundation for a limited time.

(4) Temporary Use

A use granted on a discretionary, conditional, and temporary basis which authorizes a land use in a zoning district for up to 180 calendar days in which that use is not normally permitted. All requirements of a Temporary Use are in addition to and supplement Zoning Code requirements.

(5) Total Lot Building Coverage

The percentage of the lot area covered by the total building area.

(6) Tract

A lot, usually intended for subdivision or agricultural use.

(7) Traffic Island

A raised area located in a public street and separating opposing or conflicting streams of traffic.

(8) Type A Screening

An evergreen planting screen of pyramidal arbor vitae with plantings being at least three feet high, spaced four feet on center at the time of planting.

(9) Type B Screening

A solid opaque wall comprised of masonry (brick, stone, etc.), concrete block, or precast concrete panels.

(10) Type C Screening

A wrought-iron or tubular steel fence with masonry columns at 20 feet on center with a mix of shrubs and trees located between masonry columns.

(11) Type D Screening

An earthen berm at least 20 feet wide with a maximum slope height exceeding at least six feet and covered with grass, shrubs, and trees planted at the base between slopes.

(12) Type E Screening

An alternate screening composition equivalent to Type A Screening, Type B Screening, Type C Screening, and Type D Screening that provides an exceptional screening aesthetic, meets sound structural practices and engineering design criteria, and meets the intent and function of this Chapter at the discretion of the Planning Board.

(u) U Terms

(1) Undeveloped Area

The area within a planned development where agriculture or recreation uses in open areas may be continued.

(2) Use

The purpose for which land or a building or structure is designed, arranged, intended, or maintained or for which it is or may be used or occupied. This definition does not alter or affect the definition of nonconforming use.

(v) V Terms

(1) Variance

A modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in "unnecessary and undue hardship" or a "practical difficulty." The authority to grant variances is vested in the Board of Zoning Appeals.

(2) Vehicle Storage Area

A space used for storage of a special vehicle and at least equal in size to the outer perimeter of the special vehicle.

(w) W Terms

(1) Walkway

A public way that is at least three (3) feet or more in width for pedestrian use, whether within a street or not. See

- "Sidewalk."
- (2) Wall
A continuous vertical structure enclosing or dividing an area of land or supporting a building or structure.
- (3) Wall Sign
An on-premise sign permanently affixed on an exterior building wall.
- (4) Window Sign
An on-premise sign permanently affixed to a window.
- (x) X Terms (Reserved)
- (y) Y Terms
- (1) Yard
An area on a lot required to be unoccupied by structures above grade except for projections and the specific minor uses or structures allowed in such area under the provisions of this Zoning Code. A yard extends from the grade upward.
- (z) Z Terms
- (1) Zero Lot Line Dwelling/Development
Any dwelling or development with one or more building walls located on a lot line that is not on a street or alley right-of-way line.
- (2) Zoning Certificate
A document issued by the Community Development Director which indicates that the proposed use of land meets the requirements of this Zoning Code.
- (3) Zoning District
A portion of the territory of the City within which certain uniform regulations and requirements or various regulatory combinations apply under the provisions of this Zoning Code, as amended.
- (4) Zoning Map
The map delineating the boundaries of zoning districts which, along with the zoning text, comprises the Zoning Code.

CODIFIED ORDINANCES OF SPRINGFIELD
PART TWELVE - SUBDIVISION REGULATIONS

(Amended in its entirety by Ordinance No. 05-06, passed January 18, 2005)

TITLE ONE - Subdivision Regulations

- Chap. 1201. Introduction; Definitions.
Chap. 1203. Design Standards and Requirements.
Chap. 1205. Procedure for Subdividing.
Chap. 1207. Utility Transition Areas.
Chap. 1209. Commercial-Industrial Plats.
Chap. 1211. Improvements; Standards and Specifications.
Chap. 1213. Plan Approval Procedure.

CODIFIED ORDINANCES OF SPRINGFIELD
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CHAPTER 1201

Introduction; Definitions

- 1201.01 Purpose.**
1201.02 Authority.
1201.03 Zoning.
1201.04 Divisions of land not subject to these regulations.
1201.05 Jurisdiction.
1201.06 Interpretation.
1201.07 Enforcement.
1201.08 Variances.
1201.09 Adoption.

- 1201.10 Amendment.**
- 1201.11 Definitions.**
- 1201.12 Additional PD district subdivision regulations.**
- 1201.99 Penalty.**

1201.01 PURPOSE.

The rules and regulations contained in this Title One, Part Twelve, of the Codified Ordinances of the City of Springfield, Ohio, are adopted to provide an adequate urban pattern by allocating sufficient and convenient open areas for traffic, utilities, recreation, light, air and the avoidance of congestion of population.

1201.02 AUTHORITY.

The City Planning Board is authorized to adopt rules and regulations governing plats and subdivisions of land within its jurisdiction by virtue of Chapter 711.09 and 711.101 of the Ohio Revised Code. A regional planning commission established by exercise of the City Planning Board's powers and having jurisdiction within a territory governed by a Cooperative Economic Development Agreement, entered into pursuant to Section 701.07 of the Ohio Revised Code, is authorized to adopt rules and regulations governing plats and subdivisions of land within its jurisdiction by virtue of Chapter 711.09 and 711.101 of the Ohio Revised Code. Lands within the corporate boundaries of the City and which are not included within the jurisdiction of a regional planning commission, established by exercise of the City Planning Board's powers for a territory governed by a Cooperative Economic Development Agreement, entered into pursuant to Section 701.07 of the Ohio Revised Code, are lands subject to the jurisdiction of the City Planning Board.

1201.03 ZONING.

A proposed subdivision located in a zoned area shall conform to the zoning rules except as specified in Section 1201.06.

1201.04 JURISDICTION.

These regulations shall be applicable to all divisions hereinafter made of land located within the corporate limits of Springfield, Ohio, into two or more lots, parcels, or sites for building.

1201.05 DIVISIONS OF LAND NOT SUBJECT TO THESE REGULATIONS.

- (a) The subdivision of land whereby all parcels contain more than five (5) acres and new streets or easements of access are not involved.
- (b) The exchange of parcels of land between adjoining land owners, whereby the original parcel is not reduced below the requirements of zoning or these regulations and a new building site is not created as defined by Section 1201.05(a) above.

1201.06 INTERPRETATION.

The provisions of these regulations shall be held to be minimum requirements. Variances may be granted in accordance with Section 1201.08. Whenever these provisions are different from the requirements of other lawfully adopted regulations or current local health and safety standards, the more restrictive or higher standard shall prevail. The word "may" is permissive; the word "shall" is mandatory and not merely directory.

1201.07 ENFORCEMENT.

It shall be the duty of the Planning Board and its staff, together with other appropriate City officers, to enforce these regulations in the jurisdictional limits as set forth previously in Section 1201.02 and 1201.04.

1201.08 VARIANCES.

Variances may be granted in the regulations set forth herein by the Planning Board if it deems such action essential in view of unusual topographic conditions or other special circumstances, provided, however, that any variance being requested does not conflict with the general purpose and intent of these regulations. Before reaching a decision on variances from regulations involving streets, utilities, or drainage prescribed herein or in Chapter 931, Engineering Regulations, Public Infrastructure Improvements, the Planning Board shall obtain the recommendation of the Director of the Department of Community Development thereon. When the Planning Board's decision differs from the recommendation of the Director of the Department of Community Development, the final determination shall be made by the Commission. To secure a variance, the applicant shall make a written request to the Planning Board explaining fully the reasons therefor and submit same with the Phase I plan, defined in Section 1205.02(c) and 1205.02(d), or as soon as possible after Phase I submission. Action by the Planning Board on such a request will be taken as part of general action on the Phase I plan.

1201.09 ADOPTION.

These regulations shall be effective after the necessary public hearings, adoption by the Planning Board, the approval by the City Commission, and certification to the Recorder of Clark County.

1201.10 AMENDMENT.

These regulations may be amended in accordance with the same procedure as stated in Section 1201.09.

1201.11 DEFINITIONS.

For the purpose of this chapter, the following words and terms shall have the meanings given herein.

- (a) (1) **"Alley"** means a public right-of-way thirty (30) feet or less in width.
- (b) (1) **"Block"** means a parcel of land bounded on all sides by a street or streets.
- (2) **"Building setback line"** means a line indicating the minimum horizontal distance between the street right-of-way and any building or projection thereof, excluding steps and unroofed porches. In cases where the proposed width of a street as set forth in the Thoroughfare Plan differs from that of the existing street, the building setback line shall be measured from the proposed street right-of-way line if said right-of-way is fixed and documented.
- (c) (1) **"CEDA Planning Commission"** means a regional planning commission established by exercise of the City Planning Board's powers for a territory within the corporate boundaries of the City governed by a Cooperative Economic Development Agreement entered

into pursuant to Section 701.07 of the Ohio Revised Code.

- (2) **"City Planning Board"** means the City Planning Board of the City of Springfield, Ohio.
- (3) **"Clark County Planning Commission"** means the Planning Commission of Clark County, Ohio.
- (4) **"Comprehensive Master Plan"** means the long-range plan adopted and as amended from time to time by the boards and commissions involved, which plan provides for the general location of the principle streets, parks, zoning districts, schools and other public buildings, and any other long-range aspects of physical planning.
- (5) **"County Commission"** means the elected legislative body for the unincorporated area of Clark County, Ohio.
- (6) **"County engineer"** means the Engineer of Clark County.
- (7) **"Crosswalk"** means a ten-foot public right-of-way which cuts across a block to provide pedestrian access to adjacent areas.
- (8) **"Cul-de-sac"** means a minor street having one end permanently terminated by a vehicular turnaround with the other end opening into another street and having no intersection with any other street between such ends.
- (d) (1) **"Dead-end street"** means a street right-of-way having only one (1) outlet for motor traffic and not containing a vehicular turnaround.
- (2) **"Developers"** means any person who constructs or contracts to construct improvements on subdivided land.
- (3) **"Director"** means the Director of the Department of Community Development of the City.
- (e) (1) **"Engineer"** means an individual authorized to practice civil engineering as defined by Occupations--Professions of the State of Ohio, due to his registration in said state.
- (f) (1) **"Fixed and documented"** means a boundary, feature, or dimension of a right-of-way proposed by the Thoroughfare Plan shall be fixed and documented when final engineering plans showing or indicating such boundary, feature, or dimension are completed and the actual centerline survey showing or indicating such boundary, feature, or dimension is recorded, either in the County Recorder's Office or is established in the journal of the director of the Ohio Department of Transportation.
- (2) **"Flood areas"** mean those districts flooded in the 1913, 1929 and/or 1959 flood.
- (g) Reserved.
- (h) Reserved.
- (i) (1) **"Improvements"** mean street pavements; curb and gutter; walks; sanitary, storm, and water mains; and any other appropriate items.
- (2) **"Inspection fee"** means the fee paid by the subdivider or developer to the City for inspecting the construction of improvements. The above may be modified by the existence and/or adoption of a utility extension policy.
- (j) Reserved.
- (k) (1) **"Key map"** means a drawing at a reduced scale located on the final map, which shows enough of the general area around the subdivision in question so as to locate said subdivision. The key map shall include one state highway and, when possible, the intersection of two state highways.
- (l) (1) **"Land Use Plan"** means the long-range plan for the desirable use of land as officially adopted and as amended from time to time by the City's boards and commissions involved in land use planning within the City. The purpose of such plan, among other purposes, is to serve as a guide in the zoning and in the progressive changes in the zoning of land to meet changing community need in the appropriate subdividing and development of undeveloped land and in the acquisition of rights-of-way or sites for such public facilities as streets, parks, schools, and/or public buildings.
- (2) **"Lot"** means a piece, parcel, or tract of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings or utilized for a principle use and uses accessory thereto, together with the required open spaces and having frontage on a public street.
- (3) **"Lot corner"** means a lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.
- (4) **"Lot interior"** means a lot other than a corner lot.
- (m) (1) **"Major traffic artery"** means a street which is designated as a primary or secondary thoroughfare on the Thoroughfare Plan or any street of equal importance as designated by the Planning Board and/or Clark County Planning Commission with the concurrence of the Service Director and/or the County Engineer.
- (2) **"Manufactured home"** means a structure transportable in one or more sections which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. It includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
- (3) **"Manufactured home park or subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or for sale. This definition shall exclude any manufactured home park as defined in Section 3733.01 of the Ohio Revised Code over which the public health council has exclusive rule-making power.
- (4) **"Map"** means the scaled representation of a parcel of land or a subdivision.
- (5) **"Multi-family"** means involving three or more dwelling units in one structure.
- (n) (1) **"Neighborhood pattern"** means an urban pattern of development based upon the neighborhood unit concept.
- (2) **"Neighborhood plan"** means a neighborhood unit pre-designed prior to the subdivision of most of the land area for purposes of indicating the general location of the different land uses and streets.
- (3) **"Neighborhood unit"** means an area of land urban in character and bounded, but not traveled, by major traffic arteries or other barriers, resulting in a distinct entity of such size and density as to contain its own school, churches, shopping district, and recreation area.
- (o) Reserved.
- (p) (1) **"Performance bond"** means an agreement between a developer and a bonding company in favor of the City of Springfield for 100 percent of the amount of the estimated cost of construction guaranteeing the completion of physical improvements according to plans and specifications within the time limit prescribed a plat agreement entered into between a subdivider and the City.
- (2) **"Planning Board"** means the City Planning Board or CEDA Planning Commission which has jurisdiction over the subject territory.
- (3) **"Plat"** means a scaled map showing the subdivision or an area which has been or is about to be subdivided.
- (4) **"Public Utility"** means any entity which provides essential products or services to the public with the characteristic of service to, or readiness to serve, an indefinite public which has a legal right to demand and receive the entity's products or services and which conducts its operations in such a manner as to be a matter of public concern [See, *A & B Refuse Disposers, Inc. v. Board of Ravenna Township Trustees* (1992), 64 Ohio State 3d 385].
- (q) Reserved.
- (r) (1) **"Regulations"** means Subdivision Regulations for The City of Springfield, Ohio, as set forth in Part Twelve, Title One of the Codified Ordinances of The City of Springfield, Ohio.
- (2) **"Reserves"** means parcels of land within a subdivision that are intended for a future designated use.
- (3) **"Right-of-way"** means that area between lines designating the extent to which the public is entitled to use for purposes of access either by dedication or easement. The street right-of-way shall be the lines which are existing or those proposed per the Thoroughfare

Plan and Section 1203.02.

- (s) (1) **"Staff"** means a group of individuals assisting and advising the Planning Board within the realm of planning.
- (2) **"Street"** means a public right-of-way 50 feet or more in width which provides a public means of access to abutting property or any such right-of-way 30 feet in width or more provided it existed prior to February, 1968. The term street includes avenue, drive, circle, road, lane, court, parkway, boulevard, highway, thoroughfare, or any other similar term.
- (3) **"Street, collector"** means a public right-of-way which carries traffic from minor streets to the major system of arterial streets and highways including the principal entrance streets of a residential development and streets for circulation within such a development.
- (4) **"Street, major and secondary"** means an officially designated Federal or State numbered highway or any other street designated as a major or secondary thoroughfare on the most current Land Use Plan or Comprehensive Plan map.
- (5) **"Street, marginal access"** means a minor street which is generally parallel and contiguous to an expressway, freeway, parkway or other major street and is so designed as to intercept, collect, and distribute traffic desiring to cross, enter, or leave such traffic artery and which provides access to abutting properties and protection from through traffic.
- (6) **"Streets, minor"** means public streets which are used primarily for access to the abutting properties.
- (7) **"Street, special"** means a public thoroughfare designated for a particular use, such as serving apartment areas, and not classified within the street groupings as listed in this section.
- (8) **"Subdivider"** means any person or persons or duly authorized agent of such person or persons who undertakes the subdivision of land as defined in Section 1201.11(s)(9).
- (9) **"Subdivision"** means:
 - A. the division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than five acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites shall be exempted; or
 - B. the improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets, except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage or public facilities.
- (10) **"Subdivision technical review agencies"** means agencies comprised of the Planning Board's staff and the following review agencies (as applicable):
 - A. County
 - B. Public Works
 - C. Clark County Combined Health
 - D. Sanitary Engineer
 - E. Soil and Water Conservation District
 - F. and others as required
- (11) **"Surveyor"** means a registered surveyor as defined by the Registration Act of the State of Ohio.
- (t) (1) **"Test hole"** means excavations of the earth's crust ten foot in length and approximately two feet wide and ten feet deep.
- (2) **"Thoroughfare Plan"** means the official Thoroughfare Plan as adopted, and as amended from time to time by the Planning Board, defining the location and actual and/or proposed right-of-way widths of freeways, primary arterials, and secondary arterials in the City. The Thoroughfare Plan is on file with the staff members in the office of the Planning Board.
- (u) (1) **"Unplatted subdivision (lotsplit)"** means the division of a parcel of land along an existing public street, not involving the opening, widening, or extension of any street or road, and involving no more than five (5) lots after the original tract has been completely subdivided.
- (2) **"Urban area"** means:
 - A. A proposed subdivision shall be considered to be in a potentially urban area if one or both of the following conditions exist:
 - (i) If the proposed subdivision is located in an area which contains 25 lots or more, either proposed or existing and proposed, all of which lie within the bounds of a circle, the center of which is located near the center of the proposed subdivision and has a radius of 700 feet or less or as in the case of a one street linear development where the 25 lots will face upon a street within a lineal distance of 2,500 feet. Measurement of a one-street linear development will begin in the center of the proposed development and extend for a distance of 1,250 feet each side of center.
 - (ii) If the subdivision is located in an area designated by the Planning Board as a utility transition area.
- (3) **"Utility Easement"** means a grant by the owner of land for the benefit of the City and the benefit of public utilities for the construction, reconstruction, operation and maintenance of infrastructure (including ditches) for the City's municipal water, sewer, storm water management, energy, telecommunications, data transmission and other essential products and services needed by the public and for services provided by public utilities.
- (4) **"Utility transition area"** means any area indicated on the Land Use Plan designated for and future residential use at population densities requiring the provision of public water supply and public sanitary sewage disposal, but which lacks one or both of such utility services. A utility transition area may also be designated by the Planning Board, when in their opinion, the provision of one or both of the above-mentioned utility services are assured within a reasonable length of time.

1201.12 ADDITIONAL PD DISTRICT SUBDIVISION REGULATIONS.

Subdivision regulations which are imposed in a PD Ordinance adopted under Chapter 1140 of the Codified Ordinances will be in addition to the regulations imposed under Part Twelve of the Codified Ordinances and, to the extent subdivision regulations imposed in such PD Ordinance vary from the subdivision regulations in Part Twelve of the Codified Ordinances, the subdivision regulations imposed in the PD Ordinance shall supersede the subdivision regulations in Part Twelve of the Codified Ordinances.

(Ord. 06-235. Passed 6-27-06.)

1201.99 PENALTY.

Any violations of Chapter 711 of the Ohio Revised Code or of these regulations is subject to the penalties as set forth in Chapter 711 of the Ohio Revised Code.

CHAPTER 1203

Design Standards and Requirements

- 1203.01 Conformity.**
- 1203.02 Streets.**
- 1203.03 Lots.**
- 1203.04 Blocks.**
- 1203.05 Utility easements.**
- 1203.06 Alleys.**
- 1203.07 Trees.**
- 1203.08 Suitability of land.**
- 1203.09 Flood plain requirements.**

1203.01 CONFORMITY.

Every proposed residential subdivision shall conform to a neighborhood-type urban pattern. The specific area plan together with the Comprehensive Master Plan for the City of Springfield and Clark County, shall be adhered to if, as, and when adopted.

- (a) Drainage. The subdivider shall provide the necessary means to assure proper drainage as determined by the City Engineer.
- (b) Drainage Easements or Rights-of-Way. A utility easement shall be provided on both sides of a storm drainage closed system or open course, for the purpose of replacing, widening, deepening, or general maintenance. The minimum width of a utility easement carrying storm water shall be twenty (20) feet. In the case of large drainage ways, or ditches, the Service Director or Planning Board may require a drainage right-of-way if a utility easement is deemed inadequate and/or too much of the lot would be utilized for drainage purposes.
- (c) Major Drainage Areas. Subdivisions located in major drainage areas shall be improved so as to render the area substantially safe for the desired use.

1203.02 STREETS.

(a) Pattern. The pattern of streets shall conform to the Thoroughfare Plan of either the City or the County and with the provisions of these regulations. Within the boundaries of the plat, the following provisions pertaining to streets shall be adhered to:

- (1) The necessary right-of-way for widening or extension of all existing thoroughfares and for proposed thoroughfares as indicated by the Thoroughfare Plan involved, when the right-of-way width as proposed by the Thoroughfare Plan is fixed and documented, shall be dedicated provided the width to be dedicated need not exceed fifty (50) feet measured from the centerline of the right-of-way.
- (2) When a subdivision involves land fronting on an existing county or township road not designated on the Thoroughfare Plan as of equal or greater importance than a secondary street, a reasonable provision shall be made for the necessary right-of-way for traffic, utilities and drainage.
- (3) When, in the opinion of the Planning Board, one or more streets serving a multi-family development act as traffic collectors, they shall conform to the standards for a collector street as designated in Section 1211.02, Table 2.

(b) Continuity. The street pattern shall make provisions for the continuance of streets into adjacent vacant properties, and for the connection to the proper existing right-of-way in adjacent developed areas. Using the end width of an existing street as frontage shall, therefore, be prohibited.

(c) Cul-de-Sac. The maximum length of a cul-de-sac shall be five hundred (500) feet measured from the middle of the turnaround or more particularly the point of radius to the near edge of the intersecting right-of-way with the following exceptions for subdivisions located in single-family zoning districts:

- (1) When all lots fronting upon the cul-de-sac have at least 8712 square feet of lot area, a cul-de-sac having a length of not more than 700 feet may be permitted provided Sections 1203.01(a) and 1203.02(b) are not.
- (2) When all lots fronting upon the cul-de-sac have at least 15,000 square feet of lot area and when all such lots except those having at least 80 percent of their frontage on the turnaround, having one hundred (100) feet or more of frontage, a cul-de-sac having a length of not more than 900 feet may be permitted; provided Sections 1203.01(a) and 1203.02(b) are not violated. Within the turnaround, the minimum right-of-way radius shall be fifty (50) feet. The street surface requirements for dead-end streets shall be as set forth in Section 1211.02(a)(3).

(d) Half or Partial Streets and Alleys. Dedication of half-streets shall be discouraged. Where a half-street or half-alley exists adjacent to the tract to be subdivided, the other half-street shall be platted if deemed necessary by the Planning Board. The improvements on half-streets shall be as set forth in Section 1211.01(d).

(e) Intersections. Streets shall intersect one another at ninety (90) degrees or as near to ninety (90) degrees as possible. The curb radius requirements are set forth in Section 1211.02(a)(2). The property lines shall be rounded with a radius of fifteen (15) feet or greater if the City Engineer deems it necessary.

(f) Jogs. Street intersection jogs of less than one hundred and twenty-five (125) feet measured from street centerline to street centerline shall be discouraged.

(g) Approaches. The approach to an intersection shall be perpendicular or as close to right angles as possible to the intersecting street for a distance of at least fifty (50) feet measured from the closer right-of-way line of the intersecting street for minor streets and one hundred (100) feet measured from the closer right-of-way line of the intersecting street for all other streets. Whenever a street intersects another street on a curve, the Director shall determine if it is an acceptable intersection.

(h) Names. The names of new streets shall not duplicate existing street names, except where a street is extended, or when the new right-of-way is in alignment with an existing one. All new streets shall be named as follows:

General Direction	

North and South	Street
East and West	Avenue
Diagonal	Road
Curving	Drive
Dead-end (North and South)	Lane
Dead-end (East and West)	Court
Circular street or any part thereof	Circle

(g) Width. The width of a street shall be as specified in Section 1201.11(s)(2).

1203.03 LOTS.

(a) Frontage. Except as provided below, all lots must have frontage on a public street other than a controlled or limited access street. The end width of an existing street shall not be used as frontage as stated in Section 1203.02(b). A parcel of land which was sold on land contract without street frontage prior to 1970 may now be subdivided without street frontage, provided the parcel has access to a public street over a perpetual access easement.

(b) Minimum Lot Size. Minimum lot sizes in zoned areas, where public and/or community sewer and water is to be utilized shall be as specified in the appropriate zoning code. Lot sizes in zoned areas where sewer, either public and/or community, is not available, shall be as specified below. Minimum lot sizes in areas that are not zoned shall be as specified in Table 1 found in this section. In certain areas where the Planning Board and the City Commission, when involved, deem it necessary, the minimum requirement set forth in Table 1, Column A, found in this section for single-family dwellings may be varied in recognition of an established need for low-cost housing, provided the minimum requirements of the Zoning Code applying to a given tract of land shall be adhered to.

(c) Maximum Lot Size. No lot shall have a depth which is more than four (4) times its width. In case of a lot not having a uniform width, "width" as used in the preceding sentence shall mean the average of the greatest and least width of such lot. This provision shall not apply to a lot which has an area of more than five (5) acres, has a minimum lot width of 150 feet, and meets all the other requirements of the zoning ordinance and the subdivision regulations.

(d) Utility Transition Area. If the subdivider chooses to provide water and sewer services in the manner set forth in Section 1211.01 (i), minimum lot size and width shall be as noted in Section 1203.03, Table 1, Column A. If the subdivider chooses to provide temporary water supply and sewage disposal on each individual lot, such lots may be platted in such a manner that in the future each lot may be split into two or more parts, each of which contains the necessary area and frontage as specified in Section 1203.03, Table 1, Column A. The original lot shall have a minimum frontage and lot area as specified in Section 1203.03, Table 1, Column B. The procedure for platting lots in the aforementioned manner is set forth in Chapter 1207.

(e) Corner Lots. In areas where sewer and water are available the minimum width as measured across the least width of the lot at the building line shall be 85 feet.

(f) Double Frontage. Double frontage lots other than corner lots shall be prohibited except when the size of the tract, topography, or other circumstances are such that development of the tract without double frontage lots would be impracticable as determined by the Planning Board or when the Planning Board requires them in order for lots adjoining a major traffic artery to have frontage on a minor street in the proposed subdivision. In either of such cases, the right-of-way boundary of the minor street shall constitute the front of any such lots. There shall be no right-of-vehicular access across the rear property line. Such prohibition of vehicular access shall be expressed on the plat, and a release and relinquishment of said right-of-access to the political subdivision having control of such major traffic artery shall be incorporated in the dedication section of the record plan. The minimum depth for a double frontage lot shall be 150 feet.

(g) Lot Lines. Side lot lines shall be approximately at right angles to the street, or radial to curved streets. Curved side or rear lot lines shall not be permitted.

(h) Shape. All lots when possible, shall be rectangular in shape. Triangular-shaped lots shall be discouraged.

(i) Setbacks. Minimum building setback requirements shall be as required in the appropriate zoning code. In unzoned areas, minimum setback requirements shall be as specified below. All required minimum building setback lines for front yards shall be measured from the nearer edge of the existing or proposed, if applicable, right-of-way.

- (1) Residential Lots. The minimum building setback line shall be 30 feet. The minimum building setback on the side street of a corner lot shall be 25 feet.
- (2) Business or Industrial Lots. The minimum front setback line on a business or industrial lot shall be 25 feet. The minimum building setback on the side street of a corner lot shall be 20 feet.
- (3) Exceptions. When the minimum required setback line is greater than that established by existing buildings on contiguous lots on the same street, corner lots excepted, there may be a gradual transition at the rate of two-and- one-half feet or more per lot from the existing to the new. However, on residential lots the minimum setback shall not be less than 15 feet.

1203.04 BLOCKS.

(a) The length, width, and shape of a block shall be determined with due regard to the following:

- (1) Provisions for an adequate number of building sites which contain the necessary area for the particular need and use intended as specified by these regulations and any involved zoning regulations.
- (2) The need for convenient access, circulation control, and safety of street traffic.
- (3) The limitation of topography.

(b) Blocks shall not exceed 1,600 feet in length. A crosswalk, the right-of-way of which shall not be less than ten feet, shall be required, if in the opinion of the Planning Board and Commission, when involved, this facility is necessary.

1203.05 UTILITY EASEMENTS.

Utility easements shall be of such location and width as determined by the City and utility companies. Utility easements shall include those easements required at the time of platting by the City for drainage and/or utility lines and shall be of such location and width as requested by the proper authority. The final plat shall not be signed for recording until approval of all utility easements has been verified by the utility companies and/or the City. Any change from the map as approved by the utility companies and/or the City that alters any utility easement shall be subject to reapproval before signing the final plat.

1203.06 ALLEYS.

(a) Alleys Prohibited in Dwelling House Areas. Alleys shall not be permitted in dwelling house districts unless there are unusual circumstances which make alleys necessary.

(b) Alleys Required in Certain Districts. Alleys may be required in areas deemed necessary by the Planning Board after review and comments from the appropriate City departments.

(c) Width of Alleys. The minimum width for an alley shall be twenty (20) feet.

(d) Intersection and Alignment. Alley intersections and sharp changes in alignment shall be avoided. The corners of intersecting alleys shall be cut off by a line connecting two points which are located along the alley lines ten feet back from the intersection.

(e) Dead-End Alleys. Dead-end alleys shall not be permitted unless considered necessary by the Planning Board and Commission, when involved.

1203.07 TREES.

Where necessary, all existing trees shall be removed from the street right-of-way. Trees, when planted, shall be located outside any utility easement and planted in such a manner as not to impair visibility at any corner. It is recommended that all subdividers or developers salvage as many acceptable existing trees as possible.

1203.08 SUITABILITY OF LAND.

If the Planning Board finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, unsuitable soil conditions, topography, inadequate water supply, schools, transportation facilities, or other such conditions which may endanger health, life, or property; and if from investigations conducted by the health agencies concerned, it is determined that in the best interest of the public, the land should not be developed for the purpose proposed, the Planning Board shall not approve the land for subdivision unless adequate methods are adopted by the subdivider for solving the problems that will be created by the development of the land.

1203.09 FLOOD PLAIN REQUIREMENTS.

All subdivision proposals, including manufactured home subdivisions, shall be consistent with the need to minimize flood damage; shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage; and shall have adequate drainage provided to reduce exposure to flood damage. Base flood elevation data shall be provided for all subdivision proposals, including manufactured home subdivisions.

CHAPTER 1205

Procedure for Subdividing

1205.01 Subdivisions involving five lots or less.

1205.02 Subdivisions involving five lots or more.

1205.01 SUBDIVISIONS INVOLVING FIVE LOTS OR LESS.

(a) A proposed division of a parcel of land shown as a unit on the tax roll (duplicate) as of October 30, 1972, may be submitted to the Planning Board's staff for approval without a plat if the proposed division of a parcel of land meets all of the following conditions:

- (1) The proposed division is located along (fronts upon) an existing public road other than a controlled or limited access road and involves no opening, widening, or extension of any street or road.
- (2) No more than five (5) lots are involved after the original parcel has been completely subdivided.
- (3) The proposed subdivision is not contrary to applicable platting, subdividing, or zoning regulations.
- (4) The property has been surveyed and a surveyor's drawing and legal description of the property is.
- (5) The proposed division has been approved by the Clark County Combined Health District when public sewer and/or water is not available.

(b) If approval is given under these provisions, the Planning Board, acting through a properly designated representative, shall within seven (7) working days after submission of required items and information, approve such proposed division and, upon presentation of a conveyance for said parcel, shall stamp "Approved by the City Planning Board of the City of Springfield, Ohio: No Plat Required," or "Approved by the [insert specific commission name] Regional Planning Commission: No Plat Required," as applicable, and the authorized representative of the Planning Board shall sign the conveyance. Each approval shall be void after ninety (90) days.

(c) An application fee of ten dollars (\$10.00) per approval stamp, a drawing, and a written legal description shall be required for submission of a subdivision. A drawing based on a survey showing location of property and giving dimensions and other such information as may be necessary.

(d) When the existing street right-of-way width within the corporate limit is inadequate as determined by the Thoroughfare Plan involved, and if the right-of-way width within the corporate limit as proposed by the Thoroughfare Plan is fixed and documented, a conveyance in the form of a separate deed shall be required to satisfy said right-of-way width deficiency. However, the strip of land to satisfy said right-of-way width deficiency need not exceed fifty (50) feet measured from the centerline of the right-of-way. The grantor shall not be required to install street improvements. Such conveyance shall be made to the City and the deed for which lot split approval is sought shall exclude from its operation such land hereby

required to be conveyed to the City.

1205.02 SUBDIVISIONS INVOLVING MORE THAN FIVE LOTS.

(a) Prior to preparing the first phase of the plan it is strongly recommended that the subdivider seek the counsel of the staff at the outset by submitting a sketch plan, the contents of which are described in Section 1205.02(b) below. The staff shall, within five (5) working days, inform the subdivider that the sketch plan as submitted does or does not meet the objectives of these and other applicable regulations. The reasons along with the suggested modifications shall be given to the subdivider.

(b) The sketch plan may be in pencil showing the land in question in relation to the surrounding area. Existing and proposed streets, lots, and other features shall be shown in a manner so that the sketch plan can be properly evaluated. Sufficient information pertaining to topographic data shall be presented.

(c) Phase I of the plan will be submitted to the Planning Board's staff containing all data required in this section and all other requirements of these regulations at least 20 working days prior to the regularly scheduled meeting of the Planning Board; provided the applicant agrees to an extension of the thirty-day time limit imposed in Ohio Revised Code §711.09. During the above-prescribed time period, the subdivision technical review agencies shall examine the plans as presented and will prepare and present to the Planning Board's staff, a written report containing specific information concerning their conclusions and recommendations on the plat as set forth in Section 1213.01(d). When the applicant agrees to an extension of the thirty-day time limit as per Section 1205.02(c), a letter advising of the contents of the returned reports shall be mailed to the subdivider, to the subdivider's developer and his engineer at least eleven (11) working days prior to the Planning Board meeting date. Any changes recommended by the subdivision technical review agencies may be incorporated into a revised Phase I Plan which is to be submitted to the staff by the subdivider and to the subdivider's developer. If the applicant agrees to said changes, he shall submit two (2) copies of the revised Phase I plans to the staff at least five (5) working days prior to the Planning Board meeting date. The subdivision technical review agencies shall make recommendations to the Planning Board.

- (1) Effective September 1, 2000, an application, copies of which are available in the office of the Planning Board's staff, shall be submitted together with an application fee of \$300.00 per subdivision plus \$10.00 per lot.
- (2) A preliminary soil evaluation of a proposed development shall be conducted by the Clark County Combined Health District in cooperation with the subdivider and the subdivider's developer and the engineer representing the subdivider or the subdivider's developer. The purpose of the preliminary soil evaluation is to identify the soil limitations, hazards, and other conditions which could effect the installation and operation of on-site sewage disposal systems in the proposed subdivision by examination of test holes. This procedure is not necessary if sanitary sewer lines are to be used. The Clark County Combined Health District shall approve such subdivision to use individual water supplies or individual sewer disposal systems, or both, only if it is satisfied, after giving due consideration to the topography and soil conditions, the proposed size of lots, the number of lots proposed for the subdivision, and other matters which may affect the operation of the individual water supplies or individual sewage disposal systems, or both, and to the regulations of the health district governing such systems, that individual water supplies or individual sewage disposal systems will operate satisfactorily in the subdivision and not be detrimental to the public health or cause unsanitary conditions. Any changes to street patterns, lot sizes or utility easements subsequent to the approval of the Clark County Combined Health District will require resubmission of the revised plans and re-approval by the Clark County Combined Health District.
- (3) Protective covenants, an example of which are available at the office of the Planning Board's staff, may be filed.
- (4) A vicinity sketch showing the outer boundaries of the proposed subdivision, in relation to the existing streets, lots and drainage ways, and developed land in the surrounding area, shall be incorporated on the plat map. In addition, a vicinity sketch showing the outer boundaries of the proposed subdivision, indicating proposed streets and lot lines in relation to the surrounding area, existing streets, lots, and drainage ways shall be provided on reproducible 8-1/2-inch by 11-inch paper in pencil or ink.
- (5) A preliminary drainage plan shall be filed with the staff. This plan shall consist of the amount of area (watershed) which drains into, in, and through the proposed subdivision; the origin and proposed destination of storm water; profiles of the drainage system (ditches, enclosed storm sewers and streets) throughout the subdivision; location and calculations for sizing of proposed drainage facilities which shall be designed for a ten-year storm frequency; and field tile locations where known.
- (6) The Phase I map of the proposed subdivision shall contain the following items:
 - (A) Proposed title of the subdivision. Said title shall not duplicate the name of any other subdivision already in use.
 - (B) Location by section, town, range, city and state.
 - (C) Names and addresses of the subdivider, owner, and surveyor.
 - (D) A north point and a scale of not more than one hundred (100) feet to the.
 - (E) Any portion of land being subdivided within a major drainage area shall be shown as it pertains to the particular area.
 - (F) The location of existing rights-of-way; easements and physical features such as drainage channels, wooded area, poles and power lines, fences, roads, railroads and buildings within the tract.
 - (G) The location of existing rights-of-way and easements and the approximate location of buildings on unplatted land parcels, wooded areas and power lines for a distance of two hundred (200) feet from all sides of the land in question. Existing public streets shall be identified.
 - (H) The location and widths of proposed easements and rights-of-way.
 - (I) Names and addresses of owners of property abutting the proposed subdivision. When the adjoining lots are too small for owner's names and addresses to be drawn on the map itself, the lot shall be identified by numbering or lettering and the owner's names and addresses may be shown on a separate sheet to be attached to the Phase I map.
 - (J) Accurate delineation of all zoning districts in effect. If any zoning changes are contemplated by the subdivider, the proposed zoning shall be outlined.
 - (K) Existing contours with intervals of not more than five (5) feet where the slope is greater than ten (10) percent, and not more than two (2) feet where the slope is less than ten (10) percent. Elevations are to be based on sea level datum.
 - (L) The location of the bench mark used to determine the contour lines.
 - (M) The location of existing lot lines adjacent to the land to be subdivided, and the location with approximate dimensions of proposed lot lines.
 - (N) A system of lot numbering purely for identification and may be changed at time of recording.
 - (O) The location and size of existing sanitary and storm sewers, water mains, culverts, and other underground structures within the tract and adjacent thereto.
 - (P) The location of the setback lines on all proposed new lots.
 - (Q) The boundary of the subdivision indicated by a heavy line and the approximate acreage.

(R) Date.

(S) The location of all proposed street light poles and power supply lines to such poles; however, if the plan for such poles and power lines is not yet complete at the time that Phase I approval is being requested, a note shall be made on the Phase I Map and that the subdivider of the subdivider's developer is working to complete such plan with the utility that will provide power to the light poles and the Service Department.

(Ord. 19-289. Passed 12-10-19.)

(d) In order for a Phase II plan to be considered by the Planning Board at its next regularly scheduled meeting, it must be submitted to the Planning Board's staff containing all data, required in this paragraph and all other requirements of these regulations, at least 15 working days prior to the regularly-scheduled meeting.

(1) An application shall be filed.

(2) A plan and profile of all streets, storm drainage lines, water lines and sanitary sewer lines, and the final computations on sizing of water lines and storm and sanitary sewers shall be submitted. A typical street cross section shall be indicated on these plans. The plans shall also show the location and type of all street lights to be installed as described in Section 1211.03(e). The plans and profile shall be prepared by or under the supervision of a registered engineer.

(3) An estimate of the quantities and cost of all required improvements.

(4) The final record map (Phase II of the plan) of the proposed subdivision shall conform to the approved Phase I plan and be drawn to a scale of 50-, 60-, 80-, or 100-feet per inch. This map shall be presented in either original India ink or photograph of an India ink drawing on tracing cloth or plastic drafting film, provided the signatures are original. The overall final plan shall be 18 inches by 24 inches, and shall contain all of the following items which are applicable:

(A) The name of the proposed subdivision and the location by section, town, range, city and state.

(B) Legal Description.

(C) A bar scale, a north point, and the acreage.

(D) An acknowledgment by the owner or owners of the adoption of the plat, and dedication of streets and other public areas.

(E) A proper acknowledgement certificate of a Notary Public.

(F) Certification by a surveyor, registered in the State of Ohio, that the plan represents a survey made by him or under his supervision on the date the survey was made and that except as otherwise stated upon the map, all monuments shown thereon actually exist.

(G) When necessary, a statement of approval by the Clark County Combined Health District.

(H) A statement of approval by the Planning Board and a statement of acceptance by the City Manager. If the City is the payee of a certified check or a letter of credit or is a party to a bond agreement, a statement of acknowledgment shall be provided for the City Manager.

(I) A list of protective restrictions, if any.

(J) The boundary lines of the area being subdivided with accurate dimensions and bearings. Said exterior boundary, when computed from field measurements of the ground, shall close within a limit of error of one (1) foot to five thousand (5,000) feet before balancing survey.

(K) A known reference point plus corporation and/or section lines transgressing the plat or immediately adjacent thereto shall be accurately tied to the lines of the subdivision by distances and bearings.

(L) All dedicated areas for public use plus any area reserved for future acquisition or dedication. These areas shall be identified and dimensioned.

(M) The acreage of the dedicated and/or reserved areas within the plat for school, park, playground, or open space purposes.

(N) Length of all arcs, tangents, and radii along with internal angles, points of curvature and tangent bearings and length of all curves.

(O) Easements for public use, services, utilities and drainage with dimensions.

(P) All linear dimensions and angular measurements.

(Q) All lot lines with the necessary distances and bearings. A system of identifying each lot in accordance with the Clark County Auditor's Office.

(R) Building setback lines with dimensions.

(S) The location of all proposed or existing monuments and bench marks within the plat or immediately adjacent thereto.

(T) The location and identification of all adjacent rights-of-way, lots, alleys, and easements.

(U) The portion of land being subdivided within a major drainage area shall be shown as it pertains to the particular area.

(V) Key map.

(e) The Secretary of the Planning Board shall notify the subdivider by mail of the final action of the Planning Board within five (5) working days of said action. The subdivider shall record the plat in the office of the Recorder of Clark County, Ohio, within one (1) calendar year after the date of approval unless the Planning Board agrees to an extension. If the plat is not recorded within said time limit, the plan shall be considered void. Within twenty (20) days after the plat is recorded, the subdivider shall furnish prints and either a sepia, a photolith, or the original reproducible linen of the plat to the Planning Board's staff.

CHAPTER 1207

Utility Transition Areas

1207.01 Purpose.

1207.02 Provisions for Transition areas.

1207.01 PURPOSE.

The purpose of this chapter is to provide a way to develop land needed for and adapted to residential use at a population density requiring both public water supply and sanitary sewer system, but which area does not contain one or both of these utilities at the time of development. It is necessary that Utility Transition Areas be confined to undeveloped areas adjacent to existing urban areas containing the needed utility services so that in due time these services will be available. The provisions are made allowing a resubdivision of the original plat at a later date when utility lines are available so as to induce development in an economical manner and orderly arrangement rather than unsound scattered type of development.

1207.02 PROVISIONS FOR TRANSITION AREAS.

(a) Lots may be platted in such a manner that in the future each lot may be split into two (2) or more parts, each of which contains the necessary area and width requirements as set forth in Section 1203.03, Table 1, Column A as they pertain to single-family developments. Such lots shall be designated on the plat as having two or more parts by the use of a thin broken line. Each of the parts shall be identified by the letter A, B, etc. Each

lot shall be sold as a unit and recorded on one deed. Such lots shall be restricted in use to one single-family residence. It shall also be noted in the restrictions that, at the time water and sanitary sewer lines are made available to any lot, said lot may be split in two (2) or more parts if there is no existing dwelling so located on the lot that its required yards occupy portions of two (2) or more subsections. The above-noted restrictions of sale and use of land shall be specified in the deed and plat. A sample set of subdivisions restrictions is listed in the reference manual located in the Department of Community Development.

(b) At such time as public water and sanitary sewer facilities are available to the aforementioned type of lots, the foregoing restrictions shall be terminated if desired by the Planning Board, and City Commission when involved, by authorizing the splitting of such lots under the provisions of Section 1205.01.

Table 1 UTILITY TRANSITION AREA					
	A	B	C	D	E
Type of Development	Sewer and Water Available or Provided by Temporary Package Plant	Temporary Well and Septic System	Sewer and Water Not Available	Public Water Available	Public Sewer Available
Single Family	60 feet continuous frontage on a public road 7,500 sq. ft. of area	140 feet continuous frontage on a public road 20,000 sq. ft. of area	125 feet continuous frontage on a public road 28,000 sq. ft. of area	100 feet continuous frontage on a public road 20,000 sq. ft. of area	80 feet continuous frontage on a public road 16,000 sq. ft. of area
Two Family	80 feet continuous frontage on a public road 10,000 sq. ft. of area				
Multi-Family	To be established by Planning Board				
Business	To be established by Planning Board				
Industrial	To be established by Planning Board				

1. Greater lot width and areas may be required by the Clark County Combined Health District in cases of adverse soil conditions.
2. Calculations of lot areas shall not include that portion of any lot occupied by a public right-of-way or proposed right-of-way either by dedication or by easement.

CHAPTER 1209

Commercial-Industrial Plats

1209.01 Design standards and requirements.

1209.02 Special Provisions.

1209.01 DESIGN STANDARDS AND REQUIREMENTS.

All commercial-industrial plats shall adhere to design standards and requirements specified in Chapter 1203 .

1209.02 SPECIAL PROVISIONS.

All commercial-industrial plats must adhere to the following requirements:

- (a) Commercial-industrial plats must be zoned for business or industry before this section is applicable.
- (b) All commercial-industrial developments requiring new streets shall be platted. However, individual lot lines within the plat may be established by resubdividing after the plat has been approved and recorded. There will be no limit on the number of subdivisions within the plat; provided zoning regulations are not violated.
- (c) Improvements shall be constructed according to the provisions of Section 1211.01 except as specified below:
 - (1) All commercial-industrial plats must have approved sewer and water facilities.
 - (2) Sidewalks shall not be required unless deemed necessary by the Director.

CHAPTER 1211

Improvements, Standards, and Specifications

1211.01 Improvements.

1211.02 Standards.

1211.03 Specifications.

1211.04 Improvement assurance.

1211.01 IMPROVEMENTS.

(a) New Streets. All new streets shall be paved to a minimum width as specified in Section 1211.02, Table 2, provided that in case of a street shown on the Thoroughfare Plan, such requirement shall be modified as follows:

- (1) If the Planning Board has approved a street and lot arrangement in which all lots back onto a major thoroughfare or the lots front on a parallel service street, the subdivider shall not be required to provide street improvements on the major thoroughfare unless considered necessary by the City Engineer for adequate access to the plat.
 - (2) In Utility Transition Areas where lots are platted in pairs as specified in Section 1203.03(d), the required improvements with the exception of sanitary sewer and water lines shall be as is required of lots which are comparable in size to half of a Utility Transition lot unless sidewalks are waived by the Director.
- (Ord. 23-159. Passed 5-23-23.)

(b) Existing Street. When land is being subdivided within the City and along an existing street, the subdivider and the subdivider's developer are responsible only for additional width of pavement which is reasonably anticipated to be necessary as a result of his subdivision and its development and use. However, the maximum required width of pavement for which the subdivider and the subdivider's developer are responsible need not exceed twenty (20) feet.

(c) Dead-End Streets. Where streets are extended to the boundary of the plat to provide accessibility to the future development in adjacent land, the subdivider and the subdivider's developer must provide a temporary "T" turnaround.

(d) Half-Streets. Where permitted, the initial improvement shall be such that the pavement will be installed to a point two (2) feet beyond the crown. Curb, gutter, and sidewalks, when required, shall be required only on one side of the right-of-way.

(e) Curb, Gutter, and Storm Drainage Within the City Limits. Curb, gutter, and storm drainage shall be required in all subdivisions within the City limits except as noted in Table 2. However, where curb and gutter requirements are waived, all drainage ditches and swales shall be sodded with blue grass and fescue.

(f) Sidewalks Within the City Limits.

- (1) Sidewalks shall be required on both sides of the right-of-way in all subdivisions located in single-family residential zoning districts where lot frontage averages less than one hundred (100) feet. In subdivisions to be occupied, in whole or in part by multi-family dwellings, sidewalks shall be required on both sides of the street, unless the Director determines that such requirement is unnecessary. Consideration shall be given to the lot size and type of improvements in the surrounding area as well as the size of the proposed subdivision.
- (2) Where lot frontages for single-family houses average more than one hundred (100) feet, a sidewalk shall be required on one side of minor residential streets and on both sides of collector and major streets. The Director may waive the requirements of this paragraph if the lots average 15,000 square feet or more in area. Consideration shall be given to the lot size and type of improvements in the surrounding area as well as the size of the proposed subdivision.
- (3) Sidewalks are required to be constructed where they are essential to pedestrian traffic circulation or as access to schools, playgrounds shopping centers, transportation depots, or other facilities. The lot size and topography of the surrounding area may be taken into consideration as it pertains to the sidewalk requirement.
- (4) Sidewalks shall be five (5) feet wide except in areas including or adjacent to schools, shopping centers or other high pedestrian traffic generators. In these areas, sidewalk width shall be determined by the Director.

(Ord. 23-159. Passed 5-23-23.)

(g) Drainage. The subdivider shall construct or install the necessary ditches or closed sewers to drain the property in question completely and to dispose of the storm water to the satisfaction of the Director. When a public storm sewer is accessible as determined by the Director, the developer shall connect with the public system. Storm drainage shall not be allowed to empty into sanitary sewers. In Utility Transition Areas where lots are platted as specified in Chapter 1207, the required improvements with the exception of water and sanitary sewer lines shall be as is required of lots which are comparable in size to half of a Utility Transition lot unless sidewalks are waived.

(h) Water and Sanitary Sewer Lines. All divisions of land within the corporate limits of Springfield shall be served by water and sanitary sewer lines unless a subdivision is located in an area where the topography is such that future sanitary sewer and/or water lines in the areas would be improbable as determined by the Service Department.

(Ord. 23-159. Passed 5-23-23.)

(i) Water and Sanitary Requirements in a Potential Urban Area.

- (1) Proposed or existing lots that utilize sewer and water shall not be counted as being part of the Potential Urban Area. Any such lot having at least 250 feet of continuous frontage on a public road and one and one-half acres or more of land area shall not be counted as part of a Potential Urban Area regardless of the utilization of utilities.
- (2) Where a subdivision is proposed in an Urban Area or an Utility Transition Area the subdivider and the subdivider's developer shall provide or assure sanitary sewer and water facilities by one of the following methods:
 - (A) In Urban Areas:
 - (i) By installing the necessary lines and connecting them with public sewer and water systems, or
 - (ii) By installing such lines along with a district community water supply and sewer system. The water supply and sewage disposal systems must meet the requirements of the County Sanitary Engineer, the Environmental Protection Agency, and the Director.
 - (B) In Utility Transition Areas where sanitary sewer and water lines are not available, the developer of a proposed subdivision shall provide or assure said utility facilities by one of the following methods:
 - (i) By installing necessary lines and creating a temporary water supply and sewage treatment facilities, which must meet the requirements of the Community Development Department, the Clark County Combined Health District, and the Environmental Protection Agency.
 - (ii) By requiring the home builders to install temporary wells and septic tanks.
 - (iii) By platting and selling lots in the manner set forth in Chapter 1207, and complying with the other requirements of the Utility Transition Area or by platting lots of the size or manner as indicated in Section 1203.03, Table 1, Column C.
 - (C) Soil evaluations are required for all new subdivisions (platted or unplatted) not served by a public or community sewer. Said evaluations shall be conducted by the Clark County Combined Health District in cooperation with the subdivider and by either a sanitarian, registered surveyor, or civil or sanitary engineer representing the subdivider, and shall be done in accordance with the requirements and specifications of the Clark County Combined Health District. Approval by the Clark County Combined Health District is required before the Phase I subdivision is approved by the Planning Board; however, a conditional approval, subject to approval by the Clark County Combined Health District, may be granted

on the Phase I Plan if Clark County Combined Health District approval has not been received by meeting time. Before further subdividing of lands within a potential Urban Area is permitted, the subdivider or the subdivider's developer shall submit a scale drawing showing his intentions concerning the remainder of lands under his control. The staff shall review the drawing and submit it to the Planning Board to determine if the land in question

(j) **RESERVED**

(k) **Waiver of Requirement.** The Planning Board may waive sewer or water requirements, or both, if they find:

- (1) That the topography is such that the extension of water and sanitary sewer lines in the area is economically not feasible or the cost of providing community facilities is such as to prohibit the subdivision of the area; or
- (2) That the plat is not in the path of urban growth, and is distantly located from any developed areas; or
- (3) That the plat is located in the near proximity to utility facilities and that said facilities are not available because of government action.

(l) **Fence.** When a development is planned adjacent to a large drainage ditch or waterway, a fence shall be required along the drainage right-of-way. The City Commission may waive said fence requirements if it finds that no substantial hazard would result therefrom.

(m) **Permanent Monuments.** Permanent monuments shall be located as required by the Director and/or the Planning Board. The number of monuments required shall not be less than specified in the Ohio Revised Code Section 711.03, which states that ten lots or less requires four (4) monuments. Over ten lots requires a number deemed necessary to properly control the survey and that the line of sight between such markers can be observed from one marker to the other.

(n) **Street Lights.** The subdivider and the subdivider's developer of each new subdivision shall construct street lights within the subdivision and shall have the street lights connected to a public utility power supply. The construction of the street lights and connection to the power supply shall be entirely at the expense of the subdivider and the subdivider's developer. The subdivider and the subdivider's developer shall make all necessary arrangements to insure that a public utility power supply will be provided to illuminate the street lights in a manner so as to insure that the cost to the City for illuminating such lights shall not exceed the prevailing cost in the City for illumination of street lights. Said arrangements to include, if necessary, the subdivider and the subdivider's developer conveying ownership of the street lights, poles, power supply conduits, and other appurtenances directly to the City or to the public utility furnishing power to the street lights, as directed by the City, in a manner acceptable to the City or the public utility which will be providing power to illuminate the street lights.-

(o) **Telecommunications, Gas and Electric Layout.** Approval of the telecommunications (phone & cable), gas and electric layout must be secured from the Service Department prior to installation. The plan submitted for approval for each utility shall include a scaled drawing of the development showing the location of the utility line and all associated appurtenances. Service Department shall be contacted a minimum of 72 hours prior to the installation of any of these utilities.

(Ord. 23-159. Passed 5-23-23.)

(p) **Underground Telecommunications and Electric Distribution Construction.** The installation, construction and expansion of telecommunications (phone and cable) and electric distribution shall generally be placed underground. New developments must place telecommunication and electric (including utility boxes, transformers and similar mechanical equipment) in the rear yard within a utility easement wherever practical. If locating these utilities in the rear yard is not practical as determined by the City Engineer, then they shall be placed outside the right-of-way in a separate utility easement approved by the City Engineer.

(Ord. 23-279. Passed 8-29-23.)

1211.02 STANDARDS.

(a) **Streets.**

- (1) All streets in a subdivision shall be classified and governed in accordance with Section 1211.02, Table 2 located in this section, except for primary and secondary thoroughfares in which case reference should be made to the appropriate Thoroughfare Plan available in the offices of the Planning Board's staff or Clark County Planning Commission.
- (2) All street pavements shall intersect each other as near to right angles as possible. At right angle intersections, the curb radius shall be 25 feet at intersections involving two 50-foot rights-of-way. At all other street intersections, the curb radius shall be as specified by the City Engineer. At intersections where the angle is other than 90 degrees, the City Engineer shall determine acceptable curb radius.
- (3) When a cul-de-sac is permitted with a length greater than or equal to 300 feet, the acceptable minimum road surface radius within the turnaround shall be forty-five (45) feet. For a cul-de-sac with a length less than 300 feet, the acceptable minimum road surface within the turnaround shall be forty (40) feet. The surface configuration for a temporary or "T" turnaround may be as illustrated in the reference manual located in the Department of Community Development.
- (4) The minimum tangent between curves of a reverse curve in a collector street shall be 100 feet. The minimum tangent between curves of a reverse curve in a minor street shall be 50 feet except no tangent shall be required on minor streets if either of the curves has a degree of curvature of one degree or less (radius equal to or greater than 5,792.58 feet).

(b) **Drainage.** Where curb and gutters are involved, catch basins shall be constructed on the upstream side of the crosswalks, at all low points in the street at points where drainage ditches enter the area being developed, and on streets at distances of approximately 400 feet. However, if due to topographic features, the contributing storm flow is relatively small, the spacing of catch basins may be increased.

**Table 2
STREETS**

Type of Street	Minimum R.O.W. Width	Minimum Pavement Width ¹	Maximum Centerline Grade	Minimum Centerline Grade	Minimum Centerline Radius
Collector	60'	40' ²	6%	0.5%	300'
Minor	50'	30' ²	10%	0.5%	65'

Minimum Sight Distance

	From Driver to Object in Street ⁴	From Driver in Intersecting Street to Oncoming Vehicle
Collector 25 mph ³	160'	225'
35 mph ³	240'	300'
Minor 25 mph	160'	200'

Maximum Street Grades at Intersection

Collector intersecting Collector or Arterial—3% for 100' from nearest pavement line of intersecting collector or arterial.
Minor intersecting Collector or Arterial—3% for 50' from nearest pavement line of intersecting collector or arterial.
Minor intersecting Minor—3% for 25' from nearest pavement line of intersecting minor street.

¹ For purposes of determining pavement width, curb & gutter shall be considered pavement.

² Collector: 30' wide pavement with berms and side ditches may be permitted by the Director based on, but not necessarily limited to, the following conditions: each lot fronting on the street having frontage of not less than 100' and area of not less than 15,000 square feet; continuity with adjacent development and soil conditions and total area drainage being such as to permit effective use of such ditches for street drainage.

Minor: 24' wide pavement with berms and side ditches may be permitted by the Director based on same as above.

³ Applicable prima facie speed limit.

⁴ Eye level 3.75 feet above pavement to object 6 inches above pavement.

(Ord. 22-113. Passed 4-12-2022.)

1211.03 SPECIFICATIONS.

(a) Street Grade Approval. No street grading shall be permitted until the Phase I Plan has been approved by the Planning Board and the City Engineer has approved the final construction drawings. The entire width of the right-of-way shall be brought to the approved grade and sloped at an angle agreeable to the Director, back from the property line to meet existing or planned elevation.

(b) Specifications. The design and construction of curb and gutter, streets, walks, drainage facilities, sanitary facilities, and water lines shall be in accordance with the rules, regulations, and specifications of the City.

(c) Fence. When required as specified in Section 1211.01 (I), fences shall be of the chain-link type or other acceptable all metal material design and three-and-one-half (3-1/2) feet or more in height.

(d) Permanent Monuments. Permanent monuments shall be made of stone or concrete, thirty-six (36) inches in length and six (6) inches in diameter, or six (6) inches square with a reinforcing bar or pipe cast in the center.

(e) Street Lights.

(1) All street lights constructed in new subdivisions shall be constructed in conformity to specifications and ordinances of the City and the specifications of the public utility which shall be providing power to such street lights. After street lights have been constructed in a new subdivision, the developer shall provide written verification to the City from the public utility providing power to the street lights certifying that the subdivider and the subdivider's developer has satisfactorily complied with the specifications of the public utility and the public utility will provide power to illuminate the street lights.

(2) All street lighting shall be a type and style mutually approved by the City and the public utility company which shall provide power to illuminate the street lights.

(Ord. 23-159. Passed 5-23-23.)

(3) Roadways shall be lighted to the following minimum levels, based on the classification of the roadway.

Minor	0.35 maintained foot-candles
Collector	0.60 maintained foot-candles
Major and Secondary	1.00 maintained foot-candles

(4) The underground power cable and all switching controls for the lighting system shall be designed and installed per standards established by the public utility furnishing electrical power and in conformance with municipal ordinances.

(5) All lighting units shall be a type mutually approved by the City and the public utility which shall provide power to illuminate the lighting units, and painted black. This luminaire shall meet all requirements as specified by the public utility which shall provide power to illuminate the luminaire.

(6) All supports shall be of a type mutually approved by the City and the utility which shall provide power to illuminate the lighting units and painted black. All supports shall meet the requirements as specified by the public utility which shall provide power to illuminate the completed lighting system.

(7) Lighting units shall be mounted at a sufficient height to prevent veiling glare. Proper heights shall be determined through the public utility which shall provide power to illuminate the completed lighting system and the manufacturer of the luminaire.

(8) The lighting plan submitted for approval shall include a scaled drawing of the development showing the location of all proposed lighting units and associated wiring. Additionally, calculations shall be furnished to show the lighting level(s) furnished by the proposed layout.

(9) The lighting plan shall be approved by the public utility providing power to illuminate the completed lighting system and the City before installation may be commenced. Service Department shall be contacted a minimum of 72 hours prior to installation.

(Ord. 23-159. Passed 5-23-23.)

1211.04 IMPROVEMENT ASSURANCE.

(a) Condition. In proposed subdivisions, new lots shall not be sold or permanent buildings erected until the plat in question has been recorded. Before certification of final approval, the subdivider must guarantee the installation of improvements as specified in these rules by adhering to one of the methods listed below:

(1) The required improvements may be installed prior to final approval of the plat, but only after submission and approval of construction drawings as set forth in Section 1211.03 and after inspection fees have been paid. The procedure of inspection shall be as set forth in Section 1211.04(c)(3).

(2) In lieu of Section 1211.04(a)(1), a performance bond of one hundred (100) percent of the estimated cost of improvements shall be deposited with the City.

(3) In lieu of Section 1211.04(a)(1) and (2), a certified check for one hundred (100) percent of the estimated cost of improvements shall be deposited with the City. Inspection shall be made by the City. The check shall be accompanied by a contract between the subdivider and the payee which, contract shall state the terms and conditions under which the check may be cashed if the

subdivider fails to complete the required improvements within the time limits as specified in Section 1211.04(c)(2).

(4) Any other type of assurance that has been reviewed by and is acceptable to the City Commission.

(b) Reduction and Release of Security for Installation of Improvements. Upon completion of not less than 25 percent of the required work, the subdivider may submit to the Director an estimate of the work done and request reduction in the amount of security provided pursuant to Section 1211.04(a). After approval of the work and estimate, the Director may recommend reduction to the City Commission. Successive requests for reduction may be made upon completion of 25 percent of the required work remaining at the time of the last previous request for such reduction. Upon completion of all of the required work the subdivider may submit a final estimate and request release. After approval of the work and estimate, the Director shall recommend release to the City Commission.

(c) General Consideration.

- (1) Provisions shall be made in the case of bond whereby the subdivider, his heirs, successors, or agents shall complete and comply with all applicable terms, conditions, provisions, and requirements of these regulations.
- (2) The time limit for completion of improvements shall be two years from the date the contract for improvements is executed by the City. However the subdivider may within such two-year period, submit to the City Commission a request in writing, for an extension of not more than one year, stating therein the reasons to justify the requested extension. At the termination of the aforementioned period or extension thereof the City may use as much of the security as is necessary to complete the improvements if it is determined that an extension of time is not feasible.
- (3) Inspection of each phase of work shall be made by the Director or his representative. The subdivider shall inform the inspecting engineer's office that work is ready for inspection 24 hours in advance of the time he expects it to be obscured by further work. Previous to installing any required improvement, an inspection fee amounting to two and one-half percent (2-1/2%) of the estimated cost as submitted by the developer and approved by the City Engineer of sanitary sewers, storm sewers, water lines, street lights, streets, curbs, gutters, and sidewalks shall be deposited with the City Treasurer at the time of the approval of the security. In addition to the said inspection fee, the subdivider shall pay to the City an additional inspection fee for after hours inspection as follows:

Saturday inspections	\$65.00/hour
Inspections not previously scheduled	\$65.00/hour
Sunday and holiday inspections	\$90.00/hour
Inspections performed between 5 p.m. and 8 a.m.	\$65.00/hour

All Saturday, Sunday, and holiday inspections fees will be billed at three hours of services or the actual time the inspector is required to perform services, whichever is greater.

(Ord. 05-253. Passed 10-4-05.)

- (4) If a proposed subdivision is to be annexed to the City, the bond or certified check or other security shall be held by the City and the inspection shall be made by the City. A petition to annex a proposed subdivision must be submitted to the Board of County Commissioners of Clark County, Ohio prior to Phase I approval before the subdivision will be considered to be under the complete jurisdiction of the City Subdivision Regulations. If any City sewer and/or water lines are extended, the bond or certified check or other security shall be held and the inspection made by the City as it pertains to said utility lines.

CHAPTER 1213

Plan Approval Procedure

1213.01 Phase I plan and data.

1213.02 Additional prints.

1213.03 Time limit.

1213.04 Refusal of approval.

1213.05 Phase 2 (record plan) and data.

1213.051 Requirements prior to signing of the plat.

1213.06 Requirement after recording.

1213.07 Required statements and signatures to be affixed on on the Phase 2 (record) map.

1213.01 PHASE I PLAN AND DATA.

A Phase I plan shall be acted upon by the Planning Board provided the applicant has paid to the City an Engineering Review fee of Seven Hundred Fifty Dollars (\$750.00) and the following applicable items have been submitted to the board 20 working days prior to the meeting. Plats located within the three-mile area should be submitted 20 working days prior to the County Planning Commission meeting. Plans shall be submitted in the form and with the number of copies prescribed by the Director of Community Development.

- (a) The subdivider should deliver all required Phase I submittals in good order to the Planning Board's staff no later than 20 working days preceding the regularly scheduled meeting of the board. Test hole results of the preliminary soil evaluation as required by Section 1205.02(d) shall be submitted to the Clark County Combined Health District, when necessary, whichever is applicable, and the Planning Board's staff at the time of or prior to submission of the Phase I plan.
- (b) Plat Copies. Within one working day after receiving the Phase I plat and accompanying items, the staff will refer one copy of the plan to the Service Department for review of improvement plan; local school district, where involved, for report on school site requirements; and other applicable agencies and departments.
- (c) Preparation of Specific Information. Within seven working days after receiving the plat, each official listed in Section 1213.01(b) above, is requested to prepare and present to the Planning Board's staff a written report containing specific information concerning his conclusions and recommendations on the plat. The plat may be considered acceptable by the officials involved if their replies are not received by the Planning Board's staff in the prescribed time.
- (d) Mailing of Report. The staff will prepare the report on the plat, which will be mailed to the members of the Planning Board on the Friday preceding the scheduled hearing.

1213.02 ADDITIONAL PRINTS.

(a) After the Phase I map is approved, the owner or developer shall submit such prints of the corrected Phase I plan as the Director shall require.

(b) As an option at the time of submitting the Phase I prints hereby required, the subdivider or the subdivider's developer may also submit the corrected Phase I plan and profile with final computations on sizing of waterlines and storm and sanitary sewers as required by Section 1205.02(d) (2). Within 30 days after the submission of the corrected Phase I plan, profile, and final computations, the subdivider and the subdivider's developer will be informed of any additional changes which will be recommended or required by the review agencies, if any, for the Phase 2 plat approval. If the subdivider is not so informed within such period, there shall be a period of one year's time thereafter in which the applicant can be assured that no more changes or demands can be made against his plan without his consent unless changes to applicable subdivision regulations or other ordinances passed by City Commission occur during that time.

1213.03 TIME LIMIT.

A Phase I map shall be submitted for examination or reapproval if the time limit between the approval of the Phase I map and the Phase 2 map for the entire tract exceeds five years.

1213.04 REFUSAL OF APPROVAL.

The grounds of refusal of approval of any plat submitted, including citation or reference to the rule or regulation violated by the plat, shall be stated upon the record of the Planning Board and such information shall be provided to the applicant.

1213.05 PHASE 2 (RECORD PLAN) AND DATA.

A Phase 2 plan shall be acted upon by the Planning Board provided the applicant has paid to the City an Engineering Review fee of Seven Hundred Fifty Dollars (\$750.00) and the following applicable items have been submitted fifteen working days prior to the regularly scheduled meeting. Plans shall be submitted in the form and with the number of copies presented by the Director of Community Development. If the plat is not acted upon within 30 days from the date of submission, the provisions of Section 711.09 through 711.10 of the Ohio Revised code shall apply unless the developer agrees to an extension of said 30-day time limit. The grounds for refusal of approval of any plat submitted, including citation of or reference to the rule or regulation violated by the plat, shall be stated upon the record of the Planning Board and such information shall be provided to the applicant.

(Ord. 05-233. Passed 9-6-05.)

1213.051 REQUIREMENTS PRIOR TO SIGNING OF THE PLAT.

The secretary of the Planning Board shall not sign the "Approval of Planning Commission" referenced by Section 1213.07(f) of these regulations until:

- (a) All applicable inspection fees have been paid to the City;
- (b) A plat agreement, specifying public improvements, the improvement assurance and such other matters as the Law Director deems necessary to protect the City, has been approved by the City Commission and has been entered into between the City and the subdivider;
- (c) The improvement assurance specified in the said plat agreement has been fully funded and made contractually binding on the subdivider; and
- (d) All permits to install water and sewer facilities for the subdivision required by the State of Ohio, Environmental Protection Agency have been issued to the subdivider.

1213.06 REQUIREMENTS AFTER RECORDING.

Within twenty days after the plat is recorded, the developer shall furnish such copies of the recorded final plat and covenants as the Director shall require.

1213.07 REQUIRED STATEMENTS AND SIGNATURES TO BE AFFIXED ON THE PHASE 2 (RECORD) MAP.

It is required that the Phase 2 plat contain the applicable forms and wording as listed below. These statements and signatures (as well as covenants and restrictions) may be required to be affixed on separate sheets.

(a) Description.

Situated in the State of Ohio, County of Clark, City of Springfield, (Township shall be designated here for three-mile area plats) and being a part of Section ____, Town ____, Range ____, M.R.S. and being further described as follows: Being a subdivision of ____ acres and being all the land contained within the boundaries shown as A, B, C, D, E, F, G, H, I, and J, and being part of the land conveyed to ____ by deed from ____, dated ____ and recorded in Volume ____, page ____, deed records of Clark County, Ohio. Also being all the land conveyed to ____, by deed from ____, dated ____ and recorded in deed records of Clark County, Ohio, Volume ____, and page ____.

(b) Owners' Dedication.

We, the undersigned, being all the owners and lienholders of the land platted herein, do hereby voluntarily consent to the execution of said plat and dedicate the streets as shown hereon, comprising a total of ____ acres, to the public use forever.

Easements shall be of such size and width as shown on the plat map and are for the construction, operation, maintenance, repair, replacement, or removal of water, gas, sewer, electric, telephone, or other utility lines or service, and for the express privilege of removing any and all trees or other obstructions to the free use of said utilities and for providing ingress and egress to the property for said purposes and are to be maintained as such forever.

(c) The following language shall be used when lots back onto major vehicular traffic arteries:

Vehicular right-of-access shall not be allowed across the right-of-way line of ____ Street, along the rear of lots ____, ____, ____, and ____, and such right-of-vehicular access is hereby relinquished and released to the City of Springfield, Ohio, (or other political subdivision having control of said street).

(d) The following language shall be used only if the restrictions are listed on a second sheet:

This plat is subject to the covenants and restrictions shown on the separate document attached hereto and labeled "Sheet 2 of 2 pages".

(e) Acknowledgment.

State of Ohio

SS:

County of Clark

Be it remembered that on this ____ day of ____, ____, personally came the said John and Jane Doe, to be known and acknowledge the signing and execution of the foregoing statement to be their voluntary act and deed.

Notary Public, State of Ohio

(f) Approval of Planning Commission.

I hereby certify that this plat was approved by the [City Planning Board of Springfield, Ohio, or CEDA Planning Commission, as applicable] on _____. This approval becomes void unless this plat is filed for recording within one calendar year of this approval.

Certified _____

Secretary, [City Planning Board of Springfield, Ohio, or CEDA Planning Commission, as applicable]

(g) Certification by Health Official, When Applicable

I hereby certify that this plat meets the requirements of the Clark County Combined Health District.

Health Commissioner, Clark County Combined Health District

(h) County Auditor.

I hereby certify that the land described by this plat was transferred on _____.

Clark County Auditor

(i) County Recorder.

I hereby certify that this plat was filed for recording on _____, and that it was recorded on _____, in Volume _____, Page _____, plat records of Clark County, Ohio.

Fee \$ _____

Clark County Recorder

(j) Certification of Surveyor.

I hereby certify that this plat represents a true and complete survey made by me or under my supervision in _____, and that except as otherwise stated upon the map, all monuments shown thereon actually exist.

Registered Surveyor No. _____

(k) Certification by the City Engineer.

I hereby certify that a copy of this plat was filed in the Service Department and that it has been approved by the City Engineer in accordance with the Ohio Rev. Code 711.08.

Date _____

By: _____

City Engineer

(Ord. 20-100. Passed 4-7-2020.)

(l) Statement of Acceptance.

Dedication of the land shown on this plat for roads, streets, or other public purposes is hereby accepted as of _____, by The City of Springfield, Ohio.

Date _____

By: _____

City Manager

(m) Acknowledgment of City Manager.

(Applicable only if City is the payee of a certified check or a party to a bond agreement.)

I hereby acknowledge that adequate improvement assurances have been made.

Date _____

By: _____

City Manager

(Ord. 19-289. Passed 12-10-19.)

CODIFIED ORDINANCES OF SPRINGFIELD

PART THIRTEEN--BUILDING CODE

TITLE ONE - Technical Standards Adopted

Chap. 1301. Ohio Codes.

Chap. 1305. International Property Maintenance Code.

TITLE THREE - Local Provisions

Chap. 1311. Permits.

Chap. 1313. Permit Fees.

Chap. 1315. Appeals.

Chap. 1317. Gas Piping Code.

Chap. 1321. Historic Landmarks Commission.

Chap. 1322. Inspection of Non-Owner-Occupied Dwelling Units.

Chap. 1323. Abatement of Nuisances and Demolition of Structures.

Chap. 1324. Code Compliance and Hearings.

Chap. 1325. Moving of Buildings.

Chap. 1327. Building Contractors.

Chap. 1329. Flood Plain Regulations.

TITLE FIVE - Plumbing Regulations

- Chap. 1361. Administration; Ohio Plumbing Code Adoption.
- Chap. 1363. Definitions.
- Chap. 1367. Licensing Plumbers.
- Chap. 1369. Plumbing Permits and Fees.

TITLE SEVEN - Vacant Property Registration Program

- Chap. 1380. Administration of Vacant Property Registration Program.

TITLE NINE - Rental Property Registration Program

- Chap. 1390. Administration of Rental Property Registration Program.

CODIFIED ORDINANCES OF SPRINGFIELD PART THIRTEEN--BUILDING CODE TITLE ONE--Technical Standards Adopted

- Chap. 1301. Building Codes.
- Chap. 1305. International Property Maintenance Code.

CHAPTER 1301

Building Codes

- 1301.01 Ohio Building Code adoption.**
- 1301.02 National Electrical Code adoption.**
- 1301.03 Ohio Mechanical Code adoption.**
- 1301.04 Residential Code of Ohio for One-, Two-, and Three-Family Dwellings adoption.**
- 1301.05 International Fuel Gas Code adoption.**
- 1301.99 Penalty.**

CROSS REFERENCES

- Adoption of technical codes - see Ohio R.C. 731.231
- Ohio Plumbing Code application - see BLDG. 1361.02

1301.01 OHIO BUILDING CODE ADOPTION.

- (a) Adoption. The Ohio Building Code, 2017 Edition (cited as “OBC”) as adopted by the Ohio Board of Building Standards, Division of Industrial Compliance, Ohio Department of Commerce, effective January 1, 2007, and as published in Chapters 4101:1-1 through 4101:1-35 of the Ohio Administrative Code (cited as “OAC”) is hereby adopted by The City of Springfield, Ohio.

(Ord. 13-226, Passed 9-1-13; Ord. 18-50, Passed 2-27-18.)

1301.02 NATIONAL ELECTRICAL CODE ADOPTION.

- (a) Adoption. The National Electric Code, 2017 Edition (cited as “NFPA-70-2014”), as published by the National Fire Protection Association, is hereby adopted by The City of Springfield, Ohio, as amended by the deletions and modifications described in this Section 1301.02, and is incorporated by reference as if fully rewritten in this Section 1301.02.

- (b) Amendments.

- (1) NFPA-70-2017 Section 90.4 is amended to read as follows: **Enforcement.** The City of Springfield, Ohio, is the authority having jurisdiction for purposes of enforcing this *Code* and shall be administered by the City Manager through the Chief Building Official appointed by the City Manager. This Code may require new products, constructions, or materials that may not yet be available at the time the Code is adopted. In such event, the authority having jurisdiction may permit the use of the products, constructions, or materials that comply with the most recent previous edition of this Code adopted by The City of Springfield, Ohio.

- (2) NFPA-70-2017 Section 90.10 is adopted to read as follows:

Appeals. Appeals involving enforcement of matters relating to this *Code* shall be governed by Chapter 1315 of the Codified Ordinances.

(Ord. 13-226, Passed 9-1-13; Ord. 16-45, Passed 2-16-16; Ord. 18-50, Passed 2-27-18)

1301.03 OHIO MECHANICAL CODE ADOPTION.

- Adoption. The Ohio Mechanical Code, 2017 Edition (cited as “OMC”), as adopted by the Ohio Board of Building Standards, Division of Industrial Compliance, Ohio Department of Commerce and as published in Chapters 4101:2-1 through 4101:2-15 of the Ohio Administrative Code (cited as “OAC”) is hereby adopted by The City of Springfield, Ohio.

(Ord. 13-226, Passed 9-1-13; Ord. 18-50, Passed 2-27-18.)

1301.04 OHIO RESIDENTIAL CODE FOR ONE-, TWO- AND THREE-FAMILY DWELLINGS ADOPTION.

- Adoption. The Residential Code of Ohio for One-, Two-, and Three-Family Dwellings, 2019 Edition (cited as “RCO”) as adopted by and as said RCO may be hereafter amended by the Ohio Board of Building Standards, Division of Industrial Compliance, Ohio Department of Commerce, and as published in Chapter 4101:8-1 through 4101:8-44 of the Ohio Administrative Code (cited as OAC) is hereby adopted by The City of Springfield, Ohio, and is incorporated by reference as if fully rewritten in this Section 1301.04.

(Ord. 19-237. Passed 9-10-19.)

1301.05 INTERNATIONAL FUEL GAS CODE ADOPTION.

(a) **Adoption.** The International Fuel Gas Code, 2009 Edition (cited as “FGC”), as published by the International Code Council, is hereby adopted by The City of Springfield, Ohio, as amended by the deletions and modifications described in this Section 1301.05, and is incorporated by reference as if fully rewritten in this Section 1301.05.

(b) **Amendments.**

(1) FGC Section 101.1 is amended to read as follows:

Title. These regulations shall be known as the *Fuel Gas Code* for The City of Springfield, Ohio and shall be cited as such and will be referred to in this Section as “this code”.

(2) FGC Section 101.2 is amended by deleting Exceptions (1) and (2).

(3) FGC Section 104.3 is amended to read as follows:

Inspections. The code official and assistants to the code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

(4) FGC Section 104.4 is amended to read as follows:

Right of entry. The code official and assistants to the code official are authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

(5) FGC Section 104.5 is amended to read as follows:

Identification. The code official and assistants to the code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

(6) FGC Section 106.6.2 is amended to read as follows:

Imposition of permit fees. The imposition of permit fees shall be governed by Chapter 1313 of the Codified Ordinances.

(7) FGC Section 106.5.3 is deleted.

(8) FGC Section 109.1 is amended to read as follows:

Appeals. Appeals involving enforcement of matters relating to this code shall be governed by Chapter 1315 of the Codified Ordinances.

(9) FGC Sections 109.2 through 109.7 are deleted.

(10) All references to the *International Building Code* in this code are deleted and replaced with a reference to the Ohio Building Code as adopted in Section 1301.01 of the Codified Ordinances.

(11) All references to the *ICC Electrical Code* in this code are deleted and replaced with a reference to the National Electrical Code as adopted in Section 1301.02 of the Codified Ordinances.

(12) All references to the *International Mechanical Code* in this code are deleted and replaced with a reference to the Ohio Mechanical Code as adopted in Section 1301.03 of the Codified Ordinances.

(13) All references to the *International Residential Code* in this code are deleted and replaced with a reference to the Residential Code for One-Two- and Three Family Dwellings as adopted in Section 1301.04 of the Codified Ordinances.

(14) All references to the *International Property Maintenance Code* in this code are deleted and replaced with a reference to the Property Maintenance Code as adopted in Section 1305.01 of the Codified Ordinances.

(15) All references to the *International Plumbing Code* in this code are deleted and replaced with a reference to the Plumbing Code as adopted in Section 1361.01 of the Codified Ordinances.

(16) All references to the *International Fire Code* in this code are deleted and replaced with a reference to the Fire Prevention Code as adopted in Part 15 of the Codified Ordinances.

(17) All references to the *International Energy Conservation Code* in this code are deleted and replaced with a reference to the Ohio Building Code as adopted in Section 1301.01 of the Codified Ordinances.

(Ord. 13-226. Passed 9-1-13.)

1301.99 PENALTY.

Whoever violates any provision of this chapter, including the codes adopted herein, is guilty of a misdemeanor of the first degree, and, upon conviction thereof, be fined not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000), or imprisoned not more than one hundred eighty (180) days, or both. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense. As provided by Ohio R.C. 2901.23 and 2929.31, organizations convicted of an offense shall be fined not more than five thousand dollars (\$5,000) for a misdemeanor of the first degree.

(Ord. 05-47. Passed 2-15-05.)

CHAPTER 1303

Pole and Portable Storage Buildings REPEALED BY ORD. 06-191, PASSED 5-16-06.

CHAPTER 1305

International Property Maintenance Code

NOTE: Chapter 1305 was replaced in its entirety by Ordinance No. 22-152 passed May 10, 2022.

1305.01 International Property Maintenance Code adoption.

1305.02 Civil penalty for failure to pay.

1305.99 Penalty.

CROSS REFERENCES

Adoption of technical codes--see Ohio R.C. 731.231

International Property Maintenance Code website--<https://codes.iccsafe.org/content/IPMC2018P2/preface>

1305.01 INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTION.

(a) **Adoption.** The International Property Maintenance Code, 2021 Edition (cited as "IPMC") as prepared by the International Code Council, Inc.

is hereby adopted by The City of Springfield, Ohio, as amended by the deletions and modifications described in this Section 1305.01, and is incorporated by reference as if fully rewritten in this Section 1305.01.

(b) Amendments.

- (1) IPMC Section 101.1 is amended to read as follows:

Title. These regulations shall be known as the Property Maintenance Code for The City of Springfield, Ohio and shall be cited as such and will be referred to in this Chapter as "this code".

- (2) IPMC Section 101.3 is amended to read as follows:

Purpose. The purpose of this code is to establish minimum requirements to provide a reasonable level of health, safety, property protection and general welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises

- (3) IPMC Section 102.3 is deleted.

- (4) IPMC Section 103.1 is amended to read as follows:

Enforcement agency. The Code Enforcement Division shall enforce the requirements of this Section 1305.01 and the Code Enforcement Manager in charge thereof shall be known as the code official for purposes of applying this code. Notwithstanding the foregoing, the Chief Building Official, the Fire Marshal and the Health Commissioner of the Clark County Combined Health District are each authorized to perform inspections and to issue notices and orders as deputies of the Code Enforcement Manager.

- (5) IPMC Sections 103.2 and 103.3 are deleted.

- (6) IPMC Section 104.1 is amended to read as follows:

Imposition of permit fees. The imposition of permit fees shall be governed by Chapter 1313 of the Codified Ordinances.

- (7) IPMC Section 104.2 is amended to read as follows:

Refunds. Refunds shall be governed by Chapter 1313 of the Codified Ordinances.

- (8) IPMC Section 105.2 is amended to read as follows:

Inspections. The code official and assistants to the code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

- (9) IPMC Section 105.3 is amended to read as follows:

Right of entry. The code official and assistants to the code official are authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

- (10) IPMC Section 105.4 is amended to read as follows:

Identification. The code official and assistants to the code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

- (11) IPMC Section 107.1 is amended to read as follows:

Appeals. Appeals involving enforcement of matters relating to this code shall be governed by Chapter 1315 of the Codified Ordinances.

- (12) IPMC Section 107.2 through 107.4 are deleted.

- (13) IPMC Section 108.1 is deleted

- (14) IPMC Section 109.3 is deleted.

- (15) IPMC Section 109.4 is amended to read as follows:

Penalty. Whoever violates any provision of this chapter, including the code adopted herein, is guilty of a misdemeanor of the first degree, and, upon conviction thereof, be fined not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000), or imprisoned not more than one hundred eighty (180) days, or both. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense. As provided by Ohio R.C. 2901.23 and 2929.31, organizations convicted of an offense shall be fined not more than five thousand dollars (\$5,000) for a misdemeanor of the first degree.

- (16) IPMC Sections 111.4.1, subparagraph (6) is deleted.

- (17) IPMC Section 201.3 is deleted.

- (18) IPMC Section 302.4 is amended to read as follows:

Weeds. All premises and exterior property regulated under this code shall be maintained free from vegetation which is in violation of Chapter 909 of the Codified Ordinances.

- (19) IPMC Section 304.14 is amended to read as follows:

Insect screens. During the period from April 1 to November 1, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm) and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

- (20) IPMC Section 602.3 is amended to read as follows:

Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 1 to May 15 to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms, and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the Plumbing Code as adopted in Section 1361.01 of the Codified Ordinances.

2. In areas where the average monthly temperature is above 30°F (1°C) a minimum temperature of 65°F (18°C) shall be maintained.

- (21) IPMC Section 602.4 is amended to read as follows:

Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to May 15 to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

- (22) IPMC Section 604.2 is amended to read as follows:

Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the National Electrical Code as adopted in Section 1301.02 of the Codified Ordinances.

- (23) IPMC Section 604.3 is amended to read as follows:

Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard in accordance with the National Electrical Code as adopted in Section 1301.02 of the Codified Ordinances

- (24) All references to the International Building Code in this code are deleted and replaced with a reference to the Ohio Building Code as adopted in Section 1301.01 of the Codified Ordinances.

- (25) All references to the ICC Electrical Code in this code are deleted and replaced with a reference to the National Electrical Code as adopted in Section 1301.02 of the Codified Ordinances.

- (26) All references to the International Mechanical Code in this code are deleted and replaced with a reference to the Ohio Mechanical Code as adopted in Section 1301.03 of the Codified Ordinances.

- (27) All references to the International Plumbing Code in this code are deleted and replaced with a reference to the Plumbing Code as adopted in

Section 1361.01 of the Codified Ordinances.

(28) All references to the International Fire Code in this code are deleted and replaced with a reference to the Fire Prevention Code as adopted in Part 15 of the Codified Ordinances.

(29) All references to the International Zoning Code in this code are deleted and replaced with a reference to the Zoning Code as adopted in Part 11 of the Codified Ordinances.

1305.02 CIVIL PENALTY FOR FAILURE TO PAY.

In the event any person fails to pay a sum, required to be paid to the City under this Chapter (hereinafter the "principal sum"), within ninety (90) days after the sum becomes due and owing to the City, a civil penalty is imposed on such person equal to thirty-three and thirty-three one-hundredths percent (33.33 %) of the sum of the following two items:

- (a) The unpaid principal sum due and owing to the City under this Chapter,
- (b) Court costs incurred in obtaining a judgment against such person for the unpaid principal sum due and owing to the City under this Chapter.

1305.99 PENALTY.

Whoever violates any provision of this chapter, including the code adopted herein, is guilty of a misdemeanor of the first degree, and, upon conviction thereof, be fined not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000), or imprisoned not more than one hundred eighty (180) days, or both. Each day that a violation continues after due notice has been served, in accordance with the terms and provisions hereof, shall be deemed a separate offense. As provided by Ohio R.C. 2901.23 and 2929.31, organizations convicted of an offense shall be fined not more than five thousand dollars (\$5,000) for a misdemeanor of the first degree.

TITLE THREE - Local Provisions

Chap. 1311. Permits.

Chap. 1313. Permit Fees.

Chap. 1315. Appeals.

Chap. 1321. Historic Landmarks Commission.

Chap. 1322. Inspection of Non-Owner-Occupied Dwelling Units.

Chap. 1323. Abatement of Nuisances and Demolition of Structures.

Chap. 1324. Code Compliance and Hearings.

Chap. 1325. Moving of Buildings.

Chap. 1327. Building Contractors.

Chap. 1329. Flood Plain Regulations.

CHAPTER 1311

Permits

1311.01 Permit required.

1311.02 Completion of work already authorized.

1311.03 Application form.

1311.04 Persons eligible to make application.

1311.05 Amendments to application.

1311.06 Plans to accompany application.

1311.07 Plot plan.

1311.08 Action on application.

1311.09 Revocation of permit.

1311.10 Approval of permit in part.

1311.11 Compliance with permit.

1311.12 Reducing or diminishing lot area.

1311.13 Signature to permit.

1311.14 Plan approval and permit expiration; extension; work delay.

1311.15 Posting of permit.

1311.16 Commencement notice to be given.

1311.17 Demolition requirements.

1311.18 Stop work order.

1311.19 Certificate of use and occupancy.

1311.20 Repealed by Ord. 10-97.

1311.21 Endorsements on certificates of use and occupancy.

1311.99 Penalty.

CROSS REFERENCES

Permit fees - see BLDG. Ch. 1313

1311.01 PERMIT REQUIRED.

(a) No person shall construct, alter, re-roof, remove or demolish, or commence the construction, alteration, removal or demolition of a building or structure or install equipment for the operation of a building or structure, construct a swimming pool or do electrical or heating, ventilating or air conditioning work without first filing with the Chief Building Official an application in writing and obtaining a formal permit.
(Ord. 96-386. Passed 11-26-96.)

(b) No person shall remove or demolish or commence the removal or demolition of a one-, two-, or three-family residential structure or accessory structure without first filing with the Code Enforcement Manager an application in writing and obtaining a formal demolition permit.
(Ord. 93-222. Passed 6-29-93.)

1311.02 COMPLETION OF WORK ALREADY AUTHORIZED.

Nothing in this Building Code shall require changes in the plans, construction or designated use of a building or structure or portion thereof for which a lawful permit has been heretofore issued or which has been otherwise lawfully authorized, and the construction of which has been actually begun within ninety (90) days after this Building Code becomes effective, and if the entire building or structure shall be completed, as authorized, within one (1) year thereafter.

1311.03 APPLICATION FORM.

An application for a plan approval shall be submitted in such form as the Chief Building Official may prescribe. Such application shall contain the full names and addresses of the applicant and of the owner, and, if the owner is a corporate body, of its responsible officer. The application shall also describe briefly the proposed work and shall give such additional information as may be required by the Chief Building Official for an intelligent understanding of the work proposed.

(Ord. 10-97. Passed 3-16-10.)

1311.04 PERSONS ELIGIBLE TO MAKE APPLICATION.

Applications shall be made by the owner, lessee or agent of either, or the architect, engineer or builder employed in connection with the proposed work. If such application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner in fee or the person making the application that the proposed work is authorized by the owner in fee and that the person making the application is authorized to make such application. Notwithstanding the foregoing, no person listed as a non-compliant person ineligible to receive building permits by the Clark County Department of Building Regulations shall be eligible to apply for or receive a building permit issued by the City in such person's capacity as an agent, architect, engineer, or builder.

(Ord. 04-133. Passed 4-20-04.)

1311.05 AMENDMENTS TO APPLICATION.

Nothing in this Building Code shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work for which the permit was issued. Such amendments shall be filed with and shall be deemed a part of the original application, if approved before the certificate of occupancy has been issued. Otherwise, a new application for such alteration shall be made and a new permit shall be secured.

1311.06 PLANS TO ACCOMPANY APPLICATION.

Applications for plan approval shall be accompanied by drawings of the proposed work, drawn to scale, showing when necessary, floor plans, sections, elevations, structural details, computations and stress diagrams, and such other information as the Chief Building Official may require.

(Ord. 10-97. Passed 3-16-10.)

1311.07 PLOT PLAN.

When required by the Chief Building Official, a plot plan shall be submitted in a form and size designated by him for filing permanently with the plan approval, drawn to scale, with all dimensions figured, showing accurately the size and exact location of all proposed new construction and the relation to other existing or proposed buildings or structures on the same lot and other buildings or structures on adjoining property within fifteen (15) feet of the property lines. The plot plan shall show the buildings or structures to be demolished and the buildings or structures on the same lot that are to remain.

(Ord. 10-97. Passed 3-16-10.)

1311.08 ACTION ON APPLICATION.

(a) The Chief Building Official shall examine, or cause to be examined, applications for plan approval, within a reasonable time after filing. If, after examination, he finds no objections to the same and it appears that the proposed construction or work will be safe, he shall approve such application and issue a permit for the proposed work as soon as practicable. If examination reveals otherwise, he shall reject such application, note his findings in a written report to be attached to the application and deliver a copy to the applicant.

(b) The Code Enforcement Manager shall examine, or cause to be examined, applications for demolition permits for one-, two-, or three-family structures or accessory structures within a reasonable time after filing. If, after examination, he finds no objections to the same and it appears that the proposed demolition or work will be safe, he shall approve such application and issue a permit for the proposed work as soon as practicable. If examination reveals otherwise, he shall reject such application, note his findings in a written report to be attached to the application and deliver a copy to the applicant.

(Ord. 10-97. Passed 3-16-10.)

1311.09 REVOCATION OF PERMIT.

(a) The Chief Building Official may revoke a permit or approval issued in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

(b) The Code Enforcement Manager may revoke a demolition permit or approval for a one-, two-, or three-family structure or accessory structure in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

(Ord. 93-222. Passed 6-29-93.)

1311.10 APPROVAL OF PERMIT IN PART.

Nothing in this Building Code shall be construed to prevent the Chief Building Official from issuing a permit for the construction of part of a building or structure before the entire plans and detailed statements of such building or structure have been submitted or approved, provided adequate information and detailed statements have been submitted for the same and have been found to comply with this Building Code.

1311.11 COMPLIANCE WITH PERMIT.

All work performed under a permit issued by the Chief Building Official or the Code Enforcement Manager shall conform to the approved

application and plans, and approved amendments thereto. The permit holder is responsible for scheduling all applicable inspections to identify compliance with code requirements. No work for which a permit has been issued shall be concealed without prior inspection and/or approval by the appropriate inspector. The location of all new construction as shown on the approved plot plan or an approved amendment thereto, shall be strictly adhered to.

(Ord. 03-384. Passed 11-25-03.)

1311.12 REDUCING OR DIMINISHING LOT AREA.

No person shall reduce or diminish the area of a lot or plot for which a plot plan has been filed and has been used as the basis for a plan approval, unless a revised plot plan showing the proposed changes in conditions has been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

(Ord. 10-97. Passed 3-16-10.)

1311.13 SIGNATURE TO PERMIT.

Every permit issued by the Chief Building Official or the Code Enforcement Manager under the provisions of this Building Code shall have the signature of the Chief Building Official or the Code Enforcement Manager affixed thereto; but this shall not prevent the Chief Building Official or the Code Enforcement Manager from authorizing a subordinate to affix the Chief Building Official or the Code Enforcement Manager's signature.

(Ord. 93-222. Passed 6-29-93.)

1311.14 PLANS APPROVAL AND PERMIT EXPIRATION; EXTENSION; WORK DELAY.

The approval of plans or drawings and specifications or data pursuant to this chapter shall terminate and become void if construction, erection, alteration or other work upon the building has not commenced within twelve months of the approval of such plans, drawings, specifications and data. A permit must be obtained prior to commencement of work.

A permit expires on the last day of the twelfth month following the date of issuance of the permit. All construction, erection, alteration and other work authorized by a permit must be completed, a final inspection conducted, and all work approved prior to expiration of the permit. Two extensions of a permit shall be granted for six months each, if requested by the owner or permit holder at least ten days in advance of the expiration date of the permit and upon payment of a fee for each extension of one hundred dollars (\$100.00).

Exceptions are:

- (a) Residential heating and air conditioning permits will expire 90 days following the date of issuance. One extension of a permit can be granted for 90 days if requested by the owner or permit holder at least ten days in advance of the expiration date of the permit and approved by the chief building official and upon payment of a fee for the extension of one hundred dollars (\$100.00)
- (b) Residential electrical permits will expire 90 days following the date of issuance. One extension of a permit can be granted for 90 days if requested by the owner or permit holder at least ten days in advance of the expiration date of the permit and approved by the chief building official and upon payment of a fee for the extension of one hundred dollars (\$100.00)

(Ord. 03-384. Passed 11-25-03.)

1311.15 POSTING OF PERMIT.

A copy of the permit shall be kept on the premises for public inspection during the prosecution of the work and until the completion of the same. A certified copy of the approved plans shall also be kept on the premises at all times from the commencement of the work to the completion thereof.

1311.16 COMMENCEMENT NOTICE TO BE GIVEN.

The Chief Building Official or the Code Enforcement Manager shall be given at least twenty-four (24) hours notice of the starting of work under a permit.

(Ord. 93-222. Passed 6-29-93.)

1311.17 DEMOLITION REQUIREMENTS.

(a) Permits shall be obtained when any portion of a structure is removed, except for porches whose removal will have no effect on the structural integrity of the main structure. Notwithstanding any provision in Section 1311.14, a demolition permit shall become invalid ninety (90) days after its issuance, and special permits issued pursuant to Section 1323.08(a) which become invalid upon the expiration of the time stated on such special permit. However, upon presentation of substantial reasons for incompleteness, the Chief Building Official or the Code Enforcement Manager may give extensions.

(b) Permits for the demolition of commercial or residential buildings do not relieve the owner or contractor of the requirement to submit a "Notification of Demolition and Renovation" to the Regional Air Pollution Control Agency (RAPCA).

(Ord. 97-412. Passed 11-25-97.)

(c) Utility companies and the City shall be notified for shut-off of services.

(d) Barricades shall be erected around the demolition site when required by the Chief Building Official or the Code Enforcement Manager.

(e) A traffic plan shall be submitted prior to demolition for approval by the Service Department, Police Division and Fire Division.

(Ord. 19-289. Passed 12-10-19.)

(f) All sewer lines shall be capped by a method approved by the Service Director. Installed caps shall be approved by a City inspector before backfill is started.

(Ord. 15-104. Passed 4-14-15.)

(g) All necessary precautions shall be taken to comply with the following:

- (1) No person may cause or permit the handling, transporting, or storage of any material in a manner which allows or may allow particulate matter to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates.

- (2) No person shall cause or permit a building or its appurtenances or a road, or a driveway, or an open area to be constructed, used, repaired or demolished without applying all such reasonable measures as may be required to prevent particulate matter from becoming airborne.
- (3) The City may require such reasonable measures as may be necessary to prevent particulate matter from becoming airborne including but not limited to paving or frequent cleaning of roads, driveways and parking lots; application of dust-free surfaces; application of water; and the planting and maintenance of vegetative ground cover.

(Ord. 19-289. Passed 12-10-19.)

- (4) When dust, fumes, gases, mist, odorous matter, vapors or any combination thereof escape from a building or equipment in such manner and amount as to cause a nuisance or to violate any provision of this section, the Chief Building Official or the Code Enforcement Manager may order that the building or equipment be tightly closed and ventilated in such a way that all air and gases and air or gas-borne material leaving the building or equipment are treated by removal or destruction of air contaminants before discharge to the open air.

(h) Approval shall be obtained from the Police and Fire Divisions and Community Development Department prior to the use of explosives.

(Ord. 94-368. Passed 10-11-94.)

(i) All buildings, structures and parts thereof, including foundation walls, columns, piers, partitions and retaining walls shall be removed to a level at least twenty-four (24) inches below finish grade unless otherwise approved by the Chief Building Official or the Code Enforcement Manager.

(j) Garage foundations and concrete slabs found in good condition may remain if approved by the Chief Building Official or the Code Enforcement Manager provided all anchor bolts and protrusions above grade level are removed.

(k) Basement floors and in ground concrete slabs shall be broken-up. All Ohio Basic Building Code demolition regulations shall be applied where warranted.

(l) Inspection of the excavation shall be made by a City inspector prior to backfill.

(m) All demolition debris shall be quickly removed from the site. All lumber or materials kept for re-use shall be neatly stacked twelve (12) inches aboveground.

(n) On site burning of materials shall not be permitted.

(o) All excavations and depressions shall be filled with inorganic material not exceeding sixteen (16) inches by sixteen (16) inches by sixteen (16) inches in size. Backfill material and method of placement shall be approved and inspected by the Service Director or designee and Chief Building Official and/or the Code Enforcement Manager. (See Chapter 923 of the Codified Ordinances.)

(Ord. 19-289. Passed 12-10-19.)

(p) The Chief Building Official or the Code Enforcement Manager and Service Director or designee shall approve the final grading plan. Finished grade shall consist of a four (4) inch surface layer of soil, seeded and mulched to reduce the germination and propagation of weeds or noxious vegetation, and to prevent fugitive dust conditions and soil erosion, unless otherwise approved by the Chief Building Official.

(Ord. 19-289. Passed 12-10-19.)

(q) All applicable State and City laws and ordinances shall be complied with in order to protect property and public health and safety.

(Ord. 93-222. Passed 6-29-93.)

1311.18 STOP WORK ORDER.

(a) Whenever, in the opinion of the Chief Building Official, by reason of directive or illegal work in violation of a provision or requirement of this Building Code, or the continuance of a building operation is contrary to public safety and welfare, he shall order, in writing, all further work to be stopped and may require suspension of all work until the condition in violation has been corrected.

(b) Whenever, in the opinion of the Code Enforcement Manager, by reason of directive or illegal work in violation of a provision or requirement of this Building Code, or the continuance of a building operation is contrary to public safety and welfare, he shall order, in writing, all further work to be stopped and may require suspension of all work until the condition in violation has been corrected, as it pertains to the removal or demolition of a one-, two-, or three-family structure or an accessory structure.

(Ord. 93-222. Passed 6-29-93.)

1311.19 CERTIFICATE OF USE AND OCCUPANCY.

No building or structure shall be occupied for which a building permit was required without first obtaining a certificate of use and occupancy signed by the Chief Building Official.

1311.20 REPEALED BY ORDINANCE NO. 10-97; MARCH 16, 2010.

1311.21 ENDORSEMENTS ON CERTIFICATES OF USE AND OCCUPANCY

(a) The Chief Building Official shall provide each certificate of use and occupancy approved by the Chief Building Official to the Community Development Director or designee and to the Service Director or designee prior to delivering the certificate of use and occupancy to the owner of the building or structure to which the certificate of use and occupancy pertains.

(b) Approval required to occupy. No building or structure in whole or in part shall be used or occupied until the Community Development Director or designee and the Service Director or designee have each endorsed their approval on that back of the certificate of use and occupancy, certifying that the use of the building or structure and the premises upon which the building or structure is situated is in compliance with Parts Nine, Eleven, and Twelve of the City's Codified Ordinances. The building owner shall only use the structure in compliance with the certificate of use and occupancy and any stated conditions therein. The structure and all approved building service equipment shall be maintained in accordance with the approval.

(Ord. 08-353. Passed 12-9-08; Ord. 19-289. Passed 12-10-19.)

1311.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree, and shall be fined not less than one thousand dollars

(\$1,000) or imprisoned not more than six (6) months, or both.

CHAPTER 1313

Permit Fees

- 1313.01 Permit fees generally.**
- 1313.02 Fees to be additive.**
- 1313.03 New construction and additions.**
- 1313.04 Determining construction costs/valuation.**
- 1313.05 Permit fees for buildings and structures.**
- 1313.06 Plans review fee.**
- 1313.07 Requested inspection fee.**
- 1313.08 Investigation charge of illegal or unauthorized work.**
- 1313.09 Demolition fee.**
- 1313.10 Certificate of occupancy/temporary certificate of occupancy.**
- 1313.11 Signs and outdoor advertising display.**
- 1313.12 Swimming pools.**
- 1313.13 Moving buildings over public street or alley.**
- 1313.14 Electric permit fees.**
- 1313.15 Heating, air conditioning, refrigeration and ventilation permit fees.**
- 1313.16 Fire detection/suppression permit fees.**
- 1313.17 Reinspection fee.**
- 1313.18 Engineering plan review and inspection fees for commercial and industrial properties and public improvements.**

CROSS REFERENCES

Appeal filing fee - see BLDG. 1315.10
Contractor licensing fees - see BLDG. 1327.06(b)
Plumbing permits and fees - see BLDG. Ch. 1369

1313.01 PERMIT FEES GENERALLY.

A permit shall not be issued until the fee prescribed therefor has been paid to the City Treasurer. The fee to be paid for a permit authorized by this Building Code shall be determined by the Manager of Inspection Services according to the schedule of fees as hereafter set forth, and shall be noted on the permit form.

(Ord. 88-467. Passed 8-2-88.)

1313.02 FEES TO BE ADDITIVE.

The fee hereafter set forth shall be additive and, unless otherwise specifically provided, separate fees shall be paid for each of the items listed.

(Ord. 88-467. Passed 8-2-88.)

1313.03 NEW CONSTRUCTION AND ADDITIONS.

(a) The provisions of Section 1313.04(a) shall be used in determining the construction cost/valuation for new construction and additions. The determined value of the building or structure may not be the actual value or cost of construction.

(Ord. 02-476. Passed 12-17-02.)

(b) The floor area of a building or structure or addition thereto shall be determined from the outside perimeter of the building, structure or addition at each story exclusive of any unoccupied or uninhabited basement, cellar, attic or roof structure.

(Ord. 88-467. Passed 8-2-88.)

1313.04 DETERMINING CONSTRUCTION COSTS/VALUATION.

(a) Effective on and after January 1, 2005, the fee for a permit for a new building or structure or an addition to an existing building or structure shall be based upon the construction costs of the building or structure as determined from the following *Type of Construction Factor Table for Commercial/Industrial Projects* OR *Residential Building Square Foot Construction Cost Table*.

TYPE OF CONSTRUCTION FACTOR TABLE COMMERCIAL AND INDUSTRIAL PROJECTS				
USE GROUPS	NAMES	TYPES OF CONSTRUCTION (per square foot)		
		1	2-3-4	5
A-1, A-4	Assembly, Theaters with stage	1.71	1.49	1.29
A-2, A-3, A-5, E	Assembly, Nightclubs, Restaurants, Churches, Educational, Amusement	1.40	1.21	1.01
B, M	Business, Mercantile	1.11	.93	.72
F-1, F-2, H, S-1, S-2	Factories, High Hazard, Storage	.74	.58	.43
I-1, I-2, I-3, I-4	Institutional	1.81	1.26	1.14
R-1, R-2, R-3, R-4	Hotels, Multi-Family, Residential	1.08	.94	.79
U, Misc.	Utility, Miscellaneous	.57	.45	.31

NOTES: 1. R-4 Accessory Structures (Commercial, Multi-Family)	.20
2. Unfinished Basements (all use groups)	.20

RESIDENTIAL BUILDING SQUARE FOOT CONSTRUCTION COST TABLE (except roofing)	
(1) Habitable Areas	\$45.00 per square foot
(2) Non-Habitable Areas	\$25.00 per square foot

(b) The fee for a permit for the repair or alteration of an existing building or structure shall be determined on the basis of the actual cost of the work performed. Each applicant for a permit shall present a contract or contractor's proposal or make a sworn statement of affirmation, in writing, setting forth, in accordance with a bona fide estimate, the total value of the proposed alteration, repair or installation, including the cost of any and all plumbing, electrical, heating and other mechanical equipment, devices, appliances, materials, etc., which will be incorporated therein, and also the value of all labor, regardless of who is to do the work or make the installations.

(Ord. 05-186. Passed 7-12-5.)

1313.05 PERMIT FEES FOR BUILDINGS AND STRUCTURES.

(a) Effective on and after January 1, 2004, the fee for a permit for the construction of a new commercial building or structure, or for an addition to an existing commercial building or structure, or for the repair or alteration of an existing commercial building or structure shall be one-hundred dollars (\$100.00) per application plus the following fee based upon the total cost of constructing, altering, or repairing such building or structure as determined by Section 1313.04. The fee for a permit for the construction of a new residential building or structure, or for an addition to an existing residential building or structure, or for the repair or alteration of an existing residential building or structure shall be forty dollars (\$40.00) per application plus the following fee based upon the total cost of constructing, altering, or repairing such building or structure as determined by Section 1313.04. The building fee is obtained by using the following formulas:

For all commercial building permits (except roofing permits):

Gross Area (in square feet) x Construction Factor x 71 x .0045

A three-percent assessment fee for OBBS based on subtotal of building fees. If project valuation is \$30,000 or less, the permit fee will be a minimum of \$135 plus associated fees.

For all residential building permits (except roofing permits):

Habitable areas Gross Area (in square feet) x \$45 x .0045

Non-Habitable areas Gross Area (in square feet) x \$25 x .0045

A one-percent assessment fee for OBBS based on subtotal of building fees. If project valuation is less than \$30,000, the permit fee will be a minimum of \$135 plus associated fees.

For all commercial roofing permits:

Re-roof Number of squares x \$100 x .0045

Tear off and resheet Number of squares x \$200 x .0045

The minimum fee for a commercial roofing permit shall be \$45.

Ord. 07-82. Passed 03-27-07.)

1313.06 PLANS REVIEW FEE.

Effective on and after January 1, 2004, when plans are required to be submitted by the Building Code, the plan review fee shall be determined as follows:

Commercial Minimum of \$150 (if plans are required to be submitted)

Residential Minimum fee of \$100 for Habitable Areas

Flat fee of \$50 for Non-Habitable Areas

Commercial and Residential plans examination fee shall be equal to 50 percent of the building permit fee.

(Ord. 02-476, Passed 12-17-02; Ord. 03-383, Passed 11-25-03.)

1313.07 REQUESTED INSPECTION FEE.

The owner or his authorized agent may request an inspection be made of his premises for which no inspection fee has been otherwise prescribed by this chapter and such inspection is not otherwise required by this Building Code. A fee of forty-five dollars (\$45.00) per hour shall be charged for such Building Code consultation.

(Ord. 88-467. Passed 8-2-88.)

1313.08 INVESTIGATION CHARGE OF ILLEGAL OR UNAUTHORIZED WORK.

When any person, firm, or corporation has commenced work on a project without first procuring the necessary permit therefor, the Chief Building Official shall make a thorough investigation to determine whether all work performed prior to the subsequent issuance date of the specified permit conforms to all pertinent Ordinances. The charge for making such investigations prior to the issuance of the necessary permit shall be equal to the amount of the permit fee required, but not less than two hundred dollars (\$200.00), and shall be in addition to the cost of the permit, but in no event shall the additional charge for investigation exceed one thousand dollars (\$1,000.00), except that the charge for a person who re-roofs his/her own residence or an accessory building thereto shall be equal to the amount of the required permit fee, and shall be in addition to the cost of the permit, without any minimum charge.

(Ord. 92-395. Passed 12-22-92.)

1313.09 DEMOLITION FEE.

The fee for a permit to demolish a building or structure shall be thirty dollars (\$30.00) per application plus an additional charge as follows:

(a) Residential garages/accessory structures (fixed rate) of \$45 per structure

(b) All buildings or structures other than residential garages and accessory structures shall be \$15 per 1,000 square feet or fraction thereof of the

area of the building or structure to be demolished.
(Ord. 02-476. Passed 12-17-02.)

1313.10 CERTIFICATE OF OCCUPANCY/TEMPORARY CERTIFICATE OF OCCUPANCY.

(a) The fee for a certificate of occupancy for all buildings and structures shall be fifty dollars (\$50.00).

(b) The fee for a temporary certificate of occupancy for all buildings and structures shall be one hundred fifty dollars (\$150.00), provided that such building or structures meets all requirements for the issuance of a Temporary Certificate of Occupancy.
(Ord. 02-476. Passed 12-17-02.)

1313.11 SIGNS AND OUTDOOR ADVERTISING DISPLAY.

The fee for a permit to erect, re-erect, alter, repair, place, replace, hang, rehang, locate, relocate or in any manner display or re-display a sign or outdoor advertising display shall be based on the total display area of each face of the sign or outdoor advertising display as follows:

(a)	All on-site identifying formal or informal billboard, projecting, wall or free standing signs	\$20.00 plus .60 per sq. ft. of display area
(b)	Temporary signs [to be displayed not more than thirty (30) days in one (1) year]	\$20.00

The federal and state governments and their political subdivisions shall be exempt from paying the sign fees imposed under this section.
(Ord. 98-237. Passed 7-14-98.)

1313.12 SWIMMING POOLS.

The fee for a permit to install a pool over thirty-six (36) inches deep shall be thirty dollars (\$30.00) plus additional charges as follows:

(a)	Plan review if required	\$ 50.00
(b)	Residential above-ground pool	\$ 45.00
(c)	Residential in-ground pool (unheated)	\$ 90.00
(d)	Residential in-ground pool (heated)	\$135.00
(e)	Commercial pool	\$135.00
(f)	Electric (above-ground)	\$ 45.00
(g)	Electric (in-ground)	\$ 90.00
(h)	Zoning	\$ 5.00
(i)	Commercial 3 percent OBBS fee	based on subtotal of pool fees

(Ord. 02-476. Passed 12-17-02.)

1313.13 MOVING BUILDINGS OVER PUBLIC STREET OR ALLEY.

To move a building from one (1) location to another on or across a public street or public alley, a fee shall be paid to the Department of Inspection Services as follows:

Frame Building (dimensions in feet)	
Not over 12' high or 12' wide or 22' long	None
Not over 12' high or 20' wide or 22' long	\$ 50.00
Over 12' high but not over 20' wide or 22' long	\$100.00
Not over 2-1/2 stories, but over 20' wide or 22' long	\$200.00

See Chapter 1325 for special requirements.
(Ord. 88-467. Passed 8-2-88.)

1313.14 ELECTRIC PERMIT FEES.

(a) Application fee	\$ 40.00
(b) Plan review	
Commercial	\$100.00
Residential	\$ 20.00
(c) Services	
New (3)	\$135.00
Underground--French (1)	\$ 45.00
Sub panels--1 to 10	\$ 5.00 each
Sub panels--11 and over	\$ 1.00 each
Upgrade (1)	\$ 45.00
Reconnect (1)	\$ 45.00
Temporary (1)	\$ 45.00
(d) Alterations/repairs (1)	\$ 45.00
New circuits--1 to 10	\$ 3.00 each

New circuits--11 and over	\$ 1.00 each
Sub panels--1 to 10	\$ 5.00 each
Sub panels--11 and over	\$ 1.00 each
(e) Commercial refrigeration (1)	\$ 45.00
(f) Sign circuits (1)	\$ 45.00
(g) Pools	
Above-ground (1)	\$ 45.00
In-ground (+1) (2)	\$ 90.00
(h) Informational inspections	\$ 45.00
(i) Investigation fee	\$200.00
(j) Additional inspections	\$ 45.00
(k) Commercial 3 percent OBBS fee	based on subtotal of fees

NOTES: 1. Permit holder is responsible for scheduling the final inspection.

2. Commercial permit applications must include fault current calculations and a one-line diagram.

3. An additional \$45.00 reinspection fee may be imposed for work that was not properly installed, was not ready for inspection, had changed from the approved plans, or was not accessible at the time of the inspection.

4. Numbers in parenthesis indicate the number of inspections provided.

(Ord. 06-286. Passed 7-25-06.)

1313.15 HEATING, AIR CONDITIONING, REFRIGERATION, AND VENTILATION PERMIT FEES.

(a) Application fee	\$ 40.00
(b) Plan review	
Commercial	\$100.00
Residential	\$ 20.00
(c) Heating/cooling	
New furnace/air handler (2)	\$ 90.00
Replacement furnace/air handler (2)	\$ 45.00
Unit/radiant heaters (1)	\$ 45.00
Additional units	\$ 2.00 each
AC/heat pump (1)	\$ 45.00
Package rooftop units (1)	\$ 45.00
Ductwork/alteration (1)	\$ 45.00
(d) Fireplace (wood or gas)	
Solid fuel appliance (1)	\$ 45.00
Chimney or Chimney Liner (1)	\$ 45.00
(e) Ventilation equipment (1)	\$ 45.00
(f) Commercial refrigeration	\$ 45.00
(g) Informational inspections	\$ 45.00
(h) Additional inspections	\$ 45.00
(i) Investigation fees	\$200.00
(j) Commercial 3 percent OBBS fee	based on subtotal of fees
(k) Range hoods	\$250.00

NOTES: 1. Permit holder is responsible for scheduling the final inspection.

2. Numbers in parenthesis indicate the number of inspections provided.

3. An additional \$45.00 reinspection fee may be imposed for work that was not properly installed, was not ready for inspection, had changed from approved plans or was not accessible at the time of the inspection.

(Ord. 06-286. Passed 7-25-06.)

1313.16 FIRE DETECTION/SUPPRESSION PERMIT FEES.

(a) Application fee	\$ 40.00
(b) Plan review	
Commercial	\$100.00
Residential	\$ 20.00
(c) Alarm	
New system	\$150.00/ 10,000 sq. ft. or pt.
Replace panel	\$150.00/ 10,000 sq. ft. or pt.
Supervision for tamper/flow (only)	\$ 85.00
(d) Detection (not part of a new system)	

Duct smoke detectors	\$ 45.00 each (\$135 maximum)
Additional devices in existing building	\$ 45.00 each (\$135 maximum)
Supervision for tamper/flow (only)	\$ 85.00
(e) Suppression	
Sprinklers (1 to 4)	\$100.00
Sprinklers (5 to 20)	\$150.00
Sprinklers (21 to 200)	\$250.00
Sprinklers (201 to 300)	\$300.00
Sprinklers (301 to 400)	\$350.00
Sprinklers (401 to 750)	\$450.00
Sprinklers (over 750)	\$450.00 (plus \$.50 per sprinkler over 750)
Range hood suppression	\$250.00
Other suppression systems	\$250.00
(f) Informational inspections	\$ 45.00
(g) Additional inspections	\$ 45.00
(h) Investigation fee	\$200.00
(i) Commercial 3 percent OBBS fee	based on subtotal of fees

NOTES: 1. Permit holder is responsible for scheduling the final inspection.

2. An additional \$45.00 reinspection fee may be imposed for work that was not properly installed, was not ready for inspection, had changed from approved plans or was not accessible at the time of the inspection.
(Ord. 06-286. Passed 7-25-06.)

1313.17 REINSPECTION FEE.

A fee of \$45.00 shall be charged, in addition to all other fees imposed under this Chapter, whenever a reinspection is necessary as a result of work being improperly or incompetently performed or as a result of an inspector being unable to complete a scheduled inspection through the fault of the permit applicant or his/her agent.
(Ord. 02-476. Passed 12-17-02.)

1313.18 ENGINEERING PLAN REVIEW AND INSPECTION FEES FOR COMMERCIAL AND INDUSTRIAL PROPERTIES AND PUBLIC IMPROVEMENTS.

The following fees for engineering plan reviews and the listed inspections shall apply to all properties and construction projects (private and public improvements); except construction projects for and properties to be used for one-, two-, and three-family residential dwellings:

Plan Review fees	
(a) \$250/acre for the first five acres (\$1250 max.)	
(b) \$150/acre for the next five acres (\$750 max.)	
(c) \$75/acre for any remaining area	
Inspection fees	
(d) Water and/or Sanitary Sewer Mains	(per linear foot) \$2.00
(e) Sanitary Manholes	(each) \$100.00
(f) Water and Sewer Taps	\$50.00
(g) Purity Test—original test	\$150.00
(h) Purity Test—retest (if first original test fails)	\$100.00
(i) Purity Test—retest (if second original test fails)	\$200.00
(j) Pressure Test Water Main—original test	\$100.00
(k) Pressure Test Water Main—retest (if first original test fails)	\$150.00
(l) Pressure Test Water Main—retest (if second original test fails)	\$200.00
(m) Water Main Debris Tests	\$75.00
(n) Inspector charge for work on Saturday and call in	\$65.00/hour
(o) Inspector charge for work on Sunday and Holidays	\$90.00/hour
(p) Inspector charge for work not during normal work hours	\$65.00/hour

All Saturday, Sunday, and holiday inspections fees will be billed at three hours of services or the actual time the inspector is required to perform services, whichever is greater.
(Ord. 05-186. Passed 7-12-05.)

Appeals

- 1315.01 Board of Building Appeals established.**
- 1315.02 Appointment.**
- 1315.03 Qualifications.**
- 1315.04 Quorum and organization.**
- 1315.05 Records.**
- 1315.06 Rules and regulations.**
- 1315.07 Power of appeals.**
- 1315.08 Orders.**
- 1315.09 Notice of appeals; records.**
- 1315.10 Stay.**
- 1315.11 Hearing of appeals.**
- 1315.12 Decision on appeal.**
- 1315.13 Appeal from Board decision.**
- 1315.14 Meetings of Board.**
- 1315.15 Reports of Board.**
- 1315.16 Definitions.**

CROSS REFERENCES

Fire insurance proceeds - see Ohio R.C. 3929.86
Nuisance abatement appeal - see BLDG. 1323.06

1315.01 BOARD OF BUILDING APPEALS ESTABLISHED.

The Board of Building Appeals is hereby established in the City and shall consist of five (5) members, who need not be citizens of the City.
(Ord. 98-191. Passed 06-02-98.)

1315.02 APPOINTMENT.

(a) The members of the Board of Building Appeals shall be appointed by the Mayor with consent of the City Commission for terms of five years each. Vacancies to such Board shall be filled by the City Commission for the unexpired term.

(b) If any Board member is absent from three of any six consecutive regularly scheduled meetings, or if such member is unwilling or unable to attend a regularly scheduled prearranged discussion of the public business of the Board which fails to qualify as a "meeting" for lack of quorum, such member's office shall immediately become vacant. Such member shall have the opportunity to explain his absence to the City Commission and may be reappointed by a majority vote of the City Commission to complete the balance of his/her term.
(Ord. 04-308. Passed 10-19-04.)

1315.03 QUALIFICATIONS.

One member shall be an Attorney at Law admitted to the Bar of the State of Ohio; one shall be a registered Architect; one shall be a registered professional engineer, specializing in structural engineering; and one shall be a registered professional engineer specializing in mechanical engineering; Each of these four members shall be licensed to practice his profession in the State of Ohio and shall be a person of recognized ability and broad training who is experienced in problems and practice incidental to the construction and equipment of buildings and structures. One member shall be a representative of organized labor who is knowledgeable as to the construction and equipment of buildings and structures. A person who is a member of a City employee's family, as defined in Section 111.04, shall not be eligible for service on the Board of Building Appeals.
(Ord. 98-191. Passed 06-02-98. / Ord. 12-110. Passed 4-10-12)

1315.04 QUORUM AND ORGANIZATION.

(a) The Board of Building Appeals shall elect from its membership a Chairman who shall serve for a term of one calendar year. No person may serve as Chairman for more than two consecutive calendar terms. The Chairman shall not be disqualified by reason of such office from exercising any power as a member of such Board. The Chief Building Official of the City or his designated representative shall serve as Secretary. The Board shall adopt its own rules governing its conduct. At least three members shall be present to constitute a quorum and in varying the application of or supplementing any provision of Title One of Part Thirteen of the Codified Ordinances, or of any rule or regulation of the Board, and in modifying or reversing any order of the Chief Building Official or any order of the Code Enforcement Manager pertaining to existing structures, the concurrence of three members of such Board shall be required.

(b) No member of any Board shall act in any case in which he has a personal interest.
(Ord. 98-191. Passed 06-02-98.)

1315.05 RECORDS.

The Secretary of the Board shall make and keep a full and complete record of all its proceedings, including decisions, with reasons; the vote of each member participating therein, or the failure of a member to vote; and absences of members. Such records shall be open to public inspection.
(Ord. 98-191. Passed 06-02-98.)

1315.06 RULES AND REGULATIONS.

The Board of Building Appeals shall be, and the same is hereby authorized, to promulgate rules and regulations governing use of materials and methods of construction not specifically provided for in this Code. Such rules and regulations shall be based upon accepted State and Federal standards and shall effectuate the intent and purpose of this Code.

- (a) At least ten-days' notice of intention to adopt, amend or repeal any rule or regulation shall be given by one publication in a newspaper of general circulation in the City.
- (b) No final action shall be taken upon such rule or regulation until a public hearing thereon has been held.

- (c) All adopted rules and regulations shall be posted in a conspicuous place in the office of the Chief Building Official, and shall take effect at such time as may be fixed by the Board, but in no event less than twenty days after such publication.
 - (d) A record shall be made of evidence taken by the Board concerning any rule or regulation.
- (Ord. 98-191. Passed 06-02-98.)

1315.07 POWER OF APPEALS.

The Board of Building Appeals shall hear and decide all appeals authorized by Chapters 1301, 1303, 1305, 1323, 1327, and 1361 of the Codified Ordinances. The Board of Building Appeals shall hear and decide the appeal of any person aggrieved by any decision made by the Fire Official in accordance with the Fire Prevention Code, Part 15 of the Codified Ordinances, or any order or citation issued by the Fire Official pursuant to the Fire Prevention Code, Part 15 of the Codified Ordinances.

(Ord. 98-191. Passed 06-02-98.)

1315.08 ORDERS.

Each order of the City shall cite the law or rules upon which it was issued and shall specify what actions are necessary to comply with the applicable code. Upon the issuance of an order of the City the owner and occupant/tenant of the property which is the subject of the order and/or contractors and workers engaged in the property shall cease with their work until the order is complied with or until the order is reversed or modified by the Board or a court of competent jurisdiction. The order shall include a notice of the procedure available to appeal an order and the right to a hearing before the Board if requested within the time period provided in the applicable code. The notice shall also inform the party that at the hearing the party may be represented by counsel, present arguments orally or in writing, and present evidence and examine witnesses who may appear before the Board.

(Ord. 98-191. Passed 06-02-98.)

1315.09 NOTICE OF APPEALS; RECORDS.

Appeals shall be made within thirty days after an order of the Chief Building Official is rendered and within ten days after an order of the Code Enforcement Manager is rendered by filing a written notice of appeal, specifying the grounds therefor, with the official whose decision is being appealed, and the official shall immediately forward the appeal to the Board of Building Appeals. Such official shall also forthwith transmit to the Board all papers constituting a record upon which the action appealed was presented. The Secretary of the Board of Building Appeals shall schedule for hearing all appeals filed at least seven days before the next regularly scheduled meeting of the Board of Building Appeals. Upon application made by an appellant, and for good cause shown, the Secretary may continue an appeal until the next regularly scheduled meeting of the Board of Building Appeals.

(Ord. 98-191. Passed 06-02-98.)

1315.10 STAY.

The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless the official from whom the appeal is taken shall file a certificate with the Board of Building Appeals describing the facts pertinent to and resulting in the action appealed from and stating that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. A copy of the certificate shall forthwith be mailed to the appellant at the address stated in the notice of appeal. The appellant may seek an immediate hearing before the Board. After the filing of a certificate, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of competent jurisdiction upon application. The issuance of a "Stop Work Order" is an exception to this section whereby the filing of an appeal with the Board does not stay the enforcement of such order.

(Ord. 98-191. Passed 06-02-98.)

1315.11 HEARING OF APPEALS.

The Board of Building Appeals shall give due notice of hearing times and dates to the parties and shall decide the same within 30 days after the date of the hearing. At the hearing, any party may appear in person or by agency or attorney. The fee for filing an appeal with the Board of Building Appeals shall be two hundred dollars (\$200.00).

(Ord. 04-223. Passed 07-13-04.)

1315.12 DECISION ON APPEAL.

(a) Every decision of the Board of Building Appeals shall be in writing, and shall indicate the vote of the decision. Every decision shall be sent by certified mail or delivered in person to the appellant, and a copy shall be publicly posted in the City Hall for two weeks after filing.

(b) The official concerned shall take action immediately in accordance with the ruling of the Board of Building Appeals.

(Ord. 98-191. Passed 06-02-98.)

1315.13 APPEAL FROM BOARD DECISION.

A decision of the Board of Building Appeals is a final, appealable decision.

(Ord. 98-191. Passed 06-02-98.)

1315.14 MEETINGS OF BOARD.

Meetings shall be held once monthly and as many times as necessary upon the call of the City Manager. The Chairman and the Secretary may call special meetings and may cancel the monthly meeting if there is no business for the Board of Building Appeals to consider.

(Ord. 98-191. Passed 06-02-98.)

1315.15 REPORTS OF BOARD.

The Board of Building Appeals shall annually, not later than January 31 of each year, submit a report to the City Commission covering the work of the Board during the preceding year, and shall incorporate in such report its recommendations as to desirable amendments of this Code.

(Ord. 98-191. Passed 06-02-98.)

1315.16 DEFINITIONS.

As used in this Chapter, certain terms are defined as follows:

- (a) "Order" means an adjudication order or a written notice of corrections.
 - (b) "Personal interest" means any business in which a member of the Board of Building Appeals has a conflict of interest by association. "Personal interest" shall also mean any interest in a matter before the Board of Building Appeals such that applicable federal, state, or local law would disqualify the member of the Board of Building Appeals from taking any action pertaining to such matter.
 - (c) "Work" means the erection, construction, repair, improvement, moving, alteration, remodeling, removal, or demolition of a building or structure; of a swimming pool; or of electrical, heating, ventilation or air conditioning facilities.
- (Ord. 98-191. Passed 06-02-98.)

CHAPTER 1317

Gas Piping Code

- 1317.01 Fuel gas code adopted.**
- 1317.02 Permit required.**
- 1317.03 Completion of work already authorized.**
- 1317.04 Application form.**
- 1317.05 Repealed by Ordinance No. 04-247, passed 8-10-04.**
- 1317.06 Amendments to application.**
- 1317.07 Diagram to accompany application.**
- 1317.08 Action on application.**
- 1317.09 Revocation of permit.**
- 1317.10 Compliance with permit.**
- 1317.11 Permit expiration; extensions.**
- 1317.12 Posting of permit.**
- 1317.13 Stop work order.**
- 1317.14 Registration of gas piping installers.**
- 1317.15 Fees.**
- 1317.16 Charge for investigation of illegal work.**
- 1317.17 Delegation of authority.**
- 1317.18 Revocation of gas piping installer's registration.**
- 1317.99 Penalty.**

1317.01 FUEL GAS CODE ADOPTED.

There is hereby adopted by The City of Springfield, Ohio, the 2015 International Fuel Gas Code, as published by the International Code Council, which is hereby incorporated by reference as if fully set out in this Chapter.
(Ord. 10-97, Passed 3-16-10; Ord. 18-50, Passed 2-27-18.)

1317.02 PERMIT REQUIRED.

(a) No person shall install new gas line, repair or alter a gas line, install a gas powered appliance or replace a gas powered appliance without first filing with the Chief Building Official an application in writing and obtaining a formal gas piping installation permit.

(b) Every gas piping installation permit issued by the Chief Building Official under the provisions of this Gas Piping Code shall have the signature of the Chief Building Official affixed thereto; but this shall not prevent the Chief Building Official from authorizing a subordinate to affix the Chief Building Official's signature.
(Ord. 04-161. Passed 5-18-04.)

1317.03 COMPLETION OF WORK ALREADY AUTHORIZED.

Nothing in this Gas Piping Code shall require changes in the plans, construction or designated use of a building or structure or portion thereof for which a lawful permit has been heretofore issued or which has been otherwise lawfully authorized, and the construction of which has been actually begun within ninety (90) days after this Gas Piping Code becomes effective, and if the entire building or structure shall be completed, as authorized, within one (1) year thereafter.
(Ord. 04-161. Passed 5-18-04.)

1317.04 APPLICATION FORM.

An application for a gas piping installation permit shall be submitted in such form as the Chief Building Official may prescribe. Such application shall contain the full names and addresses of the applicant and of the owner, and, if the owner is a corporate body, of its responsible officer. The application shall also describe briefly the proposed work and shall give such additional information as may be required by the Chief Building Official for an intelligent understanding of the work proposed.
(Ord. 04-161. Passed 5-18-04.)

1317.05 REPEALED BY ORDINANCE NO. 04-247, PASSED 8-10-04.

1317.06 AMENDMENTS TO APPLICATION.

Nothing in this Gas Piping Code shall prohibit the filing of amendments to an application or to a diagram or other record accompanying same, at any time before the completion of the work for which the gas piping installation permit was issued. Such amendments shall be filed with and shall be deemed a part of the original application; provided that such amendment was made prior to final testing of the permitted work. Otherwise, a new application for such alteration shall be made and a new gas piping installation permit shall be secured.
(Ord. 04-161. Passed 5-18-04.)

1317.07 DIAGRAM TO ACCOMPANY APPLICATION.

Applications for permits shall be accompanied by a one-line diagram of the proposed work, showing gas pipe size and length, BTU's per gas powered appliance, gas line operating pressure and such other information as the Chief Building Official may require.
(Ord. 04-161. Passed 5-18-04.)

1317.08 ACTION ON APPLICATION.

The Chief Building Official shall examine, or cause to be examined, applications for gas line installation permits, within a reasonable time after filing. If, after examination, he finds no objections to the same and it appears that the proposed installation, alteration or repair will be safe, he shall approve such application and issue a gas piping installation permit for the proposed work as soon as practicable. If examination reveals otherwise, he shall reject such application, note his findings in a written report to be attached to the application and deliver a copy to the applicant.
(Ord. 04-161. Passed 5-18-04.)

1317.09 REVOCATION OF PERMIT.

The Chief Building Official may revoke a gas piping installation permit or approval issued in the event there has been any false statement or misrepresentation as to a material fact in the application or diagrams on which the permit or approval was based.
(Ord. 04-161. Passed 5-18-04.)

1317.10 COMPLIANCE WITH PERMIT.

(a) All work performed under a permit issued by the Chief Building Official shall conform to the approved application, approved diagrams, and approved amendments thereto and all such work shall be performed only by a registered gas piping installer holding a valid gas piping installer's registration issued under this Chapter. The gas piping installation permit holder is responsible for scheduling all applicable inspections to identify whether work complies with Gas Piping Code requirements. No work for which a gas piping installation permit has been issued shall be concealed without prior inspection and/or approval by a City inspector. The registered gas piping installer shall provide the equipment necessary to test work: to wit, those installations, alterations, replacements and repairs authorized by the gas piping installation permit. Testing shall be performed in the presence of the City's inspector and shall be performed with either a Kuhlman gas pressure gage or a Magnehelic gas pressure gage. In the event test results are obtained with both a Kuhlman gas pressure gage and a Magnehelic gas pressure gage, the results produced by the Kuhlman gas pressure gage shall govern.

(b) No gas line or gas powered appliance shall be put into service until it has first been inspected by a City inspector and has been approved; however, a gas service line and construction related gas powered appliances may be placed in temporary service during construction operations without obtaining an inspection and approval by a City inspector, provided that a gas piping installation permit has been obtained for the gas line.
(Ord. 04-161. Passed 5-18-04.)

1317.11 PERMIT EXPIRATION; EXTENSIONS.

A gas piping installation permit expires on the last day of the twelfth month following the date of issuance of the gas piping installation permit. All installation, alterations, replacements and repairs authorized by a gas piping installation permit must be completed, a final inspection conducted, and all work approved prior to expiration of the gas piping installation permit. Two extensions of a permit shall be granted for six months each, if requested by the owner or permit holder at least ten days in advance of the expiration date of the gas piping installation permit and upon payment of a fee for each extension of seventy five dollars (\$75.00).
(Ord. 04-161. Passed 5-18-04.)

1317.12 POSTING OF PERMIT.

A copy of the gas piping installation permit shall be kept on the premises for public inspection during the prosecution of the work and until the completion and final testing of the same.
(Ord. 04-161. Passed 5-18-04.)

1317.13 STOP WORK ORDER.

Whenever, in the opinion of the Chief Building Official, by reason of directive or illegal work in violation of a provision or requirement of this Gas Piping Code, or the continuance of work is contrary to public safety and welfare, he shall order, in writing, all further work to be stopped and may require suspension of all work until the condition in violation has been corrected.
(Ord. 04-161. Passed 5-18-04.)

1317.14 REGISTRATION OF GAS PIPING INSTALLERS.

(a) No person shall perform work for which a gas piping installation permit is required unless such person holds a valid gas piping installer's registration issued under this Chapter.

(b) Any person desiring a gas piping installer's registration shall make written application therefor with the Chief Building Official. Every application shall be on forms prescribed by the Chief Building Official; shall furnish all information and data required thereby. No application shall be required of any person desiring to renew a gas piping installer's registration previously issued or renewed provided that the information and data contained in such person's application therefor is correct or, if not, is corrected by or at the direction of such person and that all other provisions of this Chapter are complied with.

(c) No gas piping installer's registration shall be issued or continue in effect unless the applicant shall give evidence that the following items are valid and remain in effect during the duration of the gas piping installer's registration:

- (1) The payment of a three hundred dollar (\$300.00) fee upon application for a gas piping installer's registration; and the payment of a two hundred dollar (\$200.00) fee for each renewal thereof. Payment shall be made to the City Treasurer.
- (2) Proof that the applicant holds either:
 - (A) a valid and unexpired Plumbing License issued by the State of Ohio pursuant to Chapter 4740 of the Ohio Revised Code or
 - (B) a valid and unexpired H/M-1P Install/Replace Gas Service D.O.T. certification issued pursuant to 49 CFR Part 192.
- (3) Comprehensive general liability insurance, including completed operations, with a minimum limit of liability of three hundred thousand dollars (\$300,000) each occurrence combined single limit for bodily injury and property damage liability. Such insurance shall provide explosion hazard coverage ("x" exclusion deleted). Applicants performing excavation work shall also provide both

collapse and underground hazard coverage ("c" and "u" exclusions deleted).

(4) Proof of Workers' Compensation coverage, if coverage is required by the State of Ohio.

(5) City income tax number and social security number.

(6) Photo identification of the applicant.

(7) The execution by such applicant of a bond in the sum of ten thousand dollars (\$10,000) with sureties thereon to the approval of the City Manager. Such bond shall be conditioned to save the City and its inhabitants harmless from all loss or damage of whatsoever nature that may result from any violation by the registered gas piping installer and/or his authorized agents of any law, ordinance or rule governing work contemplated by the terms of such gas piping installer's registration which are then in force or thereafter established by proper authority.

(8) A Police Records check showing no convictions for crimes involving dishonesty for the preceding five (5) years.

(d) The Chief Building Official shall issue a certificate of gas piping installer's registration to any person who has complied with the provisions of this section. Every certificate of gas piping installer's registration issued or renewed pursuant to this section shall expire on December 31 of the year for which the same has been issued or last renewed unless otherwise renewed prior thereto in accordance with the provisions of this section. No fee required under the provisions of this section after payment thereof to the City shall be refunded for any cause whatsoever.

(e) Holders of a certificate of gas piping installer's registration may apply to renew their certificate of gas piping installer's registration during the period November 15 through December 31 of the year in which the certificate of gas piping installer's registration was issued or previously renewed by making application for renewal and paying the renewal fee of two hundred dollars (\$200.00). Holders of a certificate of gas piping installer's registration may request an extension of the registration expiration date by filing with the Chief Building Official a request for an extension citing the reason an extension should be granted and by paying an extension request fee of twenty-five dollars (\$25.00). For good cause shown, the Chief Building Official may grant an extension of the registration expiration date (either prospective or retroactive) of up to thirty days. A certificate of gas piping installer's registration which is permitted to expire may not be renewed and a holder of an expired certificate of gas piping installer's registration who wishes to become registered must apply for a new certificate of gas piping installer's registration pursuant to the provisions of this Section and pay the application fee of three hundred dollars (\$300.00).

(Ord. 10-97. Passed 3-16-10.)

1317.15 FEES.

(a) A gas piping installation permit shall not be issued until the fees prescribed therefor have been paid to the City Treasurer. The fees to be paid for a gas piping installation permit authorized by this Gas Piping Code shall be determined by the Chief Building Official according to the schedule of fees as hereafter set forth, and shall be noted on the gas piping installation permit form.

(b) The fees hereinafter set forth shall be additive and, unless otherwise specifically provided, separate fees shall be paid for each of the items listed.

(c) The fee for a gas piping installation permit shall be forty dollars (\$40.00) plus additional charges as follows:

(1) Plan/diagram review	
Commercial	\$100.00
Residential	\$ 20.00
(2) Gas (NG or LP) piping inspection	\$ 45.00 ea
(3) Application feed inspection	\$ 10.00 ea
(4) Rough inspection	\$ 45.00 ea
(5) Informational inspections	\$ 45.00 ea
(6) Additional inspections	\$ 45.00 ea
(7) Commercial, 3 percent of OBBS fee	based on fees subtotal
(8) Residential, 1 percent of OBBS fee	based on fees subtotal

The minimum fee for the issuance of any gas piping installation permit pursuant to this Chapter shall be eighty five dollars (\$85.00).

(Ord. 10-97. Passed 3-16-10.)

1317.16 CHARGE FOR INVESTIGATION OF ILLEGAL WORK.

When any person, firm, or corporation has commenced work on a project without first procuring the necessary gas piping installation permit therefor, the Chief Building Official shall make a thorough investigation to determine whether all work performed prior to the subsequent issuance date of the gas piping installation permit conforms to all pertinent Ordinances. The charge for making such investigations prior to the issuance of the necessary gas piping installation permit shall be equal to the amount of the gas piping installation permit fee required, but not less than two hundred dollars (\$200.00), and shall be in addition to the cost of the gas piping installation permit, but in no event shall the additional charge for investigation exceed one thousand dollars (\$1,000.00).

(Ord. 04-161. Passed 5-18-04.)

1317.17 DELEGATION OF AUTHORITY.

As used in this chapter, "Chief Building Official," when concerning the alteration and repair of one-, two-, and three-family buildings and accessory structures rehabilitated with funds from the Federal Department of Housing and Urban Development, refers to the Housing Rehabilitation Coordinator of the City of Springfield.

(Ord. 04-161. Passed 5-18-04.)

1317.18 REVOCATION OF GAS PIPING INSTALLER'S REGISTRATION.

(a) The City's Director of Community Development is authorized and empowered to revoke, modify, or suspend a gas piping installer's registration pursuant to the provisions of this Chapter for any of the following acts or omissions of the holder of any such gas piping installer's registration: fraud, deceit, or misrepresentation of any facts in obtaining a gas piping installer's registration; obtaining a contract for work authorized under any such license by fraud, deceit, or misrepresentation of facts; negligence or incompetence in the practice of contracting or the performance of

any work; willful or fraudulent material departure from the plans or specifications prescribed for any work undertaken by a gas piping installer's registration holder; violation of or disregard for any provision of law or ordinance or rule or regulation; non-compliance resulting in injury or damage to any person or to the public; or giving false information on an application for a gas piping installation permit.

(b) The City's Director of Community Development is authorized and empowered to revoke a gas piping installer's registration pursuant to the provisions of this Chapter for any of the following reasons:

- (1) The gas piping installer's registration holder no longer holds either a valid and unexpired Plumbing License issued the State of Ohio pursuant to Chapter 4740 of the Ohio Revised Code or a valid and unexpired H/M-1P Install/Replace Gas Service D.O.T. certification issued pursuant to 49 CFR Part 192, or
- (2) The gas piping installer's registration holder no longer has in effect the insurance described in Section 1317.14, or
- (3) The gas piping installer's registration holder no longer has in effect the workers compensation coverage described in Subsection 1317.14, or
- (4) The gas piping installer's registration holder no longer has in effect the bond described in Subsection 1317.14, or
- (5) The gas piping installer's registration holder has been convicted of a crime involving dishonesty within the preceding three (3) years , or
- (6) any combination of the foregoing items (1) through (5).

(c) No such gas piping installer's registration shall be revoked without at least fifteen (15) days advance written notice by the City's Director of Community Development to the gas piping installer's registration holder to such effect and without affording to such gas piping installer's registration holder the opportunity to appeal to the Board of Building Appeals by submitting the appeal in writing and stating the reason for the appeal. Appeals must be filed with the Secretary of the Board of Building Appeals within ten (10) days after receipt of notice of revocation.

(Ord. 04-161. Passed 5-18-04.)

1317.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree, and shall be fined not less than one thousand dollars (\$1,000) or imprisoned not more than six (6) months, or both.

(Ord. 04-161. Passed 5-18-04.)

CHAPTER 1321

Historic Landmarks Commission

1321.01 Establishment of Historic Landmarks Commission.

1321.02 Purpose.

1321.03 Definitions.

1321.04 Historic Landmarks Commission composition and terms.

1321.05 Meetings; records; general procedures.

1321.051 Assistance to the Historic Landmarks Commission.

1321.06 Duties of the Landmarks Commission.

1321.07 Designation of historic districts and listed properties.

1321.08 Limitations on issuance of building, demolition and sign permits.

1321.09 Issuance of Certificate of Appropriateness.

1321.10 Automatic issuance of Certificate of Appropriateness.

1321.11 Exclusions and exemptions.

1321.99 Penalty.

1321.01 ESTABLISHMENT OF HISTORIC LANDMARKS COMMISSION.

In recognition of the need for the establishment of a public body that will provide for the protection and enhancement of the distinctive character of the historic resources of Springfield and for the objective review of alternatives to proposed alteration or demolition of certain notable structures, works of art, objects or areas within the City of Springfield, the City Commission hereby adopts this chapter and establishes the Springfield Historic Landmarks Commission.

(Ord. 84-549. Passed 11-13-84.)

1321.02 PURPOSE.

The City Commission, being mindful of the proud history of this community, hereby declares as a matter of public policy that the preservation, protection, perpetuation and use of areas, places, buildings, structures, works of art and other objects having a special historical, community or aesthetic interest or value is a public necessity and is required in the interest of the health, prosperity, safety and welfare of the people. The purpose of this chapter is to:

- (a) Maintain and enhance the distinctive character of the historic resources of Springfield by establishment of procedures whereby certain areas, places, buildings, structures and works of art which reflect elements of the City's cultural, social, economic, political or architectural history shall be allowed that measure of protection afforded by a thorough study of alternatives to incompatible alterations or demolition before such acts are performed;
- (b) Contribute to the economic, recreational, cultural and educational development of the City of Springfield by:
 - (1) Stimulating business and attracting industry;
 - (2) Protecting and enhancing attractions to residents, tourists and visitors;
 - (3) Stabilizing and improving property values;
 - (4) Enhancing the visual and aesthetic character, diversity and interest of the City of Springfield;
 - (5) Fostering civic pride in the beauty and notable accomplishments of the past;
 - (6) Facilitating the rehabilitation and revitalization of certain older neighborhoods;
 - (7) Promoting the use and preservation of historic sites and structures for the education and general welfare of the people of Springfield.

(Ord. 84-549. Passed 11-13-84.)

1321.03 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

- (a) "Alter" or "alteration" means a change or re-arrangement in the structural parts or building service equipment or an enlargement whether by extending on a side or by increasing the height or the moving from one (1) location or position to another. For the purpose of this

chapter, alterations shall include a change in design, color, texture, material or exterior feature. Ordinary maintenance to correct any deterioration, decay or damage to a structure and to restore the structure to its condition prior to such deterioration, decay or damage are excluded from the definition of "alteration", provided such work does not involve a change in design, color, texture, material or exterior feature.

- (b) "Applicant" means any owner, owners, association, partnership or corporation who applies for a Certificate of Appropriateness.
 - (c) "Landmarks Commission" means the Historic Landmarks Commission of the City of Springfield, Ohio.
 - (d) "City Commission" means the City Commission for the City of Springfield.
 - (e) "Exterior features" means the architectural style, general design and general arrangement of the exterior of a building or other structure including but not limited to windows, doors, porches, storefronts, cornices, siding materials and decorative trim.
 - (f) "Historic District" means any area designated by the Landmarks Commission, under the provisions of this chapter, which contains properties of special character, historic, aesthetic or architectural value.
 - (g) "Listed property" means any property which has special character, historic, aesthetic or architectural value as part of the heritage, development or cultural characteristics of the City of Springfield, or the United States and which has been designated as a listed property pursuant to the provisions of this chapter.
 - (h) "Member" means any member of the Landmarks Commission.
 - (i) "Owner" means the owner of record and such term includes the plural as well as the singular.
 - (j) "Sign" means any object or device or part thereof, visible outdoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service or event. For the purposes of this chapter, signs do not include: flags of nations, states and cities, fraternal, religious or civic organizations; merchandise, pictures or models of products and services incorporated as part of a window display; works of art which in no way identify a product; national, state, city, religious, fraternal, professional and civic symbols and crests.
 - (k) "Environmental feature" means any natural or man-made object, attachment or landscaping that is intended as part of the visual composition of a street or site, including but not limited to fences, sidewalks, driveways, exterior lighting fixtures, street trees, curbs and streets, and paving materials.
 - (l) "Substantial hardship" means a condition unique to the property under consideration and a condition under which an action by the Landmarks Commission would force the applicant to suffer practical difficulty and denial of the reasonable use of the property.
- (Ord. 84-549. Passed 11-13-84.)

1321.04 HISTORIC LANDMARKS COMMISSION COMPOSITION AND TERMS.

(a) The Historic Landmarks Commission shall consist of seven (7) members who shall be appointed by the City Commission. All members shall have, to the highest extent possible, a recognized knowledge of and known interest in architectural preservation and design together with a determination to work for the overall improvement of the quality of Springfield's physical environment. Membership on the Landmarks Commission shall include: three (3) at-large members that represent the disciplines of architecture, history or preservation; and four (4) citizens-at-large. Nominations may be solicited from the local chapters of the American Institute of Architects, Clark County Bar Association, Clark County Board of Realtors, Clark County Historical Society, South Fountain Preservation, Inc., and other groups or organizations that might have an interest in the Commission.

(Ord. 11-304. Passed 11-1-11.)

(b) Each of the members shall be appointed to a term of three (3) years. No member shall serve more than two (2) consecutive terms. After a member has served during two (2) consecutive terms he shall be ineligible for reappointment to the Landmarks Commission until one (1) year has expired since his last date of service on the Commission.

(Ord. 94-139. Passed 4-19-94.)

(c) Any vacancy on the Landmarks Commission shall be filled as in the case of the original appointment, as set forth herein for the unexpired term of the member whose vacancy is so filled.

(d) All members of the Landmarks Commission shall serve without compensation and shall be subject to removal from office by a majority of the City Commission.

(e) Persons eligible for service on the Landmarks Commission shall meet the following qualifications:

- (1) Persons serving on another City board or commission shall not be eligible to serve on the Landmarks Commission.
- (2) A person who is a member of a City employee's family, as defined in Section 111.04, or an elected public officials shall not be eligible to serve on the Landmarks Commission.

(Ord. 12-110. Passed 4-10-12.)

(3) Except as otherwise provided herein, if any member of the Landmarks Commission shall fail to meet any of the qualifications stated in subsections (e)(1) and (2) hereof his office shall immediately become vacant.

(4) The City Commission, by ordinance and upon finding that the particular expertise of a potential appointee or member is needed on the Landmarks Commission, may waive any or all of the requirements of subsection (e)(1) and subsection (f) hereof for such appointee or member.

(f) At least four (4) of the seven (7) members of the Landmarks Commission shall be electors of the City.

(g) If any Landmarks Commission member is absent from three (3) of any six (6) consecutive commission meetings, or if such member is unwilling or unable to attend a regularly scheduled prearranged discussion of the public business of his board which fails to qualify as a "meeting" for lack of quorum, his office shall immediately become vacant. Such member shall have the opportunity to explain his absence to the City Commission and may be reappointed by a majority vote of the City Commission to complete the balance of his term.

(Ord. 95-96. Passed 3-14-95.)

1321.05 MEETINGS; RECORDS; GENERAL PROCEDURES.

(a) The Landmarks Commission shall elect from its membership a chairperson and such other officers as it may deem necessary. No chairperson shall serve more than two (2) years during a period of six (6) consecutive years. The term "year" means twelve (12) consecutive months. The Commission shall adopt rules and regulations consistent with law and ordinance. Meetings of the Commission shall be held once each month, and at such additional times as the Commission may determine; provided, however, the chairperson may cancel a meeting if no member has proposed business to be conducted at the meeting. The time of regular meetings shall be specified in the rules and regulations of the Commission. Special meetings shall be called by the chairperson. There shall be a fixed place of meeting.

(b) The Landmarks Commission shall keep minutes of its proceedings, showing the action of the Commission and the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of all of its official action, all of which shall be filed promptly in the Department of Community Development. The presence of four (4) members shall constitute a quorum. The Landmarks Commission shall act by resolution and a copy of each resolution duly adopted shall be filed in the Office of the Clerk of the City Commission.

(Ord. 94-368. Passed 10-11-94.)

1321.051 ASSISTANCE TO THE HISTORIC LANDMARKS COMMISSION.

It shall be the duty of the Director of Community Development to furnish the Historic Landmarks Commission with plats, plans, drawings, and other data as it may require, and to furnish the commission administrative and professional assistance, and to designate a Secretary of the Historic Landmarks Commission, as the City Manager may approve. All other offices and employees of the City shall render the commission such assistance as the City Commission may from time to time direct.

(Ord. 11-304. Passed 11-1-11.)

1321.06 DUTIES OF THE LANDMARKS COMMISSION.

The Landmarks Commission shall have the following duties in addition to those otherwise specified in this chapter:

- (a) The Landmarks Commission shall function to improve the quality of life in this City by striving to further and achieve the spirit and purpose of this chapter.
(Ord. 84-549. Passed 11-13-84.)
- (b) The Landmarks Commission shall conduct or cause to be conducted or assist in the conduct of a continuing survey of all structures, works of art, objects or areas of architectural, historic or aesthetic interest in the City of Springfield, which the Landmarks Commission believes, on the basis of information available or presented to it, are or will be eligible for designation for the Local Register of Historic Properties and/or the National Register as a listed property or as a historic district.
(Ord. 85-485. Passed 9-10-85.)
- (c) The Landmarks Commission shall work for the continuing education of the citizens of Springfield with respect to the architectural and historic heritage of the City and the listed properties and historic districts designated under the provisions of this chapter, and shall make every effort to improve the overall design and environmental awareness of the people.
- (d) The Landmarks Commission shall keep a current register of all listed properties and historic districts. All listed properties shall be given a number, a description accompanied by a photograph, and the reasons for the listing. All historic districts shall also be given a number, a description and representative photographs including streetscapes, a map outlining the boundaries and the reasons for listing. This register shall be made available to the public and to any other interested party, and shall be located in the Department of Community Development.
(Ord. 94-368. Passed 10-11-94.)
- (e) The Landmarks Commission shall work cooperatively with planners, developers, the City, and others in long-range planning efforts to insure the inclusion of historic preservation values in such planning efforts.
- (f) The City shall seek the recommendation of the Landmarks Commission on all planning and development matters affecting designated or potential listed properties and historic districts.
- (g) The Landmarks Commission shall establish criteria, rules and regulations not otherwise included in this chapter for evaluating applications of Certificates of Appropriateness submitted to it and the manner in which they shall be processed. These criteria shall include specific considerations to be given the building materials, landscaping, signs, lighting and architectural style of the listed properties.
- (h) The Landmarks Commission may make recommendations to the City Commission for additions or revisions to this chapter.
- (i) The Landmarks Commission may delegate such ministerial duties to the Inspection Services Division of the Department of Community Development as the Landmarks Commission deems necessary to enable the Landmarks Commission to carry out its duties under this chapter. In addition, the Landmarks Commission may employ on a permanent or part time basis technical experts and such other employees as may be required to perform its duties, within the appropriations made available therefor, and with the approval of the City Commission.
(Ord. 94-139. Passed 4-19-94.)
- (j) The Landmarks Commission shall participate in the National Register process in the following manner:
Properties that appear to meet the criteria, or that have been determined eligible for listing in the National Register by the Secretary of the Interior, shall be nominated by the Landmarks Commission or any interested person to the National Register using the criteria and designation procedures of Section 1321.07 and the Department of the Interior.
The Landmarks Commission shall review all National Register nominations for properties within its jurisdiction.
- (1) When National Register reviews are on the agenda for Landmarks Commission review, notice will be published by release to the local news media, through City publications, or other means. The public notice shall list the proposed nominations with addresses, and shall encourage public input prior to the state review board.
- (2) The Landmarks Commission shall submit a report to the State Preservation Office prior to the final review of the Ohio Historic Site Preservation Advisory Board (OHSPAB) regarding the eligibility of each property or district proposed for nomination to the National Register within its jurisdiction. This report shall include the recommendation of the Landmarks Commission and the Mayor regarding the eligibility of the property. The report shall be made available for public inspection.
- (3) If both the Landmarks Commission and the Mayor recommend that a property not be nominated, the Landmarks Commission will so inform the property owner(s) and the state review board. Such property will not be nominated unless an appeal is filed with the State Historic Preservation Officer.
- (4) If either or both the Landmarks Commission and the Mayor agree that the property should be nominated, the report of their opinion shall be forwarded to the State Preservation Office within sixty (60) days, and the nomination will be scheduled for final review by the State Preservation Office.
- (5) Either the Landmarks Commission or the Mayor may appeal the final decision of the State Preservation Office under the aforementioned State Preservation Office appeals procedure.
The City may elect to send a supporting letter signed by both the Mayor and the president of the Landmarks Commission with the nomination when it is first submitted to the State Preservation Office. The requirements of subsection (j)(1) hereof shall apply. Upon written agreement between the City and the State Preservation Office, the City may elect to assume responsibility for notification of property owners and the public throughout the nomination process. If such an agreement is entered into, the City shall meet the public notice requirements specified by the National Register nomination procedures of the Department of the Interior and the State Preservation Office.
(Ord. 85-485. Passed 9-10-85.)

1321.07 DESIGNATION OF HISTORIC DISTRICTS AND LISTED PROPERTIES.

- (a) In considering the designation of any area, place, building, structure, work of art or similar object in the City of Springfield as a listed property or a Historic District, the Landmarks Commission shall apply the following criteria with respect to such property. One (1) or more of the following must apply:
 - (1) Its character, interest or value as part of the development, heritage or cultural characteristics of the City of Springfield, State of Ohio or the United States;
 - (2) Its location as the site of a significant historic event;
 - (3) Its identification with a person or persons who significantly contributed to the culture and development of the City of Springfield;
 - (4) Its exemplification of the cultural, economic, social, archaeological or historic heritage of the City of Springfield;
 - (5) Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
 - (6) Its embodiment of distinguishing characteristics of an architectural type or specimen;
 - (7) Its identification as the work of an architect or master builder whose individual work has influenced the development of the City of Springfield;
 - (8) Its embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation;
 - (9) Its relationship to other distinctive areas which are eligible for preservation according to a plan based on an historic, cultural or architectural innovation;
 - (10) Its unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood, community or the City of Springfield;
 - (11) Its having yielded, or likelihood of yielding, information important to the understanding of pre-history or history.
(Ord. 84-549. Passed 11-13-84.)
 - (12) Its meeting criteria for National Register of Historic Places designation as listed by the Department of the Interior.
(Ord. 85-485. Passed 9-10-85.)
- (b) The Landmarks Commission shall notify the owner of any proposal to list his property. Whenever possible, the Landmarks Commission shall secure the owner's written consent for the proposed designation and upon receipt of such consent the property shall be listed upon favorable recommendation of the Landmarks Commission to City Commission and upon approval by City Commission at a regular or special session of City Commission.
- (c) In the event that such owner shall refuse or decline to give his written consent to the proposed listing and in the designation of all historic districts the following procedure shall be followed:

- (1) The Landmarks Commission shall schedule a public hearing on the question of the proposed listing, setting forth a date, time and place and causing written notice to be given to the owner; or in the case of a large historic district where individual notices may not be practical, notice to be given through existing neighborhood or other organizations.
The Landmarks Commission shall cause a legal notice to be published in a newspaper of general circulation in the City setting forth the nature of the hearing, the property or district involved and the date, time and place of the scheduled public hearing. These notices shall be given at least two (2) weeks before the scheduled hearing.
- (2) The Landmarks Commission shall conduct the public hearing and shall provide a reasonable opportunity for all interested parties to express their opinions. Within fifteen (15) days after the hearing, the Commission shall set forth in its recommendations such findings of fact which constitute the basis for its decision and shall transmit such recommendation concerning the proposed designation to the Clerk of the City Commission.
- (3) The City Commission shall give due consideration to the findings and recommendations of the Landmarks Commission, as well as such views as may have been expressed by persons participating in the hearing before the Landmarks Commission in making its own determination with respect to the proposed designation. The City Commission shall act on the proposed designation within forty-five (45) days of receipt of recommendations from the Landmarks Commission. If City Commission fails to act within forty-five (45) days, the designation shall be considered to be approved. The City Commission may designate a listed property or a Historic District at any regular or special meeting of the City Commission.
- (4) After a decision by the City Commission, the Landmarks Commission shall notify the owner(s) of the decision by the City Commission.
(Ord. 84-549. Passed 11-13-84.)
- (d) Local Register of Historic Districts and Structures
 - (1) A. South Fountain Preservation Area, as described in Ordinance 85-329.
 - B. East High Street District, as described in Ordinance 85-566.
 - (2) A. Third Presbyterian Church (714 North Limestone Street)
 - B. Bushnell Building (14 East Main Street and 16-18 North Fountain Avenue)
 - C. Pennsylvania House (1311 West Main Street)
 - D. IOOF Home For The Aged (404 East McCreight Avenue)
 - E. Myers Hall on Wittenberg University's campus
 - F. Old City Hall (117 South Fountain Avenue)
 - G. Springfield News-Sun Building (202 North Limestone Street), limited to the original structure completed in 1929 and being the entire length of the structure that fronts on North Limestone Street and 78 feet of the structure that fronts on East North Street, measured from the corner of North Limestone Street and East North Street.
 - H. Gammon House (620 Piqua Place)
(Ord. 19-66. Passed 3-12-19.)

1321.08 LIMITATIONS ON ISSUANCE OF BUILDING, DEMOLITION AND SIGN PERMITS.

No permit shall be issued by the Manager of the Inspection Services Division of the Department of Community Development for the erection of a sign or construction, reconstruction, alteration or demolition of any structure, work of art, object or area within an historic district or for any listed property except in cases coming under the exclusion in this chapter, unless the application for such permit is approved by the Landmarks Commission through the issuance of a Certificate of Appropriateness in the manner prescribed herein.
(Ord. 94-368. Passed 10-11-94.)

1321.09 ISSUANCE OF CERTIFICATE OF APPROPRIATENESS.

(a) When the owner of a property within a Historic District or the owner of a listed property desires to make any change in design, color, texture, material or exterior features, including the construction, reconstruction, alteration, demolition or the erection of a sign, or any change in environmental features, such owner or his agent shall file with the Secretary of the Landmarks Commission an application in such form and with such plans, specifications and timeframes for the construction, reconstruction, alteration, demolition or erection of a sign, or any changes to the environmental features. Upon application, The Landmarks Commission City designated personnel will determine if such application will require a Certificate of Appropriateness. If no certificate is determined to be required, City designee will indicate so, and withdrawal the application.

(b) The Landmarks Commission shall journalize a Certificate of Appropriateness application at the next scheduled meeting. Once journalized, the Commission must consider the application within forty-five (45) days of such submission, the Landmarks Commission shall consider such application. Consideration will involve the review of the plans, specifications and other material.

(c) The Landmarks Commission shall determine whether the proposed construction, reconstruction, alteration, demolition or change of design, color, texture, or material or exterior feature of such structure, sign or environmental feature is appropriate. In making such determination the Landmarks Commission shall refer to the Secretary of the Interior's Standards for Rehabilitation, and to the design guidelines adopted by the Landmarks Commission.

(d) In the event that the Landmarks Commission finds such proposed construction, reconstruction, alteration, demolition or change in design, color, texture, material or exterior feature of any structure, sign or environmental feature to be appropriate, a Certificate of Appropriateness shall be issued by the Secretary of the Landmarks Commission.

(e) In the event that the Landmarks Commission finds such proposed construction, reconstruction, alteration, demolition or change in design, color, texture, material or exterior feature of any structure, sign or environmental feature not to be appropriate but failure to issue a Certificate of Appropriateness will create a substantial hardship to the applicant and that such certificate may be issued without substantial detriment to the public welfare and without substantial derogation from the purposes of this chapter, then and in such event, the Secretary of the Landmarks Commission shall issue a Certificate of Appropriateness for such proposed work.

(f) In the event that the Landmarks Commission determines within the appropriate time that a Certificate of Appropriateness shall not be issued, it shall forthwith state in its records reasons for such determination and may include recommendations respecting the proposed construction or reconstruction, alteration, demolition or change in design, texture, color, material or exterior feature of any structure, sign or environmental feature. The Secretary of the Landmarks Commission shall forthwith notify the applicant of such determination and transmit to him a certified copy of the reasons for denial and recommendations, if any, of the Landmarks Commission.

(g) At its discretion, the Landmarks Commission may establish a waiting period not to exceed six (6) months, during which time no action shall be taken on the issuance or denial of a Certificate of Appropriateness. During such waiting period, the Landmarks Commission shall negotiate with the owner of the property in order to develop a compromise proposal acceptable to both.

(h) An appeal of the decision of the Landmarks Commission may be made to the City Board of Zoning Appeals in accordance with Section 1172. Such appeals must be made in writing to the Board of Zoning Appeals pursuant to Section 1172 within twenty (20) days of the decision by the Landmarks Commission.

(Ord. 21-334. Passed 11-9-21.)

1321.10 AUTOMATIC ISSUANCE OF CERTIFICATE OF APPROPRIATENESS.

In the event that the Landmarks Commission fails to make a determination as to whether a Certificate of Appropriateness is required or should issue within the period of time set forth in Section 1321.09, and if the Landmarks Commission has not formally resolved to institute a six (6) month waiting period, then the Secretary of the Commission shall forthwith issue to the applicant a Certificate of Appropriateness.

(Ord. 21-334. Passed 11-9-21.)

1321.11 EXCLUSIONS AND EXEMPTIONS.

(a) Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any property or area listed under the provisions of this chapter, provided such work involves no change in design, color, texture, material or exterior appearance; nor shall anything in this chapter be

construed to prevent any change, including the construction, reconstruction, alteration or demolition of any feature which, in the view of the Director of Community Development or, in the case of commercial buildings, the Inspection Services Manager, acting lawfully, is required for the public safety because of an unsafe or dangerous condition.

(Ord. 94-139. Passed 4-19-94.)

(b) This chapter shall not apply to structures, works of art, or other property, real or personal, owned by the United States, the State of Ohio, a municipality or any instrumentality, agency or political subdivision thereof. The Landmarks Commission shall have no jurisdiction whatsoever regarding such structures, works of art and other property, real and personal, so owned.

(Ord. 87-147. Passed 3-17-87.)

1321.99 PENALTY.

Violations shall be subject to a Class A civil fine provided under Section 1324.02 of the Codified Ordinances.

(Ord. 21-334. Passed 11-9-21.)

CHAPTER 1322

Inspection of Non-Owner-Occupied Dwelling Units

1322.01 Definitions.

1322.03 Purpose.

1322.03 Code Inspections.

1322.01 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply:

(a) "Dwelling unit" shall have the same meaning as is set forth in Codified Ordinance Section 1102.02(d)(23).

(b) "Owner" shall have the same meaning as set forth in Codified Ordinance Section 1323.01(e).

(c) "Occupant" shall mean any person other than the owner who has tenement, lessee, or other contractual rights to the premises.

(Ord. 03-352. Passed 10-28-03.)

1322.02 PURPOSE.

This Chapter is enacted for the general purpose of promoting the public health, safety, comfort, and welfare of the residents of The City of Springfield, Ohio, and, specifically, to provide for an inspection program for non-owner-occupied dwelling units which focuses upon owners of dwelling units with a demonstrable history of noncompliance with code enforcement notices and orders, all in an attempt to facilitate the provision of habitable and safe dwelling units for occupancy by the citizens of The City of Springfield, Ohio.

(Ord. 03-352. Passed 10-28-03.)

1322.03 CODE INSPECTIONS.

In addition to existing case-by-case complaint-based inspections of dwelling units in the City:

(a) The nonresident owner of a premises with a dwelling unit shall have the interior and exterior of the premises, its structures, and its dwelling units inspected semi-annually, for a minimum of four years, to determine compliance with the Property Maintenance Code (or other applicable codes), under the following circumstances:

(1) If two or more notices and orders to comply have been issued after January 1, 2004, to the owner pursuant to Chapter 1305 or Chapter 1324 of the Codified Ordinances of the City of Springfield, or any other applicable code of a substantially similar nature, within any two year period, concerning the same premises, and have not been complied with within the time provided in the notices and orders to comply, said premises shall be inspected as specified above.

(2) If the owner has had a premises ordered razed by the City pursuant to an Adjudication Order, or other substantially similar order of like import, after January 1, 2004, or has had a property actually razed by the City as a public nuisance after January 1, 2004, all premises and structures with a dwelling unit belonging to, but not occupied by, that owner shall be inspected as specified above.

(b) A fee for the inspections, as specified above, shall be due and collectable from the owner in advance, as detailed below:

(1) \$125 for a premises with one dwelling unit

(2) \$175 for a premises with two dwelling units

(3) \$225 for a premises with three dwelling units

(4) \$250 for a premises with four dwelling units

(5) \$265 for the first dwelling unit in a premises with five or more dwelling units, plus \$15 for each additional dwelling unit on the premises.

(6) Should one or more re-inspections prove necessary, a fee of \$50 will be imposed for each such re-inspection.

(Ord. 03-352. Passed 10-28-03.)

CHAPTER 1323

Abatement of Nuisances and Demolition of Structures

1323.01 Definitions.

1323.02 Nuisance determination; prohibition.

1323.03 Notice and abatement.

1323.04 Posting of notice.

1323.05 Emergency abatement.

1323.06 Right to make immediate repairs.

1323.07 Appeal to Board of Building Appeals.

1323.08 Abatement of nuisance by Community Development Director.

1323.09 Fire damaged structures; insurance proceeds.

1323.10 Notices.

- 1323.11 Violation citation tags.**
- 1323.12 Removal of graffiti.**
- 1323.13 Required schedule for boarded structures.**
- 1323.14 Noncompliant boarded structures a nuisance.**
- 1323.15 Cooperating owners; special notice and abatement.**
- 1323.16 Expedited procedure for failure to clean up garbage, litter, rubbish, and refuse; work by City; collection of expenses without lien.**
- 1323.17 Placarding of damaged buildings.**
- 1323.18 Civil penalty for failure to pay.**
- 1323.99 Penalty.**

CROSS REFERENCE

Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261
 Demolition fee - see BLDG. 1313.09
 Demolition permits in historic district - see BLDG. 1321.08

1323.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply:

- (a) "Demolition material" means all material, including but not limited to, rock, stone, concrete, and asphalt which is used in construction, mining, building maintenance, or road or street maintenance.
 - (b) "Garbage" means all putrescible matter, including but not limited to animal or vegetable wastes or feces, whether solid, liquid or mixed, which attends, exists, or is created or accumulates within the City.
 - (c) "Litter" includes any garbage, waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of vehicles, wagons, furniture, glass, oil of an unsightly or unsanitary nature, or anything else of an unsightly or unsanitary nature.
 - (d) "Occupant" means any person being the owner or having tenement, lessee or other contractual rights to the premises.
 - (e) "Owner" means the owner of record of the premises in fee or any lesser estate therein, a mortgagee or vendee in possession, assignee of the rents, receiver, executor, administrator, trustee, lessee or other person in control of the premises or their duly authorized agents including but not limited to property managers.
 - (f) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
 - (g) "Rubbish or refuse" means all natural or man made matter, whether putrescible or nonputrescible, combustible or noncombustible and including but not limited to ashes, paper, tin, tin cans, bottles, glass, a non-permitted temporary sign, a temporary sign when its temporary sign permit has expired, vegetable material, brush, grass, leaves, wrappings, cardboard, trees, shrubs, crockery, dead animals, furniture or appliances (or parts thereof), industrial waste, waste of a dangerous or explosive nature, septic tank cleanings, demolition matter, rubber tires, rubber products, metal, motor vehicle parts or pieces, engines and motors or parts thereof, any upholstered furniture not manufactured, designed, and intended for exterior use, or any similar object which is not clearly intended for outdoor use on the premises.
- (Ord. No. 09-184. Passed 7-7-09.)
- (h) "Weeds" means all burrs, vines, Russian, Canadian and common thistles, briers, dock, burdock, wild mustard, jimson weed, dog fennel, ragweed, golden rod, sweet clover, wild parsnip, wild carrot and other noxious vegetation growing wild and uncultivated upon any land within the City, which may cause noxious exhalations.
 - (i) "Public nuisance" means any yard, land or lot, fence, wall, garage, shed, house, building, structure, sign, tree, pole, smoke stack, or any excavation, basement, cellar, well, cistern or sidewalk subspace or part thereof:
 - (1) having an accumulation of demolition material, garbage, litter, rubbish or weeds, which accumulation creates a danger to health, life, limb or property;
 - (2) which will cause hurt, harm, discomfort, damage or injury to the public or to any considerable number of persons in the City or to members of the public by reason of any one or more of the following:
 - A. Being detrimental to the general health of the community.
 - B. Being a fire hazard.
 - C. Being unsafe for occupancy, or use.
 - D. Being an attractive nuisance to children.
 - E. Lack of reasonable or adequate maintenance of structures, and grounds, causing deterioration and blighting influence on nearby properties and thereby depreciating the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community.
 - F. Having a condition which violates a provision of any of the Building Codes, adopted in Chapter 1301 of the *Codified Ordinances of the City of Springfield, Ohio*, or violates a provision of the Property Maintenance Code adopted in Chapter 1305 of the *Codified Ordinances of the City of Springfield, Ohio*.
 - G. Being a bench billboard which has fallen into such a state of disrepair or has suffered such damage and wear so as to no longer be in compliance with the City's Property Maintenance Code or is otherwise dangerous to use.
 - H. A sign which prohibited under Chapter 1155 of the Zoning Code.
- (Ord. 90-184. Passed 7-7-09.)
- I. A stormwater management facility which the City Engineer has determined to have a maintenance deficiency as described in Chapter 961 of the *Codified Ordinances of the City of Springfield, Ohio*.
- (Ord. 15-87. Passed 3-31-15.)
- (j) "Public nuisance" shall also mean any yard, land, or lot, or part thereof, other than a yard or lot zoned or legally used, for any use first permitted by Codified Ordinance Chapters 1145, 1147, 1149, or 1151, which has placed or stored thereupon any used washer, dryer, refrigerator, dishwasher, stove, range, oven, freezer, water heater or other like major appliance, including, but not limited to, any yard, land, or lot or part thereof, upon which any such major household appliance is placed for purposes of outdoor sales and/or outdoor display.
- (Ord. 91-312. Passed 7-23-91.)

1323.02 NUISANCE DETERMINATION; PROHIBITION.

- (a) When a reasonable basis to believe that a public nuisance exists, the Community Development Director shall inspect or cause the inspection of the premises on which such public nuisance is believed to exist. The Fire Chief and the Health Commissioner may and, upon request of the Community Development Director, shall inspect or cause the inspection of premises on which a public nuisance is believed to exist.

(Ord. 94-368. Passed 10-11-94.)

- (b) No owner or occupant of a premises shall permit the existence of a public nuisance to continue on such premises.

1323.03 NOTICE AND ABATEMENT.

(a) If, upon inspection, it is determined that a public nuisance exists, then the Community Development Director or Chief of Police shall send or deliver a written notice to abate such public nuisance to each owner or occupant, or both, who caused or permitted the public nuisance to exist. Such notice shall identify the public nuisance and require the owner or occupant, or both, to abate the public nuisance within seven (7) days of such notice if the public nuisance is litter [as the term "litter" is defined in Section 1323.01(c)] and in all other cases within thirty (30) days of such notice either by the removal of the public nuisance or the repair of the public nuisance in accordance with Section 1323.06. Failure to abate the public nuisance within seven (7) or thirty (30) days of such notice, as provided herein, may cause the City to abate the public nuisance at the expense of the owner or occupant, or both, who caused or permitted such public nuisance to exist.

(b) The Community Development Director shall prepare or cause the preparation of a written report, including photographs, of every public nuisance for which a notice to abate is issued. All such reports shall remain on file with the Development Director until the public nuisance is abated.
(Ord. 94-368. Passed 10-11-94.)

1323.04 POSTING OF NOTICE.

The Community Development Director or Chief of Police shall place a notice in or on any structure which qualifies as a "public nuisance" informing the public that a public nuisance exists and has so been determined by the Community Development Director or Chief of Police. The notice is to remain in or on the structure which qualifies as a public nuisance until it is repaired, or removed in accordance with the notice given to the owner, occupant, lessee, mortgagee or agent of the structure which qualifies as a public nuisance, or other persons having an interest in such public nuisance as shown on the land records of the Recorder of Clark County, Ohio. No person shall remove such notice until the Community Director or Chief of Police determines that the public nuisance has been removed or repaired.
(Ord. 98-319. Passed 9-22-98.)

1323.05 EMERGENCY ABATEMENT.

(a) In the event the Chief Building Official or the Code Enforcement Manager determines that the public health, safety, and welfare of the residents of the City will be threatened by the continuance of the condition of the public nuisance, other than a public nuisance described in subsection (b) hereof, and determines that the designated public nuisance must be removed immediately to prevent injury to the life and/or property of the residents of the City, the Chief Building Official or the Code Enforcement Manager shall report such facts to the City Manager, and the City Manager shall cause the immediate repair, vacation or demolition, or whatever action is necessary to abate such public nuisance at the expense of the property owner for all accrued cost. When an emergency public nuisance has been determined by the aforesaid officers, the abatement shall be carried out without regard for the requirements of Sections 1323.02, 1323.03, 1323.04, and 1323.07 through 1323.11, except that the City Manager shall, to the extent reasonably permitted, by the exigency of the circumstances, give the owners of the subject premises, written or personal notice of his intended action and an opportunity for hearing thereon.

(b) A public nuisance requiring emergency abatement exists when the Chief Building Official or the Code Enforcement Manager finds a vacant structure which has been open to entry at doors, windows, or other points accessible to the general public for more than forty-eight (48) hours. The Chief Building Official or the Code Enforcement Manager shall report such facts to the City Manager, and the City Manager shall cause such public nuisance to be immediately abated pursuant to this subsection at the expense of the property owner for all accrued costs. The Manager of Inspection Services shall be authorized at any time to enter on the premises and the owner shall permit him to enter the structure in order to investigate and abate the severity of the public nuisance. In securing such structure, the Chief Building Official or the Code Enforcement Manager may call on any department, division, or bureau of the City for whatever assistance may be necessary, or may, by private contract, board and secure such structure. Upon making a determination that a structure is open to entry at doors, windows, or other points accessible to the general public, the Chief Building Official or the Code Enforcement Manager shall cause notice of such condition and of the City's intent to board and secure the structure to be posted on the structure at least forty eight (48) hours prior to boarding and securing the structure. When an emergency public nuisance has been determined by the aforesaid officers, the abatement shall be carried out without regard for the requirements of Sections 1323.02, 1323.03, 1323.04, and 1323.07 through 1323.11, except that the City Manager shall, to the extent reasonably permitted, by the exigency of the circumstances, give the owners of the subject premises, written or personal notice of his intended action and an opportunity for hearing thereon.
(Ord. 04-147. Passed 5-4-04.)

(c) Municipal water service shall be shut off at all structures boarded and secured per (b) above, to prevent damage to meters, wastage, and potential damage to private property. Except as otherwise provided in this section, municipal water service will remain shut off until the Code Enforcement Manager confirms to the Service Department and to the Utility Billing Division of the Finance Department that the structure meets the minimum standards of the Property Maintenance Code, such confirmation not to be unreasonably withheld. No person may reside in any such structure while municipal water services are shut off. Except as otherwise provided in this section, City-owned boarding may only be removed from a structure when the structure meets the minimum standards of the Property Maintenance Code. Municipal water service may be restored to a structure if the owner of the structure has paid in full all past due City utility charges pertaining to the property on which the structure is located and has entered into an Expedited Repair Agreement with the City wherein the owner agrees to bring the structure into compliance with the Property Maintenance Code on or before a date certain. Each Expedited Repair Agreement entered into with the City shall contain a description of repairs to be made to the subject structure, a covenant that all repairs will be made in a workmanlike manner and a liquidated damages provision establishing damages of \$500 for the structure owner's failure to complete repairs described in the Expedited Repair Agreement by the date certain established therein. The City Manager may require structure owners to deposit with the City sufficient security to ensure the payment of liquidated damages under an Expedited Repair Agreement.
(Ord. 00-456. Passed 12-19-00.)

(d) The owner of a structure which has been boarded and secured per (b) above shall immediately arrange for electric service to be shut off at such structure to prevent potential fire threats to the structure and adjacent property. No person shall instruct an electric utility company to restore electric service to a structure which has been boarded per (b) above, without first acquiring an electric reconnect permit from the Department of Community Development and providing that structure is equipped with, at minimum, a three-wire, 120/240 volt, single phase electrical service having a rating of not less than 100 amperes.
(Ord.02-273. Passed 7-9-02.)

1323.06 RIGHT TO MAKE IMMEDIATE REPAIRS.

Upon being served notice, the owner or owners may make application in writing or in person to the Community Development Director for a special building permit to undertake the repairs or replacement of items found to constitute a public nuisance. Plans and specifications as required by the Community Development Director covering the repairs or replacements shall be furnished by such owner or owners to the Community Development Director within fifteen days after receipt of notice or such additional time as the Community Development Director may deem necessary to complete plans and specifications, not to exceed ninety (90) days. The Community Development Director shall, upon approval of such plans and specifications, issue a special building permit to the owner or owners, such permit to be for a period of thirty (30) days. Within such thirty (30) days the owner or owners will effect and complete such repairs and/or replacements, or the Community Development Director may grant a renewal of the special building permit if the owner or owners show reason or cause for the requested extension and which extension will more readily effect such repairs and/or replacements.

(Ord. 94-368. Passed 10-11-94.)

1323.07 APPEAL TO BOARD OF BUILDING APPEALS.

(a) Except as otherwise provided in this chapter, any owner of a building, wall, structure or premises shall have the right to appeal from any determination of the Community Development Director and to appear before the Board of Building Appeals of the City at a time and place to be determined by the Board of Building Appeals.

(b) Such notice of appeal shall be filed with the Secretary of the Board of Building Appeals in writing within ten (10) days after receipt of any notice given under the provisions of this chapter.

(Ord. 94-368. Passed 10-11-94.)

1323.08 ABATEMENT OF NUISANCE BY COMMUNITY DEVELOPMENT DIRECTOR.

(a) Should such nuisance not be abated at the expiration time stated in such notice or expiration of the time stated in the special building or demolition permit issued by the Community Development Director, the Community Development Director shall be authorized, at any time thereafter, to enter upon such premises and the owner shall permit the Director entry to abate the nuisance by demolition and removal of any structure or by taking any other such action as may be required.

(b) In abating such nuisance the Community Development Director may call upon any department of the City for whatever assistance may be necessary, or may, by private contract, obtain the abatement thereof.

(c) In abating a nuisance, whether under the emergency procedure of Section 1323.05(a), under the regular procedure set forth in this chapter, or any other authority, the cost of the abatement action may be recovered by any method authorized by law, including but not limited to the following:

- (1) The owner or owners may be billed directly for the cost of the abatement.
- (2) The City may cause the cost of the abatement to be levied as an assessment and recovered in accordance with law.
- (3) The City may offset the costs to be levied against any income tax refund or other payment that may be due or become due to the owner.

(d) The cost of the abatement shall include an administrative service charge of \$400 per structure on all abatement cases in which the City engages in the demolition of one or more structures, and in all other nuisance abatement cases the cost of the abatement shall include an administrative service charge of \$100. The administrative service charges shall be in addition to all other abatement costs incurred by the City in determining the total cost of abatement.

(Ord. 07-21, passed 1-30-07; Ord. 15-233, passed 9-1-15.)

1323.09 FIRE DAMAGED STRUCTURES; INSURANCE PROCEEDS.

(a) The City Commission hereby authorizes and directs adherence to the procedure described in divisions (C) and (D) of Ohio R.C. 3929.86.

(b) The Director of Finance is hereby designated the officer to carry out the duties of Ohio R.C. 3929.86.

(Ord. 84-115. Passed 3-20-84.)

1323.10 NOTICES.

Whenever the Community Development Director determines that there has been a violation of any provision of this chapter, except where a violation citation tag has been issued pursuant to Section 1323.11, he, or the Chief of Police, may give notice of such violation to the person responsible therefor and order compliance with this chapter as hereinafter provided. Such notice and order shall:

- (a) Be put in writing on an appropriate form;
 - (b) Include a list of violations, refer to the section or sections of this chapter violated and order remedial action which, if taken, will effect compliance with the provisions of this chapter;
 - (c) Specify a reasonable time for performance;
 - (d) Advise the owner, operator or occupant of the procedure for appeal, except emergency orders issued pursuant to Section 1323.05;
 - (e) Be served on the owner or occupant in person. However, this notice and order shall be deemed to be properly served upon the owner or occupant if a copy thereof is sent by registered or certified mail to his last known mailing address, residence, or place of business, and a copy is posted in a conspicuous place in or on the dwelling affected. If a registered or certified mail envelope is returned with an endorsement showing that service was refused, the notice may be served by ordinary mail to his last known mailing address, residence, or place of business. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing. If the registered or certified mail envelope is returned with an endorsement showing that service was unclaimed, the notice may be served by ordinary mail to his last known mailing address, residence or place of business. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery.
- (1) The notice and order may, in the alternative, be served by leaving it at his last known residence or place of business in the presence of a family member or other responsible person of suitable age and discretion who shall be informed of the general nature of the contents thereof.
 - (2) If service is not accomplished by any of the above means, then a notification of the existence of the notice and order may be published at least once in a local newspaper of general circulation.

1323.11 VIOLATION CITATION TAGS.

The Community Development Director is authorized and directed to provide inspectors with citation tags which may be used for the purpose of giving due notice and summons to the person responsible for violations of this chapter.

- (a) Such citation tag shall be put in writing on an appropriate form, describe the offense charged, refer to the section of the chapter violated, order the defendant to appear at a stated time and place, and it shall be made on oath before any person authorized by law to administer oaths.
- (b) The citation tag shall be served on such person in accordance with the provisions of Section 1323.10.
- (c) The citation tag shall inform the defendant that, in lieu of appearing at the time and place stated, he may, within that stated time, appear personally at the office of the Clerk of Municipal Court and on signing a plea of guilty and a waiver of trial pay a stated fine and stated costs, if any. The citation shall inform the defendant that he may be arrested if he fails to appear either at the Clerk's office or at the time and place stated in the citation.
- (d) When the defendant fails to appear within the stated time, a warrant may be issued for the arrest of that person.
- (e) When a defendant appears, but does not sign a guilty plea and waiver of trial, the court shall proceed in accordance with Rule 5 of the Ohio Rules of Criminal Procedure.
- (f) The citation tag as herein provided, shall be sufficient notice, summons, and legal service thereof for the purpose specified thereon, provided that the use of such tags shall not prohibit the issuance of either additional citation tags or a legal notice of violation as provided by Section 1323.10 in the event such violation is continued or repeated.

(Ord. 94-368. Passed 10-11-94.)

1323.12 REMOVAL OF GRAFFITI.

(a) The exterior of all privately-owned structures and premises shall be free from graffiti when such graffiti is visible from a right-of-way, or may otherwise be seen by the public. Owners on whose property graffiti is displayed shall completely remove the graffiti or shall completely and uniformly cover the graffiti with appropriate wall finish.

(b) Whenever the Director of the Department of Community Development finds a structure or portion thereof to be in violation of subparagraph (a) hereof, said Director of Community Development or Chief of Police shall prepare a written notice of violation describing the location of the graffiti to be removed or covered. Such notice and order shall be posted in a conspicuous place on the premises to which it relates. Such notice of violation shall require the owner to remove or cover the graffiti in accordance with subparagraph (a) hereof or appeal to the Board of Building Appeals in accordance with subparagraph (c) within seventy-two (72) hours of the posting of the notice. Such posting shall be deemed legal service of such notice.

(Ord. 97-184. Passed 5-13-97.)

(c) The owner shall have a right to appeal the notice and decision of the Director of Community Development or Chief of Police and appear before the Board of Building Appeals at a specified time and place to show cause why said owner should not comply with such notice.

(Ord. 97-184. Passed 5-13-97.)

(d) If the owner fails to remove or cover the graffiti or appeal to the order of the Director of Community Development or Chief of Police within seventy-two (72) hours of the posting of the notice, the Director of Community Development or Chief of Police shall cause the graffiti to be abated and any expenses or costs incurred under this section shall be paid by the owner of the dwelling structure or premises. If the owner fails to pay the cost within thirty (30) days after the receipt from the Director of Community Development of a statement of the charges and costs incurred therein, then the Director of Community Development may cause the amount to be levied as an assessment and recovered in accordance with Ohio Revised Code Section 715.216. Notwithstanding the method of collection set forth herein, the Director of Law may take any action necessary to collect the cost of graffiti abatement from the owner or other responsible party or parties.

(Ord. 97-184. Passed 5-13-97.)

(e) For purposes of this section, "graffiti" means any unauthorized inscription, word, figure or design which is marked, etched, scratched, drawn, applied, or painted on any structural component or wall or other surface of any building, structure, or other facility regardless of the nature of the material of the structural component. Such inscription, word, figure, or design shall be deemed unauthorized if the property owner has not granted written permission prior to its application to the structure.

(f) The Director of Community Development may provide inspectors with citation tags which may be used for the purpose of giving due notice and summons to the person responsible for violations of subparagraph (a) of this section, in accordance with Section 1323.11 hereof.

(Ord. 94-91. Passed 3-15-94.)

1323.13 REQUIRED SCHEDULE FOR BOARDED STRUCTURES.

(a) The owner of a structure known to have been boarded up for ninety days shall receive from the Community Development Department a Notice to Elect Whether to Rehabilitate, Sell, or Demolish the Structure. Within ninety days after the aforesaid Notice to Elect is sent to the owner, the owner of the structure (hereafter termed "owner") shall prepare a proposal to sell, demolish, or rehabilitate said structure including a timetable for completing said proposal. The Director of Community Development (hereafter termed "Director") shall examine the owner's proposal and timetable to see if it is a reasonable response to the condition of the structure. Provided there is a timely start and adequate progress, a timetable of as long as fifteen months can be approved by the Director.

(b) If the Director determines that the proposed timetable to sell, demolish, or rehabilitate the structure is reasonable, and the proposed work program will result in bringing the structure into compliance with law, then the owners proposal shall be approved by the Director, and further City enforcement shall be withheld as long as the property remains secure, and the timetable and work program are fulfilled.

(c) If the Director determines that the timetable is unreasonable, or that the proposed work program will not bring the structure into compliance with law, the Director shall disapprove the proposal, state the reasons therefor in writing, and continue enforcement action to require the repair or demolition of the structure.

(d) Sale. If the approved proposal calls for sale of the property, then the property shall be continuously listed on the Multiple Listing Service at a price deemed reasonable by the Director, considering the conditions of the structure and the value of the underlying property. The listing must commence within 30 days of the approval of the proposal.

(e) Demolition. If the approved proposal calls for demolition of the property, then the necessary approvals (historical or other) must be sought in a timely manner, all necessary submissions being completed within 30 days of the approval of the proposal. Once all needed approvals have been received, the structure's demolition must begin within 30 days and be continuously pursued.

(f) Rehabilitation. If the approved proposal calls for the rehabilitation and repair of the structure, then all trash, debris, and other contents impeding the necessary examinations by contractors and inspectors, shall be removed within 30 days of the approval of the proposal. Thereafter the approved timetable and work program shall be fulfilled on schedule, or the Director shall commence an action to force repair or demolition. The approved rehabilitation program shall be subject to the same requirements for building permits, zoning approvals, and such other regulatory approvals as apply to other structures within the City.

(Ord. 97-272. Passed 7-22-97.)

1323.14 NONCOMPLIANT BOARDED STRUCTURES A NUISANCE.

It is hereby found that structures which have been boarded up for more than ninety days, have been the subject of a Notice to Elect pursuant to Section 1323.13 for longer than ninety days, yet still have no approved proposal, are in fact public nuisances. This finding reflects the blighting influence of such structures, their tendency to become attractive nuisances, their tendency to harbor rats and vermin, and the accelerated decay common to such structures. Therefore, while noncompliant owners are subject to the penalties referenced in Section 1323.99, the structures themselves are to be the subject of appropriate proceedings to mandate the abatement of the public nuisance.

(Ord. 97-272. Passed 7-22-97.)

1323.15 COOPERATING OWNERS; SPECIAL NOTICE AND ABATEMENT.

Notwithstanding the provisions of Section 1323.03, for owners who maintain on file with the City's Department of Community Development in a form approved by the Community Development Director a current, up-to-date list comprised of all the names of their tenants of single-family dwelling units, the address of each tenant's dwelling unit, and such tenant's mailing address; when, upon inspection, it is determined that a public nuisance exists in the form of litter, rubbish, or refuse [as defined in Section 1323.01(c) and (g)] at a single-family dwelling unit, then the Community Development Director or Chief of Police shall send or deliver a written notice to abate such public nuisance to each owner and to the tenant who caused or permitted the public nuisance to exist. Such notice served on the tenant shall identify the public nuisance and require the tenant to abate the public nuisance within seven (7) days of such notice and such notice served on the owner shall identify the public nuisance and require the owner to abate the public nuisance within fourteen (14) days of such notice either by the removal of the public nuisance or the repair of the public nuisance in accordance with Section 1323.06. Failure to abate the public nuisance within fourteen (14) days of such notice being served on both the owner and tenant, as provided herein, may cause the City to abate the public nuisance at the expense of the owner or tenant, or both, who caused or permitted such public nuisance to exist.

(Ord. 00-337. Passed 10-3-00.)

1323.16 EXPEDITED PROCEDURE FOR FAILURE TO CLEAN UP GARBAGE, LITTER, RUBBISH AND REFUSE; WORK BY CITY; COLLECTION OF EXPENSES WITHOUT LIEN.

(a) The owner, occupant or person having the charge or management of any lot or parcel of land situated within the City, whether the same be improved or unimproved, vacant or occupied, shall properly dispose any and all garbage, litter, rubbish and refuse located on such lot or parcel of land in violation of the provisions of this Chapter 1323. Upon being notified in writing by the Community Development Director to do so, such owner, occupant or person in charge or having the management of any such lot or parcel of land shall properly dispose any and all garbage, litter, rubbish and refuse located on such lot or parcel of land in violation of the provisions of this Chapter 1323 within five days of the date of service of such notice. Such notice shall conform to the provisions of subdivision (b) of this Section 1323.16.

(b) The notice specified in subdivision (a) of this Section 1323.16 shall:

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, refer to the section or sections of this chapter violated and order remedial action which, if taken, will effect compliance with the provisions of this chapter;
- (3) Specify a reasonable time of five (5) days or more for performance;
- (4) Be served on the owner, occupant or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant or agent if a copy thereof is sent by ordinary mail to his last known mailing address, residence, or place of business, and a copy is posted in a conspicuous place in or on the land affected. The mailing shall be evidenced by a certificate of mailing, and service shall be deemed complete on the date of mailing.

(c) If the owner, occupant or agent having the charge or management of any lot or parcel of land situated within the City fails to comply with the notice provided for in subdivision (a) of this Section 1323.16 within five days from the time of service thereof, the Community Development Director shall cause such garbage, litter, rubbish and refuse located on such lot or parcel of land to be removed and disposed of. He shall, with the assistance of the Director of Law, cause the cost of such removal and disposal to be collected through such legal processes as are available to the City for the collection of such debts. All expenses so incurred, including charges for all services and service of notice, the use of machinery, equipment, landfill fees and labor necessary for removal of such garbage, litter, rubbish and refuse from such lot or parcel of land and disposed of, may be charged to such owner, occupant or agent having the charge or management of any lot or parcel of land on which the City caused such garbage, litter, rubbish and refuse to be removed and disposed of and upon whom the notice specified in subdivision (a) of this Section 1323.16 was served in accordance with subdivision (b) of this Section 1323.16.

1323.17 PLACARDING OF DAMAGED BUILDINGS.

(a) In the event an emergency, as that term is defined in Section 1102.02(e)(8) of the Codified Ordinances, is declared as the result of circumstances producing structural damage to buildings in the City, the City Manager shall form a damage assessment team or teams to evaluate buildings and post a placard on such damaged buildings as determined by their condition:

“Checked OK For Habitation” This placard (Green) shall be placed on a building or structure to identify a building with some damage to its structure and suspected damage to contents and that the building is usable without repairs.

“Needs Repairs Before Habitation” This placard (Orange) shall be placed on a building which is damaged and may be used under limited conditions, and may be restored to service with repairs.

“Condemned as Dangerous & Unsafe” This placard (Red) shall be placed on a building which is totally uninhabitable and beyond repair.

(b) Once a placard is placed on a building pursuant to the City Manager’s order, no person shall remove, alter or cover such placard or permit such placard to be removed, altered or covered until the placard is removed pursuant to a subsequent order of the City Manager.
(Ord. 03-235. Passed 7-1-03.)

1323.18 CIVIL PENALTY FOR FAILURE TO PAY.

In the event any person fails to pay a sum, required to be paid to the City under this Chapter (hereinafter the “principal sum”), within ninety (90) days after the sum becomes due and owing to the City, a civil penalty is imposed on such person equal to thirty-three and thirty-three one-hundredths percent (33.33 %) of the sum of the following two items:

- (a) The unpaid principal sum due and owing to the City under this Chapter,
 - (b) Court costs incurred in obtaining a judgment against such person for the unpaid principal sum due and owing to the City under this Chapter.
- (Ord. 07-22. Passed 1-30-07.)

1323.99 PENALTY.

(a) Any owner or occupant of premises who fails to abate the existence of a public nuisance as required by Section 1323.02 et seq. is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of any provision of this chapter, a violation of any such provision is a misdemeanor of the fourth degree.
(Ord. 96-136. Passed 4-19-96.)

(b) Whoever violates or fails to comply with any provision of Subsection 1323.16(b) of this chapter shall be fined not more than two hundred fifty dollars (\$250) or imprisoned not exceeding thirty days, or both.
(Ord. 03-235. Passed 7-1-03.)

CHAPTER 1324

CODE COMPLIANCE AND HEARINGS

NOTE: This Chapter 1324 was enacted by Ord. 18-24 passed 2-27-18. The existing Chapter 1324 was repealed.

- 1324.01 Civil offense.**
- 1324.02 Class A civil offenses.**
- 1324.03 Class B civil offenses.**
- 1324.04 Class C civil offenses.**
- 1324.05 Notice of civil offense and civil fine; procedures.**
- 1324.06 Answer to notice of civil offense.**
- 1324.07 Hearings.**
- 1324.08 Correction of violation.**
- 1324.09 Default.**
- 1324.10 Request to set aside default and delinquency charges.**
- 1324.11 Civil proceedings.**
- 1324.12 Freedom from improper Influence.**
- 1324.13 Ex parte communications prohibited.**
- 1324.14 Administrative regulations.**
- 1324.99 Civil fines.**
- 1324.999 Savings.**

1324.01 CIVIL OFFENSE.

"Civil Offense" means an offense against the City of Springfield set forth in the *Codified Ordinance of The City of Springfield, Ohio*, made subject to a civil fine by this chapter. Charging a person with a civil offense is an alternative to criminal prosecution. A person charged with civil offense may not be arrested for the commission of the civil offense.

If a person is charged with a criminal offense for the same conduct for which that person was charged with a civil offense, the civil offense process shall be promptly suspended or the charge dismissed without prejudice.

1324.02 CLASS A CIVIL OFFENSES.

A person who violates a standard of conduct set forth in a section or chapter of the *Codified Ordinances of The City of Springfield, Ohio*, listed below is liable for the civil fine specified in Section 1324.99 for a Class A Civil Offense.

- (a) Section 1327.03 Contractor License Requirement.
- (b) Section 1327.04 Subcontractor Registration Requirement.
- (c) Chapter 771 Garage Sales.
- (d) Chapter 909 Weeds.
- (e) Section 541.07 Defacing Public Property.
- (f) Section 916.02(a) Dumping/discharge into Public Sewer System.
- (g) Section 916.02(c)(4) Dumping/discharge into Public Sewer System.
- (h) Section 521.08(a) Dumping/discharge onto Public Property.
- (i) Section 521.08(b) Dumping/discharge into Waterways.
- (j) Section 1711.09(d) Grease Traps.

- (k) Section 1380.06 Vacant Property Registration Notice to City of Foreclosure, Filing, Fee.
- (l) Section 776 Food Trucks.

If a person has previously been found to have violated the same provision of the *Codified Ordinances of The City of Springfield, Ohio*, within the preceding twelve months the civil fine shall be doubled, and the fine is not subject to reduction for correction of the violation.

If a person has previously been found to have violated the same provision of the *Codified Ordinances of The City of Springfield, Ohio*, on two or more previous occasions within the preceding twelve months that person may be charged as a recalcitrant offender. A person found to be a recalcitrant offender is liable for an additional recalcitrant offender civil fine as specified in Section 1324.99, for each third and subsequent violation occurring within a period of twelve consecutive months. The recalcitrant offender fine shall be in addition to any civil fine imposed under this chapter. Such additional recalcitrant offender civil fine is not subject to reduction for correction of the violation. (Ord. 19-127. Passed 5-7-19; Ord. 19-260. Passed 10-8-19; Ord. 20-29. Passed 2-11-20.)

1324.03 CLASS B CIVIL OFFENSES.

A person who violates a standard of conduct set forth in a provision of the *Codified Ordinances of The City of Springfield, Ohio*, listed in either division (a) or (b) below is liable for the civil fine specified in Section 1324.99 for a Class B Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine shall be reduced by 75 percent if the person charged shows in accordance with Section 1324.08 that the violation has been corrected, unless the person has violated the same provision of the *Codified Ordinances of The City of Springfield, Ohio* within the previous year.

(a) Class B Civil Offenses With Civil Fines Subject to 75 Percent Reduction for Correction of Violation:

- (1) Section 1323.02 Prohibition of Public Nuisance.
- (2) Chapter 1321 Historic Landmarks Commission.
- (3) Chapter 901 Improvements and Excavations.
- (4) Chapter 903 Sidewalks, Curbs, and Gutters.
- (5) Chapter 741 Peddlers.
- (6) Part 11 Zoning Code.
- (7) Chapter 521 Health, Safety, and Sanitation.
- (8) Section 961.05 Comprehensive Stormwater Management – Prohibitions.
- (9) Section 961.07(d) Comprehensive Stormwater Management Required.
- (10) Section 961.14 Comprehensive Stormwater Management – Violations.

(b) Class B Civil Offenses with Civil Fines Not Subject to 75 Percent Reduction for Correction of Violation:

- (1) Chapter 1311 Permits.
- (2) Section 916.02(d)(2) Dumping/discharge into Public Sewer System.
- (3) Section 916.02(d)(3) Dumping/discharge into Public Sewer System.
- (4) Section 916.02(e)(1) Dumping/discharge into Public Sewer System.
- (5) Section 916.02(e)(2) Dumping/discharge into Public Sewer System.
- (6) Section 1380.05 Vacant Property Registration Required and Penalty.

If a person has previously been found to have violated the same provision of the *Codified Ordinances of The City of Springfield, Ohio*, within the preceding twelve months, the fine will be doubled and the fine is not subject to reduction for correction of the violation.

If a person has previously been found to have violated the same provision of the *Codified Ordinances of The City of Springfield, Ohio*, on two or more previous occasions within the preceding twelve months that person may be charged as a recalcitrant offender. A person found to be a recalcitrant offender is liable for an additional recalcitrant offender civil fine as specified in Section 1324.99, for each third and subsequent violation occurring within a period of twelve consecutive months. The recalcitrant offender fine shall be in addition to any civil fine imposed under this chapter. Such additional recalcitrant offender civil fine is not subject to reduction for correction of the violation. (Ord. 19-260. Passed 10-8-19.)

1324.04 CLASS C CIVIL OFFENSES.

A person who violates a standard of conduct set forth in a provision of the *Codified Ordinances of The City of Springfield, Ohio*, listed in either division (a) or (b) below is liable for the civil fine specified in Section 1324.99 for a Class C Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 75 percent if the person charged shows in accordance with Section 1324.08 that the violation has been corrected, unless the person has violated the same provision of the *Codified Ordinances of The City of Springfield, Ohio* within the previous year.

(a) Class C Civil Offenses With Civil Fines Subject to 75 Percent Reduction for Correction of Violation:

- (1) Chapter 1305 Property Maintenance Code

(b) Class C Civil Offenses With Civil Fines Not Subject to 75 Percent Reduction for Correction of Violation:

- (1) Chapter 739 Salvage Yard Operators
- (2) Section 1323.13 Required Schedule For Boarded Structures
- (3) Chapter 1322 Inspection of Non-Owner-Occupied Dwelling Units
- (4) Section 916.02(d)(1) Dumping/discharge into Public Sewer System.
- (5) Section 916.02(e)(5) Dumping/discharge into Public Sewer System.
- (6) Section 916.02(e)(6) Dumping/discharge into Public Sewer System.
- (7) Section 916.02(e)(8) Dumping/discharge into Public Sewer System.
- (8) Section 916.02(u) Dumping/discharge into Public Sewer System.
- (9) Section 916.03 Dumping/discharge into Public Sewer System.
- (10) Section 1503.14(c) Failing to abate a violation cited by the Fire Official.

If a person has previously been found to have violated the same provision of the *Codified Ordinances of The City of Springfield, Ohio*, within the preceding twelve months the fine shall be doubled and the fine is not subject to reduction for correction of the violation.

If a person has previously been found to have violated the same provision of the *Codified Ordinances of The City of Springfield, Ohio*, on two or more previous occasions within the preceding twelve months that person may be charged as a recalcitrant offender. A person found to be a

recalcitrant offender is liable for an additional recalcitrant offender civil fine as specified in Section 1324.99, for each third and subsequent violation occurring within a period of twelve consecutive months. The recalcitrant offender fine shall be in addition to any civil fine imposed under this chapter. Such additional recalcitrant offender civil fine is not subject to reduction for correction of the violation.

1324.05 NOTICE OF CIVIL OFFENSE AND CIVIL FINE; PROCEDURES.

- (a) A city officer or employee charged with enforcement of the *Codified Ordinances of The City of Springfield, Ohio*, may issue a notice of civil offense and civil fine to a person that the city officer or employee reasonably believes has committed a civil offense.
- (b) A notice of civil offense and civil fine shall:
- (1) Identify the person being charged if known to the issuing officer or employee;
 - (2) Indicate the offense charged, the civil fine for the offense, and the date, time, and location of the offense charged;
 - (3) State the address to which answers and requests for hearing are to be delivered;
 - (4) Be signed, dated and attested by the issuing officer or employee;
 - (5) Advise the person being charged that:
 - a. An answer to the charge made in the notice must be filed within 15 calendar days of the date of when the notice was mailed or otherwise served;
 - b. The failure to file an answer within 15 calendar days will be considered as an admission to the charge stated in the notice;
 - c. A hearing will be held if requested;
 - d. Failure to appear at a requested hearing will be considered an admission of the civil offense;
 - e. All available collection remedies and costs of collection will be pursued in the event the civil fine and other charges are not timely paid; and
 - f. The civil fine otherwise due may be reduced if the notice is for an offense that is subject to reduction if the offense is corrected within 7 calendar days.
- (c) The notice of civil offense shall be served upon the person charged by one or more of the following means:
- (1) By personal delivery to the person charged;
 - (2) By delivery to an adult at the address of the person charged;
 - (3) By posting a copy of the notice in a conspicuous location on the real property where the violation occurred if the real property is owned, occupied, or controlled by the person charged;
 - (4) If the offense relates to a motor vehicle, by posting a copy of the notice on that motor vehicle;
 - (5) By mail addressed to the person charged at an address shown on a public record identifying the person being charged as the owner, occupant or person in control of the real estate, motor vehicle or other property to which the offense relates. If mail service is attempted via mail with a "certificate of mailing" or via certified or registered mail and the mail is not returned by the postal service within 15 calendar days of mailing, the delivery of the notice shall be presumed.

1324.06 ANSWER TO NOTICE OF CIVIL OFFENSE.

- (a) A person served with a notice of a civil offense may respond to the charge by filing an answer. An answer must be made filed within 15 calendar days of the mailing or other service of the notice. The answer may:
- (1) Admit that the person committed the offense by payment of the civil fine specified in the notice;
 - (2) Admit the facts set forth in the notice and offer an explanation of the circumstances;
 - (3) Admit that the person committed the offense and, for those offenses that provide for a reduction in civil fine on proof of correction, offer proof that the person has corrected the offense;
 - (4) Deny that the person committed the offense and request a hearing. If the person desires that the enforcement officer, inspector or other authorized individual who issued the notice attend the hearing, the person must request same in the answer; or
 - (5) If the person served has taken an administrative appeal authorized by the *Codified Ordinances of The City of Springfield, Ohio*, from an order on which the offense was based, the person may request that the time for answering the notice of civil offense be continued until the appeal has been finally resolved.
- (b) (1) A person who admits the commission of the offense for which a notice was issued must pay the civil fine arising out of the offense to the City Treasurer.
- (2) A person who admits the facts set forth in a notice of civil offense with an explanation may offer an explanation of the circumstances to the hearing examiner.
- (3) A person who admits the commission of the offense with an offer of proof of correction, may offer proof that the person has corrected the offense.

(c) If a person admits the commission of the civil offense or fails to file an answer within 15 calendar of the mailing or other service of the notice and fails to pay the fine within 15 calendar days of the mailing or other service of the notice, the fine is "delinquent" and the delinquent amount shown in Section 1324.99 is then due.

(d) The filing of an answer to a notice of a civil offense does not extend the time for the filing of any appeal to the Board of Building Appeals or similar appellate body.

1324.07 HEARINGS.

(a) A hearing examiner shall conduct a public hearing on all civil violations whenever the person charged requests a hearing in a timely manner. The City shall notify the person charged of the date and time of the hearing. The hearing shall be held within 15 calendar days after the filing of the request, unless the delay is necessary in the interest of justice. The hearing may be informal, but all testimony shall be under oath. A copy of the notice of violation is a record kept in the ordinary course of business of the City of Springfield, Ohio, and is prima-facie evidence of the facts it contains.

(b) The hearing examiner shall enter into the record of the proceedings the notice of civil offense and civil fine, the filing of or failure to file an answer, the substance of the answer, and testimony and evidence produced at the hearing, and other relevant information.

(c) The hearing examiner shall issue a decision and make findings of fact from the record and conclusions of law in support of the decision within ten days from the close of the hearing. The findings and conclusions shall demonstrate that the decision is consistent with applicable laws,

ordinances and regulations. The decision shall state a finding of liability or non-liability, the civil fine due, payments, delinquency and collection charges and any other relevant information.

(d) If the person served has taken an administrative appeal authorized by the *Codified Ordinances of The City of Springfield, Ohio*, from an order on which the offense was based, the hearing examiner may extend the time for answering the notice of civil offense until the appeal has been finally resolved.

(e) If the hearing officer has made a finding of liability, the civil fine due must be paid within ten days of the issuance of the hearing officer's decision. If not paid within that time period, or such other period established by the hearing officer in the decision, the fine is "delinquent" and the delinquent amount shown in Section 1324.99 is then due.

1324.08 CORRECTION OF VIOLATION.

(a) A person charged with a violation of the *Codified Ordinances of The City of Springfield, Ohio*, and served with a notice of civil offense and civil fine specified as subject to reduction for correction of the violation may offer proof of correction to the hearing examiner. The offer of proof of correction may be submitted in person or, to avoid the necessity of personal appearance, may be submitted as affidavits or other documentary evidence, by mail. A person charged who chooses to submit proof of correction by mail and chooses not to attend the hearing is authorizing the hearing examiner to determine whether the correction has or has not been timely made based on the mailed submission and evidence the City may present at the hearing.

(b) For those offenses that provide for a reduction in civil fine on proof of correction, on being satisfied that the offense has been corrected, the examiner shall reduce the otherwise applicable civil fine by 75 percent. If the civil fine is eliminated or reduced and the person previously paid the civil fine, the amount paid in excess of the revised civil fine shall be returned to the person; if the civil fine is reduced and the person has not previously paid the civil fine, the person must pay only the amount of the civil fine as reduced. An unpaid civil fine is due and must be paid within ten days after the determination of the examiner, or the fine is deemed delinquent.

1324.09 DEFAULT.

If a person who has been served with a notice of civil offense and civil fine fails to answer within the time provided by Section 1324.06, or fails to attend a requested hearing, the person is in default, and the civil fine as specified by Section 1324.99 for the class of the offense charged is due.

1324.10 REQUEST TO SET ASIDE DEFAULT.

A person subject to a civil fine entered after default may request to have the default set aside. A hearing examiner may set aside a default on a showing that the person had no actual knowledge of the notice of civil offense and civil fine or that the default should be excused in the interest of justice.

1324.11 CIVIL PROCEEDINGS.

The Law Director is authorized to institute civil proceedings in the name of the City, and may include claims for injunction, mandatory relief, restraining orders, damages, the appointment of a receiver, and such other relief as may be allowed in law or equity. Institution of civil proceedings does not exclude criminal proceedings as may be authorized by the *Codified Ordinances of The City of Springfield, Ohio*, nor do such civil proceedings preclude charging a person with a civil offense as authorized by this chapter.

1324.12 FREEDOM FROM IMPROPER INFLUENCE.

(a) No member of the City Commission, member of the City administration, party to any proceedings before a hearing examiner, or any other person shall interfere with, attempt to interfere with, or improperly influence or attempt to improperly influence a hearing examiner in the performance of the duties of office.

(b) An examiner may not conduct or participate in any hearing or decision in which the examiner or any of the following persons has a direct or substantial financial interest: a spouse, brother, sister, child, parent, or in-law of the examiner, or business firm or organization in which the examiner has a substantial interest. The examiner shall promptly report to the City Manager any attempt at interference or improper influence or any actual or potential conflict prior to such hearing.

1324.13 EX PARTE COMMUNICATIONS PROHIBITED.

A person may not communicate with a hearing examiner to influence a decision in a matter pending before an examiner other than at a public hearing or in a writing that is made a part of the record of the proceeding. This provision shall not prohibit communication between an examiner and any member of the administration assigned to assist or give legal counsel to the examiner in the pending proceeding. Violation of this section is a misdemeanor of the first degree.

1324.14 ADMINISTRATIVE REGULATIONS.

The City Manager may adopt administrative regulations for the conduct of hearings and for the enforcement of the *Codified Ordinances of The City of Springfield, Ohio*, through the issuance of notices of civil offenses that are not in conflict with any ordinance enacted by the City Commission.

1324.99 CIVIL FINES.

The civil fines for civil offenses are:

Offense	Initial Civil Fine	If Delinquent
Class A	\$50.00	\$ 100.00
Class B	\$100.00	\$200.00
Class C	\$200.00	\$400.00
Recalcitrant Offender Fine	\$500.00	\$1,000.00

Neither the City of Springfield, Ohio, the federal government, the State of Ohio, nor any city, federal, or state agency or political subdivision is liable for a civil fine imposed pursuant to this chapter.

1324.999 SAVINGS.

This chapter does not affect any act done or committed in violation of any former ordinance relating to the same subject, or any suit or proceeding now pending in court for the violation of the provisions of any former ordinance, or any cause or causes of action accrued or existing under such ordinance, but all proceedings or prosecutions now pending shall be conducted to final determination irrespective of this chapter.

CHAPTER 1325

Moving of Buildings

1325.01 Definitions.

1325.02 Permit required.

1325.03 Application.

1325.04 Deposit for expense to City.

1325.05 Insurance policy.

1325.06 Duties of Chief Building Official.

1325.07 Duties of permittee.

1325.08 Enforcement.

CROSS REFERENCES

Power to license house movers - see Ohio R.C. 715.27

Moving buildings fee - see BLDG. 1313.13

1325.01 DEFINITIONS.

For the purposes of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (a) "Building" means a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property, and used for residential business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes.
- (b) "City" means the City of Springfield, Ohio.
- (c) "Person" means an individual, firm, partnership, association, corporation, company, or organization of any kind.
- (d) "Chief Building Official" means the director of the Inspection Services Division and/or his authorized assistants.
(Ord. 80-18. Passed 1-15-80.)

1325.02 PERMIT REQUIRED.

No person shall move any building over, along or across any highway, street or alley in the City without first obtaining a permit from the Chief Building Official.

(Ord. 80-18. Passed 1-15-80.)

1325.03 APPLICATION.

A person seeking issuance of a permit hereunder shall file an application for such permit with the Chief Building Official.

- (a) Form. The application shall be made in writing, upon forms provided by the Chief Building Official, and shall be filed in the office of the Chief Building Official.
- (b) Contents. The application shall set forth:
 - (1) A description of the building proposed to be moved, giving street number, construction materials, dimensions, number of rooms and condition of exterior and interior;
 - (2) A legal description and address of the lot to which it is proposed such building be moved;
 - (3) The portion of the lot to be occupied by the building when moved;
 - (4) The highways, streets and alleys over, along or across which the building is proposed to be moved;
 - (5) Proposed moving date and hours;
 - (6) Any additional information which the Chief Building Official finds necessary to a determination of whether a permit should be issued.
- (c) Accompanying Papers.
 - (1) Certificate of ownership or entitlement. The applicant, if other than the owner, shall file with the application, an affidavit signed by the owner, or other sufficient evidence, that he is entitled to move the building.
(Ord. 80-18. Passed 1-15-80.)
 - (2) Fee. The application shall be accompanied by an inspection fee in the amount prescribed by Chapter 1313.
(Ord. 88-467. Passed 8-2-88.)

1325.04 DEPOSIT FOR EXPENSE TO CITY.

Upon receipt of an application it shall be the duty of the Chief Building Official to procure from the Service Department an estimate of the expense that will be incurred in removing and replacing any electric wires, street lamps or pole lines belonging to the City or any other property of the City, the removal and replacement of which will be required by reason of the moving of the building through the City. Prior to issuance of the permit, the Chief Building Official shall require of the applicant a deposit of a sum of money equal to the amount of the estimated expense.

(Ord. 00-456. Passed 12-19-00.)

1325.05 INSURANCE POLICY.

Any person filing an application hereunder shall file with the Chief Building Official a liability insurance policy, issued by an insurance company authorized to do business in the State of Ohio, and approved as to form by the Director of Law, in the amount of one hundred thousand dollars/three

hundred thousand dollars (\$100,000/\$300,000) personal injury and twenty-five thousand dollars/fifty thousand dollars (\$25,000/\$50,000) property damage and providing for the indemnity for any damage which the City may sustain by reason of damage or injury to any highway, street or alley, sidewalk, fire hydrant or other property of the City, which may be caused by or be incidental to the removal of any building over, along or across any street or alley in the City and to indemnify the City against any claim of damages to persons or private property, and to satisfy any claims by private individuals arising out of, caused by or incidental to the moving of any building over, along or across any street or alley in the City.
(Ord. 80-18. Passed 1-15-80.)

1325.06 DUTIES OF CHIEF BUILDING OFFICIAL.

(a) Inspection. The Chief Building Official shall inspect the building and the applicant's equipment to determine whether the standards for issuance of a permit are met.

(b) Standards for Issuance. The Chief Building Official shall refuse to issue a permit if he finds:

- (1) That any application requirement or any fee or deposit requirement has not been complied with.
- (2) That the building is too large to move without endangering persons or property in the City.
- (3) That the building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons and property in the City.
- (4) That the building is structurally unsafe or unfit for the purpose for which moved, if the removal location is in the City.
- (5) That the applicant's equipment is unsafe and that persons and property would be endangered by its use.
- (6) That zoning or other ordinances would be violated by the building in its new location.
- (7) That for any other reason persons or property in the City would be endangered by the moving of the building.

(c) Fees and Deposits.

- (1) The Chief Building Official shall deposit all fees and deposits and all bonds or insurance policies with the Director of Finance.
- (2) Upon his refusal to issue a permit, the Chief Building Official shall return to the applicant all deposits, bonds and insurance policies. Permit fees filed with the application shall not be returned.
- (3) After the building has been removed the Chief Building Official shall furnish the City Manager with a written statement of all expenses incurred in removing and replacing all property belonging to the City, and of all material used in the making of the removal and replacement together with a statement of all damage caused to or inflicted upon property belonging to the City. However, if any wires, poles, lamps or other property are not located in conformity with governing ordinances, the permittee shall not be liable for the cost of removing the same. The City Manager shall authorize the Chief Building Official to return to the applicant all deposits after the City Treasurer deducts the sum sufficient to pay for all of the costs and expenses and for all damage done to property of the City by reason of the removal of the building. Permit fees deposited with the application shall not be returned.

(d) Designate Streets for Removal. The Chief Building Official shall procure from the Service Department a list of designated streets over which the building may be moved. The Chief Building Official shall have the list approved by the Chief of Police and shall reproduce the list upon the permit in writing. In making their determinations, the Service Director or designee and the Chief of Police shall act to assure maximum safety to persons and property in the City and to minimize congestion and traffic hazards on public streets.
(Ord. 00-456. Passed 12-19-00; Ord. 19-289. Passed 12-10-19.)

1325.07 DUTIES OF PERMITTEE.

Every permittee under this chapter shall:

- (a) Move a building only over streets designated for such use in the written permit.
- (b) Notify the Chief Building Official in writing of a desired change in moving date and hours as proposed in the application.
- (c) Notify the Chief Building Official in writing of any and all damage done to property belonging to the City within twenty-four (24) hours after the damage or injury has occurred.
- (d) Cause red lights to be displayed during the night time on every side of the building, while standing on a street, in such manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the streets in such manner as to protect the public from damage or injury by reason of the removal of the building.
- (e) Remove the building from the City streets after one (1) day of such occupancy, unless an extension is granted by the City Manager.
- (f) Comply with this Code, the fire limits, the Zoning Code and all other applicable ordinances and laws upon relocating the building in the City.
- (g) Remove all rubbish and materials and fill all excavations to existing grade at the original building site so that the premises are left in a safe and sanitary condition.
- (h) See that the sewer line is plugged with a concrete stopper, the water shut off and the meter returned to the City water office. The permittee shall notify the gas and electric service companies to remove their services.

(Ord. 80-18. Passed 1-15-80.)

1325.08 ENFORCEMENT.

(a) The Chief Building Official, the Police Division and the Service Director or designee shall enforce and carry out the requirements of this chapter.

(b) The permittee shall be liable for any expense, damages or costs above the deposit.

(c) The City shall proceed to do the work necessary to leaving the original premises in a safe and sanitary condition, where the permittee does not comply with the requirements of this chapter and the cost thereof shall be charged against the general deposit.

(Ord. 00-456. Passed 12-19-00; Ord. 19-289. Passed 12-10-19.)

CHAPTER 1327

Building Contractors

1327.01 Purpose.

1327.02 Definitions.

1327.03 General contractor license required.

- 1327.04 Specialty contractor registration required.**
- 1327.05 Exemptions.**
- 1327.06 Procedure and requirements for general contractor licensing.**
- 1327.07 Procedure and requirements for specialty contractor registration.**
- 1327.08 Prospective application.**
- 1327.09 Revocation of general license and specialty contractor registration.**
- 1327.99 Penalty.**

1327.01 PURPOSE.

Within its scope, the purpose of licensing of general contractors and registration of specialty contractors is to provide for the establishment of the responsibility of persons performing work by contract, whether written or oral, and whether pursuant to a permit issued to any building contractor or the person for whom he is performing the work, and to provide for standards to safeguard life, limb, health, property, and public welfare.

(Ord. 01-237. Passed 6-26-01.)

1327.02 DEFINITIONS.

Whenever used in this chapter, the following terms shall have and include the meanings respectively ascribed thereto:

- (a) "Authorized agent" means any person authorized by another to act for him.
- (b) "Building" means any structure, edifice, erection or construction built over and upon any lands, within the City by means of any art, trade or craft, whether built or intended for use for habitation, business, commercial or other purposes.
- (c) "Building contractor" means any general contractor, general subcontractor or any specialty contractor.
- (d) "City" means the City of Springfield, Ohio.
- (e) "Contract" means any legally binding agreement, written or oral, entered into between a contractor and owner, lessee, or owner and lessee.
- (f) "General contractor" means:
 - (1) Any person engaged in the business of, or who undertakes for another person, whether as a prime contractor or as a subcontractor, whether by oral or written agreement, all or a portion of any work as herein described, and who is or may be contractually obliged to supervise all or any portion of any such work for another, and shall also include every person who is engaged in the business of, or who enters into undertakings incidental to demolition, excavation, moving or construction contracting.
 - (2) Any person who performs work or obtains the performance of work, as hereinafter defined, with the intention of thereafter selling the building or structure upon which such work is performed.
 - (3) The term "general contractor" does not include a specialty contractor licensed under chapter 4740 of the Ohio Revised Code.
- (g) "Owner" means the person vested with the ownership, dominion or title of property.
- (h) "Person" means any individual, firm, corporation or any combination thereof. The masculine gender, when used herein, shall include the feminine and neuter genders, and the singular shall include the plural.
- (i) "Specialty contractor" means a person holding a valid license issued under Chapter 4740 of the Ohio Revised Code.
- (j) "Supervise" means to have control of the work performed by contract, written or oral, or by reason of a lease, to insure that all work performed is not in violation of this Code, any rules, statute or ordinance of the City.
- (k) "Work" means the erection, construction, repair, improvement, moving, removal, altering or remodeling of any building or structure or any part thereof.

(Ord. 01-237. Passed 6-26-01.)

1327.03 GENERAL CONTRACTOR LICENSE REQUIRED.

Except as is otherwise provided by this chapter, no person within the City on or after the effective date of this section shall:

- (a) Act or hold himself out to be or undertake or perform any work as a general contractor, without first having obtained an appropriate license in the manner specified in this chapter. However, in the event such person shall be a firm or corporation, it may act as or represent itself as such, if such work is under the actual and immediate supervision of a duly and appropriately licensed member, partner, officer or employee;
- (b) Permit or cause any work as hereinbefore defined to be undertaken or performed other than by a duly licensed or registered building contractor on contract from the owner, lessee or owner and lessee.

(Ord. 01-237. Passed 6-26-01.)

1327.04 SPECIALTY CONTRACTOR REGISTRATION REQUIRED.

Except as is otherwise provided by this chapter, no person within the City on or after the effective date of this section shall act or hold himself out to be or undertake or perform any work as a specialty contractor as hereinbefore described without first registering with the Chief Building Official in the manner specified in this chapter.

(Ord. 01-237. Passed 6-26-01.)

1327.05 EXEMPTIONS.

Within the scope of this chapter, the following do not require licensing or registration:

- (a) Any person performing plumbing work or any activity connected therewith.
- (b) The owner of residential property who performs the work himself, unless such owner is acting as a general contractor within the meaning of Section 1327.02(f)(2).
- (c) The sale of any construction material, products, fixtures or articles when no work is performed by the seller on the premises where material, products or articles are to be installed.
- (d) Work done or caused to be done by the United States of America, or the State of Ohio.
- (e) An actual and regular hourly employee for a business enterprise who undertakes, performs, prosecutes or supervises any maintenance and repair work for, or on behalf of, his employer on his employer's property.
- (f) Work consisting of maintenance, repair or improvements to a one (1), two (2) or three (3) family dwelling or performed for the owner thereof, when the person performing work for the owner performs the work as an employee of the owner.
- (g) Work consisting of the painting, wallpapering or sandblasting of a building or structure or any part thereof; or the repair, replacement or installation of carpet, tile or sheet goods; or the replacement, installation and/or glazing of glass; or the inspection and treatment of a building or structure for insect or pest infestation; or the repair, replacement or installation of drain spouting; or the repair, replacement or erection of a television tower or antenna; or work required for ordinary repair and maintenance of a building or structure; or property maintenance work including but not limited to weed-cutting and debris removal.

(Ord. 09-184. Passed 7-7-09.)

- (h) Persons licensed as plumbing contractors under Chapter 4740 of the Ohio Revised Code and not licensed under Chapter 4740 of the Ohio

Revised Code as a heating, ventilating and air conditioning contractor or a refrigeration contractor, or an electrical contractor or a hydronics contractor are regulated under Chapter 1367 of the Codified Ordinances as to their operations as plumbing contractors and are exempt from the registration requirements under Sections 1327.04 and 1327.07 of this Chapter only as to their operations as plumbing contractors.

- (i) The original construction of a single one-, two-, or three-family dwelling structure during a period of 12 consecutive months:
 - (1) when the one-, two-, or three-family dwelling structure being constructed and the lot upon which it is situated is owned by the individual or individuals claiming this exemption and
 - (2) when the person performing work for the owner performs the work as an employee of the owner or as an uncompensated volunteer.
- (j) The original construction of a single accessory building to a one-, two-, or three-family dwelling structure during a period of 12 consecutive months:
 - (1) when the one-, two-, or three-family dwelling structure is owned by the individual or individuals claiming this exemption and
 - (2) when the person performing work for the owner performs the work as an employee of the owner or as an uncompensated volunteer.

(Ord. 01-237. Passed 6-26-01.)

1327.06 PROCEDURE AND REQUIREMENTS FOR GENERAL CONTRACTOR LICENSING.

The requirements and procedures for general contractor licensing shall be as follows:

- (a) Any individual desiring a general contractor license of any type as herein defined shall be eighteen (18) years of age or older, shall make written application therefor with the Chief Building Official. Every application shall be on forms prescribed by the Chief Building Official; shall furnish all information and data required thereby. No application shall be required of any person desiring to renew a general contractor license previously issued or renewed provided that the information and data contained in such person's application therefor is correct or, if not, is corrected by or at the direction of such person and that all other provisions of this action are complied with.
- (b) No general contractor license shall be issued or continue in effect pursuant thereto unless the applicant shall give evidence that the following items are valid and remain in effect during the duration of the general contractor license.
 - (1) The payment of a three hundred dollar (\$300.00) fee upon application for a general contractor license; and the payment of a two hundred dollars (\$200.00) fee for each renewal thereof. Payment shall be made to the City Treasurer.
 - (2) Comprehensive general liability insurance, including completed operations, with a minimum limit of liability of three hundred thousand dollars (\$300,000) each occurrence combined single limit for bodily injury and property damage liability. General contractors performing demolition work shall provide collapse hazard coverage ("c" exclusion deleted) and shall also provide explosion hazard coverage ("x" exclusion deleted) if explosive materials are to be used. General contractors performing excavation work shall provide both collapse and underground hazard coverage ("c" and "u" exclusions deleted).
 - (3) Proof of Workers' Compensation coverage, if coverage is required by the State of Ohio.
- (4) City income tax number.
 - (5) The execution by such applicant for such license of a bond in the sum of ten thousand dollars (\$10,000) with sureties thereon to the approval of the City Manager. Such bond shall be conditioned to save the City and its inhabitants harmless from all loss or damage of whatsoever nature that may result from any violation by the general contractor licensee and/or his authorized agents of any law, ordinance or rule governing work contemplated by the terms of such license which are then in force or thereafter established by proper authority.
- (c) The Chief Building Official shall issue a general contractor license to any person who has complied with the provisions of this section. However, it shall not be mandatory upon the Chief Building Official to issue any such general contractor license should it be established to his satisfaction that the applicant in question has been guilty of acts, things or practices for which a general contractor license could be revoked, as hereinafter set forth. Every general contractor license issued or renewed pursuant to this section shall expire on December 31 of the year for which the same has been issued or last renewed unless otherwise renewed prior thereto in accordance with the provisions of this section. No fee required under the provisions of this section after payment thereof to the City shall be refunded for any cause whatsoever.
- (d) Every license issued pursuant to this Section shall expire on December 31 of the year in which the license was issued or renewed. General contractor licensees may apply to renew their general contractor licenses during the period November 15 through December 31 of the year in which the general contractor license was issued or previously renewed by making application for renewal and paying the renewal fee two hundred dollars (\$200.00). Holders of the general contractor license may request an extension of the general contractor license expiration date by filing with the Chief Building Official a request for an extension citing the reason an extension should be granted and by paying an extension request fee of twenty-five dollars (\$25.00). For good cause shown, the Chief Building Official may grant an extension of the general contractor license expiration date (either prospective or retroactive) of up to thirty days. General contractor licenses which are permitted to expire may not be renewed and a holder of an expired general contractor license who wishes to become licensed must apply for a new general contractor license pursuant to the provisions of this Section and pay the application fee of three hundred dollars (\$300.00).
- (e) Notwithstanding the above provisions, no general contractor license shall be issued unless the Director of Community Development is able to find that the applicant is a person of good character. Upon receipt of an application, the Chief Building Official shall request that the Police Division perform a criminal records investigation to determine whether the applicant has a record of criminal convictions and the results of the investigation shall be provided to the Director of Community Development. The Chief Building Official may perform such other investigations as he may deem appropriate to obtain information bearing on the character of an applicant and shall provide such information obtained to the Director of Community Development. The applicant shall have the burden of proving to the Director of Community Development that the applicant is a person of good character.

(Ord. 05-262. Passed 10-18-05.)

1327.07 PROCEDURE AND REQUIREMENTS FOR SPECIALTY CONTRACTOR REGISTRATION.

The requirements and procedures for specialty contractor registration shall be as follows:

- (a) Any person desiring a specialty contractor registration shall make written application therefor with the Chief Building Official. Every application shall be on forms prescribed by the Chief Building Official; shall furnish all information and data required thereby. No application shall be required of any person desiring to renew a specialty contractor registration previously issued or renewed provided that the information and data contained in such person's application therefor is correct or, if not, is corrected by or at the direction of such person and that all other provisions of this action are complied with.
- (b) No specialty contractor registration shall be issued or continue in effect pursuant thereto unless the applicant shall give evidence that the following items are valid and remain in effect during the duration of the subcontractor registration.
 - (1) The payment of a three hundred dollar (\$300.00) fee upon application for a specialty contractor registration; and the payment of a two

hundred dollar (\$200.00) fee for each renewal thereof. Payment shall be made to the City Treasurer.

(2) Proof that the applicant holds a valid and unexpired license issued pursuant to Chapter 4740 of the Ohio Revised Code.

(3) Comprehensive general liability insurance, including completed operations, with a minimum limit of liability of three hundred thousand dollars (\$300,000) each occurrence combined single limit for bodily injury and property damage liability. Subcontractors performing demolition work shall provide collapse hazard coverage ("c" exclusion deleted) and shall also provide explosion hazard coverage ("x" exclusion deleted) if explosive materials are to be used. Subcontractors performing excavation work shall provide both collapse and underground hazard coverage ("c" and "u" exclusions deleted).

(4) Proof of Workers' Compensation coverage, if coverage is required by the State of Ohio.

(5) City income tax number.

(6) The execution by such applicant for such license of a bond in the sum of ten thousand dollars (\$10,000) with sureties thereon to the approval of the City Manager. Such bond shall be conditioned to save the City and its inhabitants harmless from all loss or damage of whatsoever nature that may result from any violation by the specialty contractor and/or his authorized agents of any law, ordinance or rule governing work contemplated by the terms of such specialty contractor registration which are then in force or thereafter established by proper authority.

(c) The Chief Building Official shall issue a certificate of specialty contractor registration to any person who has complied with the provisions of this section. Every certificate of specialty contractor registration issued or renewed pursuant to this section shall expire on December 31 of the year for which the same has been issued or last renewed unless otherwise renewed prior thereto in accordance with the provisions of this section. No fee required under the provisions of this section after payment thereof to the City shall be refunded for any cause whatsoever.

(d) Every certificate of specialty contractor registration issued pursuant to this Section shall expire on December 31 of the year in which the certificate of specialty contractor registration was issued or renewed. Holders of a certificate of specialty contractor registration may apply to renew their certificate of specialty contractor registration during the period November 15 through December 31 of the year in which the certificate of specialty contractor registration was issued or previously renewed by making application for renewal and paying the renewal fee of two hundred dollars (\$200.00). Holders of the contractor registration may request an extension of the registration expiration date by filing with the Chief Building Official a request for an extension citing the reason an extension should be granted and by paying an extension request fee of twenty-five dollars (\$25.00). For good cause shown, the Chief Building Official may grant an extension of the contractor registration expiration date (either prospective or retroactive) of up to thirty days. A certificate of specialty contractor registration which is permitted to expire may not be renewed and a holder of an expired certificate of specialty contractor registration who wishes to become registered must apply for a new certificate of specialty contractor registration pursuant to the provisions of this Section and pay the application fee of three hundred dollars (\$300.00).

(Ord. 05-262. Passed 10-18-05.)

1327.08 PROSPECTIVE APPLICATION.

Notwithstanding any provision of this Chapter to the contrary, any contractors license issued to a general contractor pursuant to this chapter on or before September 17, 2001, shall remain in full force and effect as a general contractor license during the term thereof, any subcontractors registration issued pursuant to this chapter to a general subcontractor on or before September 17, 2001 shall remain in full force and effect as a general subcontractor registration during the term thereof and any contractors license issued pursuant to this chapter or before September 17, 2001, to a specialty contractor shall remain in full force and effect as a specialty contractor registration during the term thereof.

(Ord. 01-237. Passed 6-26-01.)

1327.09 REVOCATION OF GENERAL LICENSE AND SPECIALTY CONTRACTOR REGISTRATION.

(a) The Director of Community Development is authorized and empowered to revoke, modify, or suspend a general contractor license pursuant to the provisions of this chapter for any of the following acts or omissions of the holder of any such general contractor license: fraud, deceit, or misrepresentation of any facts in obtaining a general contractor license; obtaining a contract for work authorized under any such license by fraud, deceit, or misrepresentation of facts; negligence or incompetence in the practice of contracting or the performance of any work; willful or fraudulent material departure from the plans or specifications prescribed for any work undertaken by a general contractor licensee; violation of or disregard for any provision of law or ordinance or rule or regulation; non-compliance resulting in injury or damage to any person or to the public; or giving false information on an application for a permit; or being listed as a non-compliant person ineligible to receive building permits by the Clark County Department of Building Regulations.

(Ord. 04-133. Passed 4-20-04.)

(b) The Director of Community Development is authorized and empowered to revoke a specialty contractor registration pursuant to the provisions of this chapter for any of the following reasons:

(1) The specialty contractor no longer holds a valid and unexpired license issued pursuant to Chapter 4740 of the Ohio Revised Code, or

(2) The specialty contractor no longer has in effect the insurance described in Subsection 1327.09(b)(3), or

(3) The specialty contractor no longer has in effect the workers compensation coverage described in Subsection 1327.09(b)(4), or

(4) The specialty contractor no longer has in effect the bond described in Subsection 1327.09(b)(6), or any combination of the foregoing items (1) through (4).

(c) No such general contractor license or specialty contractor registration shall be revoked without at least fifteen (15) days advance written notice by the Director of Community Development to the general contractor licensee or specialty contractor to such effect and without affording to such general contractor licensee or specialty contractor the opportunity to appeal to the Board of Building Appeals by submitting the appeal in writing and stating the reason for the appeal. Appeals must be filed with the Secretary of the Board of Building Appeals within ten (10) days after receipt of notice of revocation.

(Ord. 01-237. Passed 6-26-01.)

1327.99 PENALTY.

Any person who violates Section 1327.03 or Section 1327.04 is guilty of a misdemeanor of the first degree, and shall be fined not less than one thousand dollars (\$1,000) or imprisoned not more than six (6) months, or both.

(Ord. 01-237. Passed 6-26-01.)

CHAPTER 1329

Flood Plain Regulations

1329.01 Definitions.

- 1329.02 Purpose.**
- 1329.03 Flood plain boundaries and their interpretation.**
- 1329.04 Boundaries of Intermediate Regional Flood Plain.**
- 1329.05 Structures (temporary or permanent).**
- 1329.06 Prerequisites for building permit.**
- 1329.07 Fill material.**
- 1329.08 Depth of fill.**
- 1329.09 Utilities.**
- 1329.10 Water and waste disposal.**

CROSS REFERENCES

Construction permits and prohibitions for dams, dikes or levees - see Ohio R.C.

1521.06

Marking flood areas - see Ohio R.C. 1521.14

1329.01 DEFINITIONS.

(a) "Flood" means a general or temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) Mudslides (i.e., mudflows) which are caused by accumulations of water on or under the ground.
- (4) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (a)(1) hereof.

(b) "Intermediate Regional or 100-Year Flood" means a flood having a one percent (1%) chance of occurring in any given year.

(c) "Intermediate Regional Flood Plain" means the area of dry land which would be inundated by the flood waters of the 100-Year Flood. Such area is designated as the shaded course of Buck Creek as shown on the Federal Emergency Management Agency Flood Hazard Boundary Maps for the City of Springfield. Copies of such maps are available in the offices of the Community Development Department of the City.

(d) "Chief Engineer" means the Engineer for the City of Springfield.
(Ord. 94-368. Passed 10-11-94.)

1329.02 PURPOSE.

The Flood Plain is established to protect the areas in the City in the Intermediate Regional Flood Plain that are subject to predictable flooding during Intermediate Regional Floods. Controlled uses of these areas is necessary to protect human life, prevent or minimize material and economic losses and reduce the cost to the public aid and relief efforts occasioned by the unwise occupancy of such flood areas.

1329.03 FLOOD PLAIN BOUNDARIES AND THEIR INTERPRETATION.

The regulations contained in this chapter shall be applicable to all lands located within the corporate boundaries of the City of Springfield, and within the Intermediate Regional Flood Plain.

(Ord. 82-315. Passed 7-6-82.)

1329.04 BOUNDARIES OF INTERMEDIATE REGIONAL FLOOD PLAIN.

The boundaries of the Intermediate Regional Flood Plain shall be determined by scaling distances on the applicable map. Where interpretation is needed as to exact location of boundaries, the Chief Engineer shall make the necessary interpretation.

(Ord. 82-315. Passed 7-6-82.)

1329.05 STRUCTURES (TEMPORARY OR PERMANENT).

All new construction and substantial improvements of residential structures, including basement and cellars, located within the Intermediate Regional Flood Plain must be elevated to one (1) foot above the maximum height of the 100-year flood. All new construction and substantial improvements of nonresidential structures including basements and cellars located within the Intermediate Regional Flood Plain shall be elevated or floodproofed watertight to one (1) foot above the maximum heights of the 100-year flood. Where such height is to be achieved by the use of fill, such fill shall be approved by the Chief Engineer and shall extend fifteen (15) feet beyond the limits of the intended structure. Such structures shall be designed and/or anchored to prevent the flotation, collapse, or lateral movement of the structure during the 100-year flood. When such floodproofing techniques are used the builder shall submit certification from a registered professional engineer or architect that the floodproofing methods are sufficient to preclude any damage to the structure arising from flood depths, pressures, velocities, the impact of uplift forces and other factors associated with the 100-year flood.

(Ord. 82-315. Passed 7-6-82.)

1329.06 PREREQUISITES FOR BUILDING PERMIT.

In addition to all other prerequisites for the issuance of a building permit pursuant to this chapter, no building permit for construction pertaining to a structure which is subject to this chapter shall be issued without the applicant having first submitted the mean sea level elevation of the first floor and all floors below the first floor, including basement, as determined by a surveyor registered in the State of Ohio.

(Ord. 82-315. Passed 7-6-82.)

1329.07 FILL MATERIAL.

Fill material shall be clean and free of any organic materials which could pollute or contribute to the pollution of ground water.

(Ord. 82-315. Passed 7-6-82.)

1329.08 DEPTH OF FILL.

No structure which is subject to Sections 1329.01 through 1329.08 of this chapter shall be constructed on land which has fill material to a depth of five (5) feet or more, which fill material was deposited within the preceding ten (10) years prior to the application for a building permit, unless such construction is supervised by a professional engineer registered in the State of Ohio who certifies that such fill materials will not subside or otherwise contribute to structural failure.

(Ord. 82-315. Passed 7-6-82.)

1329.09 UTILITIES.

All utility equipment or installations subject to damage from floods which is to be located in the Flood Plain shall be installed above the elevation of the 100-year frequency flood, or shall be waterproofed.

(Ord. 82-315. Passed 7-6-82.)

1329.10 WATER AND WASTE DISPOSAL.

(a) Any new or replacement water supply system and sanitary sewage systems within the Intermediate Regional Flood Plain shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the system into flood waters. Flap valves shall be installed on all sewer connections to prevent backflow into buildings during flood conditions.

(b) No on-site sewage disposal system shall be approved which is located within the Regional Flood Plain and which can be infiltrated, rendered inoperable or be contaminated by flood waters.

(Ord. 82-315. Passed 7-6-82.)

TITLE FIVE--Plumbing Regulations

Chap. 1361. Administration; Ohio Plumbing Code Adoption.

Chap. 1363. Definitions.

Chap. 1367. Licensing Plumbers.

Chap. 1369. Plumbing Permits and Fees.

CHAPTER 1361

Administration; Ohio Plumbing Code Adoption

1361.01 Short Title.

1361.02 Ohio Plumbing Code adoption.

1361.03 Duties of Plumbing Inspector.

1361.04 Right of entry.

1361.05 Dangerous and unsanitary conditions.

1361.06 Sanitary facilities required.

1361.07 Plumbing systems.

1361.08 Conflict; more restrictive provision to control.

1361.09 Sewage disposal system which can be infiltrated, rendered inoperable or be contaminated by flood waters.

1361.10 New or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters.

1361.99 Penalty.

CROSS REFERENCES

Power to regulate sanitary condition of buildings--see Ohio R.C. 715.26(A), 715.29

Power to enforce State Building Code relating to sanitary construction--see Ohio R.C.

3781.03

Plumbing Inspections Division--see ADM. 137.03

Licensing sewer tappers--see S.U. & P.S. 915.05

Separate sewer connections required--see S.U. & P.S. 915.09

Use of Public Sewers--see S.U. & P.S. 916.02, 925.02

Plumbing in food establishments - see HLTH. 1711.09

1361.01 SHORT TITLE.

This Title Five of Part Thirteen - Building Code consisting of Chapters 1361 through 1369, shall be known as the Springfield Plumbing Code and may be cited as this Plumbing Code.

1361.02 OHIO PLUMBING CODE ADOPTION.

(a) Adoption. The Ohio Plumbing Code, 2007 Edition (cited as "OPC"), being the "2006 International Plumbing Code, Chapters 2 to 13, as published by the International Code Council, Inc., along with editorial changes adopted by the Ohio Board of Building Standards, Division of Industrial Compliance, Ohio Department of Commerce effective-July 1, 2007, is hereby adopted by The City of Springfield, Ohio.

(Ord. 08-81. Passed 3-25-08.)

(b) For purposes of enforcing this Plumbing Code, the Health Commissioner of the Clark County Combined Health District is hereby appointed to be the Building Official.

(Ord. 05-47. Passed 2-15-05.)

(c) Plastic Pipe Exception: Notwithstanding the provisions of this Plumbing Code, copper tubing only shall be used in all water distribution and water supply applications connecting the City's water main, the curb stop and the meter box serving a property.

1361.03 DUTIES OF PLUMBING INSPECTOR.

The Plumbing Inspector shall maintain public office hours necessary to efficiently administer the provisions of this Plumbing Code and amendments thereto, and shall perform the following duties:

- (a) Keep a record of all work submitted to him for inspection, together with his action thereon.
- (b) Keep a record of the plumbing in each building in the City erected after October 27, 1952.
- (c) Inspect all plumbing work authorized by a permit to assure compliance with this Plumbing Code or amendments thereto, approving or condemning work in whole or in part as conditions require.
- (d) Issue a certificate of approval for any work approved by him.
- (e) Condemn and reject all work done, or being done, or materials used, or being used, which do not in all respects comply with the provisions of this Plumbing Code and amendments thereto.
- (f) Order changes in workmanship or materials essential to obtain compliance with all provisions of this Plumbing Code.
- (g) Investigate unsanitary conditions in any building or premises, resulting from defective plumbing or lack of plumbing therein, which makes it a menace to health and to issue orders for the abatement of such conditions.

1361.04 RIGHT OF ENTRY.

Whenever necessary for the purpose of enforcing the provisions of this Plumbing Code, or whenever the Plumbing Inspector has reasonable cause to believe that there exists in any building or structure or upon any premises, any condition which makes such building, structure or premises unsafe, the Plumbing Inspector may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Plumbing Inspector by this Plumbing Code; provided that if such building, structure or premises is occupied, he shall first present proper credentials and request entry. If such entry is refused, the Plumbing Inspector shall have recourse to every remedy provided by law to secure entry.

1361.05 DANGEROUS AND UNSANITARY CONDITIONS.

(a) Whenever it is brought to the attention of the Commissioner of Health that any dangerous or unsanitary condition exists, or that any construction or work regulated by this Plumbing Code is dangerous, unsafe, unsanitary or a menace to life, health or property, or is in violation of this Plumbing Code, the Health Commissioner may request an investigation by the Plumbing Inspector, who upon determining such information to be true, shall order any person, firm or corporation using or maintaining any such condition, or responsible for the use or maintenance thereof, to discontinue the use of or maintenance thereof, or to repair, alter, change, remove or demolish the same as he may consider necessary for the proper protection of life, health or property. In a case where there is danger of pollution of the water supply, the Health Commissioner may order the water service shut off until such plumbing is made safe to life and health. In cases where any business establishment is closed by the Health Commissioner because of conditions detrimental to public health, such business shall remain closed until permission to reopen such place of business has been granted by the Health Commissioner.

(b) In cases where any building is condemned by the Health Commissioner and ordered vacated because of being dangerous to life and health, such building shall remain vacant until permission to reopen such building has been granted by the Health Commissioner.

(c) Every order pursuant to this section shall be in writing, addressed to the owner, agent or person responsible for the premises in which such conditions exist and shall specify the date or time when such order shall be complied with, which time shall allow a reasonable period in which the order can be complied with by the person, firm or corporation receiving such order, but shall never exceed the maximum period for which such construction can be safely used or maintained in the judgment of the Health Commissioner. Refusal, failure or neglect to comply with such notice or order shall be considered a violation of this Plumbing Code.

(d) It shall be the duty of the Plumbing Inspector and of the Health Commissioner to enforce the provisions of this Plumbing Code, but nothing herein contained shall be construed to exempt any other officer or department from the obligation imposed upon them of enforcing the provisions hereof.

1361.06 SANITARY FACILITIES REQUIRED.

(a) All buildings erected in the City and intended for human habitation or occupancy shall be provided with operable sanitary plumbing facilities. At the least, each new and existing housing unit intended for human habitation shall be provided with an operable separate water closet and sink for each family. New or remodeled nonresidential structures shall be provided with separate water closets and lavatories for male and female employees as required by this Plumbing Code.

(b) Privy vaults and chemically treated dry pan toilets shall not be constructed, installed or used on any premises within the City of Springfield, Ohio.

1361.07 PLUMBING SYSTEMS.

All plumbing systems including repairs and additions hereafter installed in the City shall conform with the provisions of this Plumbing Code.

1361.08 CONFLICT; MORE RESTRICTIVE PROVISION TO CONTROL.

In any specific case where there is a difference in the materials, methods of construction or other requirements specified in different sections of this Plumbing Code, or any other applicable law or ordinance, or any rule or regulation of any administrative officer or board having jurisdiction, the more restrictive shall govern.

1361.09 SEWAGE DISPOSAL SYSTEMS WHICH CAN BE INFILTRATED, RENDERED INOPERABLE OR BE CONTAMINATED BY FLOOD WATERS.

No on-site sewage disposal system shall be approved which is located within the Regional Flood Plain and which can be infiltrated, rendered inoperable or be contaminated by flood waters.

1361.10 NEW OR REPLACEMENT WATER SUPPLY SYSTEMS AND/OR SANITARY SEWAGE SYSTEMS TO BE DESIGNED TO MINIMIZE OR ELIMINATE INFILTRATION OF FLOOD WATERS.

All new or replacement water supply systems and/or sanitary sewage systems located within the Regional Flood Plain shall be designed to

minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into the flood waters.

1361.99 PENALTY.

Whoever violates any provision of this Plumbing Code or any notice or order issued pursuant thereto is guilty of a misdemeanor of the first degree and shall be punished by a fine of not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both.
(Ord. 91-258. Passed 6-18-91.)

CHAPTER 1363

Definitions

1363.01 State definitions applicable.

1363.02 Approved.

1363.03 Building.

1363.04 Erected.

1363.05 Person.

1363.06 Regional Flood Plain.

1363.01 STATE DEFINITIONS APPLICABLE.

The definitions contained in Section 4101:2-57-01 of the Ohio Plumbing Code shall apply to the interpretation of this Plumbing Code.
(Ord. 95-372. Passed 11-21-95.)

1363.02 APPROVED.

"Approved" means accepted or acceptable under an applicable specification stated or cited in this Plumbing Code, or accepted as suitable for the proposed use under procedures and powers of administration delegated in this Plumbing Code.

1363.03 BUILDING.

"Building" means an enclosed structure having exterior or party walls and a roof designed for the shelter of persons, animals, or property.

1363.04 ERECTED.

"Erected" means altered or changed, as well as any new installation.

1363.05 PERSON.

"Person" means a natural person, his heirs, executors, administrators or assigns, and includes a firm, partnership, or corporation and its or their successors or assigns. The singular includes the plural, and the masculine includes the feminine.

1363.06 REGIONAL FLOOD PLAIN.

The area of dry land which would be inundated by the flood waters of the 100-year flood. Such area is described in the currently effective FEMA map adopted by the City.
(Ord. 91-258. Passed 6-18-91.)

CHAPTER 1367

Licensing Plumbers

(NOTE: Chapter 1367 was repealed by Ordinance 02-27, January 22, 2002, and reinstated by Ordinance 02-194, April 30, 2002.)

1367.01 Definitions.

1367.02 Prohibition.

1367.03 Plumbers Examining Board.

1367.04 Inspector as Secretary.

1367.05 Powers of the Board.

1367.06 Application for license.

1367.07 Violations of licensing.

1367.08 Revocation of license and apprentice registration.

1367.09 Journeyman and apprentice plumber fees.

1367.10 Journeyman Plumber license.

1367.11 Master plumber's license.

1367.12 Journeyman Plumber's license fee.

1367.13 Apprentice plumbers.

1367.14 Failure to renew license.

1367.15 Applications filed with Health Commissioner.

1367.16 Partnership or corporation.

1367.17 Display of license number.

1367.18 Advertising as plumber without license.

1367.19 Unlawful practice.

1367.20 Employing unlicensed plumbers.

- 1367.21 Record of licenses.**
- 1367.22 Exceptions.**
- 1367.23 Installation of certain appliances; exceptions.**
- 1367.24 Limited appliance license; examination; bond.**
- 1367.25 Permit and inspection.**
- 1367.26 Procedure and requirements for plumbing contractor registration.**

CROSS REFERENCES

Power to license plumbers - see Ohio R.C. 715.27
Licensing sewer tappers - see S.U. & P.S. 915.05
Licensing of building contractors - see BLDG. Ch. 1327
Permits to clean septic tanks - see BLDG. 1369.12

1367.01 DEFINITIONS.

For the purpose of this chapter, the following words and terms shall have the meanings given herein.

- (a) "Apprentice plumber" means a person who is registered as such, and who is undergoing an apprenticeship or course of training, not exceeding five years, for the purpose of learning the trade of plumbing. An "apprentice plumber" shall perform no work regulated by this chapter, except as an assistant, under the direct supervision of a master plumber, and in the immediate presence of a licensed master plumber or a licensed journeyman plumber. There may be one apprentice plumber employed to each three journeyman plumbers or fraction thereof employed by a master plumber. The term "apprentice plumber" does not include a person licensed under Chapter 4740 of the Ohio Revised Code when performing work requiring a license issued under Chapter 4740 of the Ohio Revised Code.
- (b) "Journeyman plumber" means a person who supervises, installs, alters or repairs plumbing systems or part thereof, as an employee but does not furnish material or supplies, and who is registered and the legal possessor of a journeyman plumber's license, as provided for in this chapter. The term "journeyman plumber" does not include a person licensed under Chapter 4740 of the Ohio Revised Code when performing work requiring a license issued under Chapter 4740 of the Ohio Revised Code.
- (c) "Master plumber" means a person duly qualified to engage in the installation of plumbing and in planning, engineering, superintending, maintenance, and repair with respect to plumbing in all of its branches. An active master plumber is a master plumber holding a valid active master plumber's license and who is authorized to engage in the installation of plumbing, through contract or otherwise, and also in planning, engineering, superintending, installation, maintenance, and repair with respect to plumbing in all of its branches, and as such is authorized to employ journeymen plumbers and plumbers' apprentices and other persons necessary for the proper installation of plumbing work in accordance with this Plumbing Code. An inactive master plumber is a master plumber holding a valid inactive master plumber's license, who has chosen not to maintain insurance and a bond in accordance with Section 1367.11 of this Plumbing Code and who enjoys the privileges and responsibilities as set forth in Section 1367.11(e) of this Plumbing Code. The term "master plumber" does not include a person licensed under Chapter 4740 of the Ohio Revised Code when performing work requiring a license issued under Chapter 4740 of the Ohio Revised Code.
- (d) "Plumbing contractor" means any individual or business entity who satisfies all of the following:
 - (1) For compensation, directs, supervises, or has responsibility for the means, method, and manner of plumbing construction, improvement, renovation, repair, or maintenance on a construction project and who offers, identifies, advertises, or otherwise holds out or represents that the individual or business entity is permitted or qualified to direct, supervise, or have responsibility for the means, method, and manner of plumbing construction, improvement, renovation, repair, or maintenance on a construction project;
 - (2) Is a tradesperson or employs tradespersons who perform and who are trained to perform plumbing construction, improvement, renovation, repair, or maintenance on a construction project.
 - (3) Holds a valid and unexpired license issued under Chapter 4740 of the Ohio Revised Code authorizing operation as a plumbing contractor.
- (e) "Tradesperson" means an individual who, for compensation, engages in construction, improvement, renovation, repair, or maintenance of buildings or structures without assuming responsibility for the means, method, or manner of that construction, improvement, renovation, repair, or maintenance.

1367.02 PROHIBITION.

No person shall engage in the business of plumbing or do work at the trade of plumbing in the City until he has first obtained a valid license or registration therefor in accordance with the provisions of this chapter.

1367.03 PLUMBERS EXAMINING BOARD.

(a) There is hereby established within the City a Plumbers Examining Board which shall consist of five members, two of which shall be City staff members and the remaining three of which shall be citizen members. The City staff members shall consist of one City Department of Public Health employee appointed by the Health Commissioner and one City Utility Services Department employee appointed by the Director of Utility Services. The citizen members shall be comprised of one licensed master plumber holding a valid active license; one licensed journeyman plumber; and one person who shall be a representative of the public. The citizen members shall be appointed by the President of the City Commission with the consent and approval of such Commission and shall serve for terms of three years each. Each member of such Board shall be a citizen of the United States, and each member shall be a resident of the City for not less than one year immediately preceding his appointment. No member, as such, shall receive any compensation.

(b) A majority of the Board shall constitute a quorum for the transaction of business. No decision or determination of the Board shall be effective unless concurred in by a majority of the members thereof.

(c) The Board shall elect from its membership a Chairman, who shall serve for a term of one year. No person may serve as Chairman for more than two consecutive terms.

(d) If any citizen board member is absent from three of any six consecutive regularly scheduled meetings, his or her office shall immediately become vacant. Such member shall have the opportunity to explain his or her absence to the City Commission and may be reappointed by a majority vote of the City Commission to complete the balance of his or her term.

1367.04 INSPECTOR AS SECRETARY.

The Plumbing Inspector shall act as the Secretary of the Plumbers Examining Board and shall be chargeable with keeping accurate records of all applications, minutes, proceedings, examinations, findings and decisions of such Board, together with the performance of such other duties as the Board may direct. He shall receive no compensation in such capacity. All applications for plumbers' licenses, as required by this chapter shall be filed with the Plumbing Inspector, as such Secretary, who shall promptly transmit the same to the Board for appropriate action.

1367.05 POWERS OF BOARD.

(a) The Plumbers Examining Board is authorized and empowered to prepare, conduct, supervise and grade examinations, written, oral or demonstrative, as to matters involving average practical plumbing practice, of applicants for plumbers' licenses; and, without discrimination, to prescribe the scope, extent and standards of all such examinations. An applicant for journeyman plumber's license shall be examined with respect to this practical knowledge and mechanical ability to perform any such work. Such Board may determine that a journeyman plumber's examination given by another political subdivision is equivalent to the examination prepared by the Board and may accept successful completion of any such equivalent examination as satisfactory proof of the competency of an applicant for a journeyman plumber's license. Such Board shall have further power and authority to approve applications for any form of license herein provided for; to disapprove any such application either for failure to satisfactorily pass an examination; and, in the event of a violation of any of the provisions of this chapter or any related ordinance or law, to revoke any plumber's license previously granted by the City; and shall have power and authority to prescribe and enforce such rules, regulations and procedure with respect to its own operation and to the approval or disapproval of applications for plumber's license as it shall deem proper and as are not in conflict with this chapter.

(b) Such Board shall have the power and authority to approve or disapprove new materials and fixtures that may from time to time be presented to it.

(Ord. 03-353. Passed 10-28-03.)

1367.06 APPLICATION FOR LICENSE.

Every application for a plumber's license of any type shall be in writing, and on such form as the Plumbers Examining Board prescribes. The application shall set forth the name, citizenship, residence, place of business or occupation of the applicant, and length of time he has been engaged in the business or trade of plumbing, together with a stipulation that, if granted a license, he will comply with all laws, ordinances, resolutions and public regulations of competent authority relating to plumbing, sanitation and allied work.

1367.07 VIOLATIONS OF LICENSING.

It shall be the duty of the Plumbing Inspector, or any other person to report all violations of the provisions of this chapter to the Health Commissioner, and to assemble and present to the Health Commissioner all known available information, data and materials reflecting upon any such violation.

1367.08 REVOCATION OF LICENSE AND APPRENTICE REGISTRATION.

Upon written complaint of any person, and after investigation of the complaint, the Plumbing Inspector may recommend to the Health Commissioner that a plumber's license and/or apprentice's registration be revoked. The Health Commissioner upon recommendation of the Plumbing Inspector is authorized and empowered to revoke, modify or suspend any license pursuant to the provisions of this chapter for any of the following acts or omissions of the holder of any such license and/or apprentice's registration: fraud, deceit or misrepresentation of any facts in obtaining a license and/or apprentice's registration; obtaining a contract for work authorized under any such license by fraud, deceit or misrepresentation of facts; negligence or incompetence in the practice of contracting or the performance of any work; conversion of property or funds belonging to another; failure to complete any contract or work undertaken under the cloak of such license; unreasonable delay in the prosecution of completion of any work to which such a licensee may be a party; willful or fraudulent material departure from the plans or specifications prescribed for any work undertaken by a licensee; violation of or disregard for any provision of law or ordinance or any rule or regulation adopted pursuant thereto resulting in injury or damage to any person or to the public; giving false information on an application for a permit; or the filing of a voluntary or involuntary petition in bankruptcy by such licensee or an assignment by him for the benefit of his creditors or the appointment of a receiver or trustee to take charge of the property, assets and affairs of such licensee. However, no such license or apprentice registration shall be revoked without at least fifteen (15) days advance written notice by the Health Commissioner to the licensee or apprentice to such effect.

(Ord. 03-353. Passed 10-28-03.)

1367.09 JOURNEYMAN AND APPRENTICE PLUMBER FEES.

Every journeyman plumber shall pay an examination fee of fifty dollars (\$50.00) to the Clark County Combined Health District before taking such journeyman plumber's examination. All apprentice plumbers shall be registered by the board and all applicants for registration as apprentices shall pay a fee of twenty-five dollars (\$25.00) to the Clark County Combined Health District. All such applicants approved by the Board shall receive a registration card.

(Ord. 03-353. Passed 10-28-03.)

1367.10 JOURNEYMAN PLUMBER LICENSE.

If, after paying such examination fee and taking such examination, the Plumber's Examining Board is satisfied of the competency of such applicant, the Board shall issue a certificate to him directed to the Health Commissioner, which certificate shall recite that such applicant has passed the examination of a journeyman plumber. The Health Commissioner, upon receipt of such certificate, shall, upon the payment of the fee, hereinafter prescribed to the Clark County Combined Health District, issue such applicant a license in accordance with such certificate, authorizing him to follow and engage in the occupation or trade of journeyman plumber in the City in the capacity specified in such license.

(Ord. 03-353. Passed 10-28-03.)

1367.11 MASTER PLUMBER'S LICENSE.

(a) The Health Commissioner shall issue a master plumber's license upon payment of a fee of two hundred dollars (\$200.00) and upon the applicant providing evidence satisfactory to the Health Commissioner that the following items are valid and remain in effect during the duration of the license.

(1) Comprehensive general liability insurance, including completed operations, with a minimum limit of liability of three hundred thousand dollars (\$300,000.00) each occurrence combined single limit for bodily injury and property damage liability.

(2) City Income Tax Number.

(3) The execution by such applicant for such license of a bond in the sum of ten thousand dollars (\$10,000) with sureties thereon to the approval of the Health Commissioner, which surety shall be some approved general surety or bonding company. Such bond shall be conditioned to save the City and its inhabitants harmless from all liability, loss or damage of whatsoever nature that may result directly or indirectly to person or property by reason of any act or neglect of any such licensee, or of any person in his employ or working under his supervision, with respect to any work contemplated by the terms of his license, and that such licensee will abide by the laws, ordinances, rules and regulations governing plumbing work in the City then in force or thereafter established by proper authority.

(b) No reductions in fees shall be made for any part of the year having elapsed.

(c) In the event a licensed master plumber desires a sewer tapper's license authorized by ordinance of the City, the same shall be issued to the applicant without any further or additional bond being required of such licensed master plumber upon payment to the Clark County Combined Health District the fee provided for in such ordinance.

(d) All master plumber's licenses shall expire on December 31 in each year and may be renewed annually upon the payment of a fee of one

hundred twenty five dollars (\$125.00) to the Clark County Combined Board Of Health.

(e) Must held either a valid Plumbing Contractor's License issued by the State of Ohio pursuant to Chapter 4740 of the Ohio Revised Code or a valid City of Springfield master plumber's license within the immediately preceding thirty one (31) days.
(Ord. 03-353. Passed 10-28-03.)

1367.12 JOURNEYMAN PLUMBER'S LICENSE.

(a) The Health Commissioner shall issue a journeyman plumber's license upon the payment of a fee of fifty dollars (\$50.00) to the Clark County Combined Health District, upon presentation of a valid certificate that the applicant has passed the examination referred to in Section 1367.05 and 1367.09 and upon the licensee's representation that such licensee will abide by the laws, ordinances, rules and regulations governing plumbing work in the City then in force or thereafter established by proper authority.

(b) All such journeyman plumber's licenses shall expire on December 31 in each year and may be renewed annually upon the payment of a fee of one hundred fifty dollars (\$50.00) to the Clark County Combined Board Of Health.
(Ord. 03-353. Passed 10-28-03.)

1367.13 APPRENTICE PLUMBERS.

Registration cards expire on December 31 in each year and may be renewed annually upon the payment of a fee of twenty-five dollars (\$25.00) to the Clark County Combined Board of Health.
(Ord. 03-353. Passed 10-28-03.)

1367.14 FAILURE TO RENEW LICENSE.

(a) Any person engaged in the occupation of master plumber or journeyman plumber who fails to secure such renewal of such license within thirty days from the date of the expiration thereof, shall, before he receives another license and is eligible to engage in the occupation of master plumber or journeyman plumber, present himself to the Health Commissioner and make application for an appropriate plumber's license and pay the required fees.

(b) No reductions in fees shall be made for any part of the year having elapsed.
(Ord. 03-353. Passed 10-28-03.)

1367.15 APPLICATIONS FILED WITH HEALTH COMMISSIONER.

All applications approved by the Plumbers Examining Board shall be forthwith filed with the Health Commissioner and all applications rejected shall be so filed together with a written statement disclosing the reasons for such rejection. Every person who receives a license, card or badge, either as an active or inactive master plumber, journeyman plumber or apprentice shall register with the Secretary of the Plumbers Examining Board upon such forms as the Board may prescribe, his name, place of business, home address, length of time engaged in the occupation of plumbing and where he has served his apprenticeship.

1367.16 PARTNERSHIP OR CORPORATION.

Every partnership or corporation desiring to engage in the business of plumbing as an active master plumber shall file with the Secretary of the Plumbers Examining Board, a statement subscribed and sworn to by the partners of such partnership or an officer of such corporation, stating the partners of such partnership, its place of business or the officers of such corporation and its place of business. Every such partnership or corporation shall have at least one partner of such partnership or one officer of such corporation, who is a qualified licensed active master plumber and such partnership or corporation may follow and engage in such business as an active master plumber upon the license of such partner or officer. If such partner or officer of such partnership or corporation ceases to represent it actively, then no partnership or corporation or employee thereof shall engage in such business of master plumber until another person has qualified as herein provided. In the event more than one partner or officer engages in actual plumbing, such persons shall be licensed as follows: one partner or officer of the corporation or partnership shall have an active master plumber's license and all other persons who engage in actual plumbing shall have a journeyman plumber's license or either an active or inactive master plumber's license.

1367.17 DISPLAY OF LICENSE NUMBER.

It shall be the duty of every person, firm, or corporation engaged in the business of plumbing as an active master plumber to display his certificate of license number on all vehicles while engaged in the business of plumbing as a master plumber. These numbers shall be attached in a legible manner in contrasting colors on both sides of said vehicles with not less than two-inch block numerals. When a vehicle displaying a license number is no longer used in the master plumber's plumbing business or in the event the master plumber's license expires or is revoked, the master plumber shall either remove the license number from the vehicle or paint over the license number with an opaque paint so that the license number can no longer be seen.

1367.18 ADVERTISING AS PLUMBER WITHOUT LICENSE.

(a) No person, firm or corporation in the City shall advertise or hold himself out to the public as a plumber or licensed plumber when such person, firm or corporation does not have such license or registration as provided for in this chapter.

(b) No person, firm or corporation not in legal possession of a valid active master plumber's license issued by the City shall engage in, or represent himself as an active master plumber in the City or expose or use a sign with the words "Master Plumber" or "Plumber" thereon, or to advertise with similar words, for the purpose of implying that he is a master plumber or a plumber.

1367.19 UNLAWFUL PRACTICE.

(a) No licensed active master plumber shall allow his name to be used by any other person, directly or indirectly, to obtain a plumbing permit.

(b) No licensed active master plumber shall employ any person to perform plumbing work of a journeyman plumber who is not properly licensed as a journeyman plumber or an inactive master plumber.

(c) Except as is otherwise provided by this chapter, no person within the City on or after June 30, 2002 shall act or hold himself out to be or undertake or perform any work as a plumbing contractor without first registering with the Health Commissioner in the manner specified in this chapter.

1367.20 EMPLOYING UNLICENSED PLUMBERS.

No person shall permit any unlicensed plumber or unregistered plumbing contractor to do any plumbing work upon any premises owned or

under the control of such person, except as provided and prescribed in this Plumbing Code.

1367.21 RECORD OF LICENSES.

A record of all plumbers, sewer tappers, and maintenance licenses shall be kept on file in the office of the Health Commissioner.

1367.22 EXCEPTIONS.

(a) The provisions of this chapter, relative to examinations and licenses shall not apply to public utilities, public institutions, governmental buildings, nor to mercantile, commercial or industrial plants, which maintain departments for installation, maintenance and repair of plumbing in or on their respective premises or plant, under expert supervision in conformity with the laws of the State and the provisions prescribed in this chapter relative to sanitation and plumbing, unless the person with expert qualifications who supervises or is in charge of such maintenance department has first made an application for a maintenance license. The maintenance license application shall include a fee sixty-five dollars (\$65.00), which shall be paid to the Clark County Combined Health District, shall be made in writing upon application forms prescribed by the Health Commissioner for such purpose and shall contain the name, residence, address and place of business of the applicant, the length of time he has worked at plumbing work or has been engaged in the business of plumbing and an agreement to abide by the laws, ordinances, rules and regulations governing plumbing work in the City, then in force or thereafter established. The maintenance license shall expire on December 31 of each year, and shall be renewed annually upon the payment of the fee of sixty-five dollars (\$65.00) to the Clark County Combined Health District. No reduction shall be made for any part of the year having elapsed at the time such license is applied for. If the Plumbing Inspector finds any such plumbing to be contrary to this chapter relative to sanitation and plumbing, and the person responsible for such violation of the law refuses to rectify the conditions complained of, the Plumbing Inspector is authorized to refuse permission for further work on same or the use thereof until such improper plumbing installation or repair work has been corrected and made to comply with the provisions as prescribed in this Plumbing Code. However, no plumbing installation work shall be done by any maintenance department until a permit to do such work has been obtained as required in this chapter.

(b) This chapter shall not apply to departments, branches, service units or buildings of the Federal, State and municipal governments, but Federal, State and municipal governments are requested and urged to follow the local custom and procedure of employing properly licensed plumbers on all public housing projects, or to an individual person installing plumbing in accordance with the provisions prescribed in this Plumbing Code, in a one-, two- and/or three-family dwelling used exclusively for residential purposes, on premises owned by such individual, provided such person secures a permit therefor, from the Plumbing Inspector. A permit for such plumbing work shall be granted by the Plumbing Inspector upon the filing of an affidavit that all such work shall be constructed and installed by such person without the help or hire of others, and such permit shall be conditioned upon the approval of such work, at its completion by the Plumbing Inspector, provided that nothing herein shall be construed as a waiver of the provisions prescribed in this Plumbing Code relative to sanitation and plumbing.

(c) Persons licensed as plumbing contractors under Chapter 4740 of the Ohio Revised Code and not licensed under Chapter 4740 of the Ohio Revised Code as a heating, ventilating and air conditioning contractor or a refrigeration contractor, or an electrical contractor or a hydraulics contractor are regulated under Chapter 1367 of the Codified Ordinances as to their operations as plumbing contractors and are exempt from the regulation and licensing requirements under Sections 1367.03, 1367.05, 1367.06, 1367.08, 1367.09, 1367.10, 1367.11, and 1367.15 of this Chapter only as to their operations as plumbing contractors which require a license under Chapter 4740 of the Ohio Revised Code.
(Ord. 03-353. Passed 10-28-03.)

1367.23 INSTALLATION OF CERTAIN APPLIANCES; EXCEPTIONS.

Anything contained in this Plumbing Code to the contrary notwithstanding, the installation of water softeners, washing machines, dryers, dishwashers, air conditioning equipment, ice makers, vending machines, coil cleaning machinery, garbage disposal units, refrigerators, humidifiers or other similar appliances as determined by the Plumbers Examining Board where such installation involves attachment to water lines, waste lines, drains or vent stacks, hereinafter called appliance installations, may be performed by a person holding a valid master or journeyman plumber's license; a valid building contractor's license; a valid specialty contractor registration; a valid plumbing contractor registration; or by a mercantile establishment which makes appliance installations through personnel trained in such installations and licensed in accordance with the provisions of Sections 1367.24 to 1367.26, inclusive, hereinafter called establishment. However, appliance installations shall not include the attachment, extension or alteration of a trap; of a waste or drain lines on the outlet side of a trap; a vent stack; nor shall appliance installations include cutting into and inserting a fitting in a water line exceeding three fourth inch in diameter in a commercial building, three or more family dwelling or industrial building.

1367.24 LIMITED APPLIANCE LICENSE; EXAMINATION; BOND.

(a) The work described in Section 1367.23 shall not be performed unless the establishment is the holder of an unexpired limited appliance dealers license, issued by the Health Commissioner, for which a charge of forty dollars (\$40.00) for each calendar year shall be made. Each license shall expire December 31 of the year in which it is issued.

(b) Such work shall be performed only by the holder of an unexpired limited appliance installers license, issued by the Health Commissioner for which a charge of twenty dollars (\$20.00) for each calendar year shall be made. Each license shall expire December 31 of the year in which it is issued.

(c) No limited appliance installers license shall be issued unless the applicant has satisfactorily passed an examination on his competency fitness and ability to comply with State laws, City ordinances and the rules and regulations of properly constituted public authorities in effect at the time, relating to the type or types of work for the performance of which the applicant seeks a license. Such examination shall be administered by the Plumbers Examining Board and shall be limited to questions or demonstrations which fairly test the fitness and the ability of the applicant to perform such work that is incidental to connections with water lines, waste lines, traps, drains or vent stacks, in the installation of the appliances as defined above. A twenty dollar (\$20.00) examination fee shall be collected from the applicant prior to such examination. A licensee who shall fail to secure a renewal of his license by January 31 may, at the discretion of the Board, be required to pass another examination before being eligible for a new license.

(d) No limited appliance dealers license shall be issued until the establishment has filed with the Health Commissioner:

- (1) A certificate evidencing general liability insurance for the acts of the establishment and its installers including completed operations coverage for each person in the amount of three hundred thousand dollars (\$300,000.00) and for each occurrence combined in single limit for bodily injury and property damage and requiring not less than ten days written notice to the Health Commissioner prior to cancellation; and
- (2) A bond in the sum of five thousand dollars (\$5,000.00) with sureties approved by the City Manager, conditioned to save the City and its inhabitants harmless from all liability, loss or damage of whatsoever nature that may result, directly or indirectly, to persons or property by reason of any wrongful act or neglect of any such licensee or any person in his employ or working under his supervision, with respect to any work contemplated by the terms of his license, or his employees' license, and further

conditioned that such establishment and his employees will abide by the laws, ordinances, rules and regulations governing such work in the City then in force or thereafter established by proper authority.

1367.25 PERMIT AND INSPECTION.

(a) Before undertaking the installation of a fixture or appliance the proper party shall make application for a permit to the Health Commissioner and shall pay the permit fees prescribed under Chapter 1369 to the Clark County Combined Health District. This section shall not apply to the servicing or repair or to the replacement of an appliance or fixture, unless the replacement involves such substantial changes as to be equivalent to a new installation.

(b) The establishment shall notify the Plumbing Inspector within twenty-four hours of the completion time, and the Inspector shall inspect the installation within forty-eight hours after the work has been done in conformity with applicable ordinances of the City. Inspections performed outside of normal working hours (normal working hours are 7:30 a.m. to 4:00 p.m. weekdays, other than holidays) shall require an extra charge of fifty dollars (\$50.00) per hour, portal to portal. Should the inspection disclose any defect or violation of such ordinances, the same shall be corrected within ninety-six hours after written notice has been given to the establishment of such defect or violation. There shall be a re-inspection fee of one hundred dollars (\$100.00) for each re-inspection of a commercial structure (i.e. all structures other than one-, two- and three-family residential structures) re-inspections to be paid to the Clark County Combined Health District.

(Ord. 08-190. Passed 6-17-08.)

1367.26 PROCEDURE AND REQUIREMENTS FOR PLUMBING CONTRACTOR REGISTRATION.

The requirements and procedures for specialty contractor registration shall be as follows:

- (a) Any person desiring a plumbing contractor registration shall make written application therefor with the Health Commissioner. Every application shall be on forms prescribed by the Health Commissioner; shall furnish all information and data required thereby. No application shall be required of any person desiring to renew a plumbing contractor registration previously issued or renewed provided that the information and data contained in such person's application therefor is correct or, if not, is corrected by or at the direction of such person and that all other provisions of this action are complied with.
- (b) No plumbing contractor registration shall be issued or continue in effect pursuant thereto unless the applicant shall give evidence that the following items are valid and remain in effect during the duration of the subcontractor registration.
 - (1) The payment of a two hundred dollars (\$200.00) fee, to be paid to the Clark County Combined Health District, upon application for a plumbing contractor registration; and the payment of a one hundred twenty five dollar (\$125.00) fee, to be paid to the Clark County Combined Health District, for each renewal thereof. Payment shall be made to the City Treasurer.
 - (2) Proof that the applicant holds a valid and unexpired license issued pursuant to Chapter 4740 of the Ohio Revised Code.
 - (3) Comprehensive general liability insurance, including completed operations, with a minimum limit of liability of three hundred thousand dollars (\$300,000) each occurrence combined single limit for bodily injury and property damage liability. Subcontractors performing demolition work shall provide collapse hazard coverage ("c" exclusion deleted) and shall also provide explosion hazard coverage ("x" exclusion deleted) if explosive materials are to be used. Subcontractors performing excavation work shall provide both collapse and underground hazard coverage ("c" and "u" exclusions deleted).
 - (4) Proof of Workers' Compensation coverage, if coverage is required by the State of Ohio.
 - (5) City income tax number.
 - (6) The execution by such applicant for such license of a bond in the sum of ten thousand dollars (\$10,000) with sureties thereon to the approval of the City Manager. Such bond shall be conditioned to save the City and its inhabitants harmless from all loss or damage of whatsoever nature that may result from any violation by the plumbing contractor and/or his authorized agents of any law, ordinance or rule governing work contemplated by the terms of such plumbing contractor registration which are then in force or thereafter established by proper authority.
- (c) The Health Commissioner shall issue a certificate of plumbing contractor registration to any person who has complied with the provisions of this section. Every certificate of plumbing contractor registration issued or renewed pursuant to this section shall expire on December 31 of the year for which the same has been issued or last renewed unless otherwise renewed prior thereto in accordance with the provisions of this section. No fee required under the provisions of this section after payment thereof to the City shall be refunded for any cause whatsoever.
- (d) Every certificate of plumbing contractor registration issued pursuant to this Section shall expire on December 31 of the year in which the certificate of plumbing contractor registration was issued or renewed. Holders of a certificate of plumbing contractor registration may apply to renew their certificate of plumbing contractor registration during the period November 15 through December 31 of the year in which the certificate of plumbing contractor registration was issued or previously renewed by making application for renewal and paying the renewal fee of one hundred twenty-five dollars (\$125.00) to the Clark County Combined Health District. A certificate of plumbing contractor registration which is permitted to expire may not be renewed and a holder of an expired certificate of plumbing contractor registration who wishes to become registered must apply for a new certificate of plumbing contractor registration pursuant to the provisions of this Section and pay the application fee of two hundred dollars to the Clark County Combined Health District.

(Ord. 03-353. Passed 10-28-03.)

1367.27 REVOCATION OF PLUMBING CONTRACTOR REGISTRATION.

(a) The Health Commissioner is authorized and empowered to revoke a plumbing contractor registration pursuant to the provisions of this chapter for any of the following reasons:

- (1) The plumbing contractor no longer holds a valid and unexpired license issued pursuant to Chapter 4740 of the Ohio Revised Code to operate as a plumbing contractor, or
- (2) The specialty plumbing no longer has in effect the insurance described in Subsection 1367.26(b)(3), or
- (3) The specialty contractor no longer has in effect the workers compensation coverage described in Subsection 1367.26(b)(4), or
- (4) The specialty contractor no longer has in effect the bond described in Subsection 1367.26(b)(6), or any combination of the foregoing items (1) through (4).

(b) No such plumbing contractor registration shall be revoked without at least fifteen (15) days advance written notice by the Health Commissioner to the plumbing contractor to such effect and without affording to such plumbing contractor the opportunity to appeal to the Board of Building Appeals by submitting the appeal in writing and stating the reason for the appeal. Appeals must be filed with the Secretary of the Board of Building Appeals within ten (10) days after receipt of notice of revocation.

CHAPTER 1369

Plumbing Permits and Fees

(NOTE: Chapter 1369 was repealed by Ordinance 02-27, January 22, 2002, and reinstated by Ordinance 02-194, April 30, 2002.)

- 1369.01 Plumbing permits.**
- 1369.02 Permit application and fee.**
- 1369.03 Review of plans fee.**
- 1369.04 Exceptions.**
- 1369.05 Change of style or location.**
- 1369.06 Work designated by permit.**
- 1369.07 Expiration of permit.**
- 1369.08 Endorsement of Director of Inspections.**
- 1369.09 Permit required.**
- 1369.10 To whom permits may be issued.**
- 1369.11 Permits not assignable.**
- 1369.12 License for scavengers.**
- 1369.13 Investigation of illegal or unauthorized work charge.**

CROSS REFERENCES

Building permit fees - see BLDG. Ch. 1313

Plumbing inspections - see BLDG. Ch. 1361.03(c)

1369.01 PLUMBING PERMITS.

No person shall install plumbing, water service or do work for which a permit is required, on any premises in the City without first having obtained such a permit.

1369.02 PERMIT APPLICATION AND FEE.

(a) The City of Springfield adopts and utilizes the fees established by the Clark County Combined Health District for plumbing permits, inspections, and related services but reserves the right to set different fees when deemed necessary or appropriate.

(b) All applications for plumbing permits shall be made on forms approved by the Plumbing Inspector. No application for a permit shall be processed, nor any permit issued, until the fees prescribed therefor have been paid to the City. Fees shall be charged for the following:

(1)	For one-, two-, and three-family residential structures:	
	Plumbing permit	
	Fixtures	
	Water heater replacement (also must have new T & P valve)	
	Water softeners (new & replacement)	
	Sewer lines installed (new & replacement) between curb and building for one-, two-, and three-family structure residential applications for 1 lineal foot to 100 lineal feet for each lineal foot over 100 lineal feet not to exceed a total of \$130.00	
	Water lines installed (new & replacement) between curb and building for one-, two-, and three-family structure residential applications for 1 lineal foot to 100 lineal feet for each lineal foot over 100 lineal feet not to exceed a total of \$130.00	
(2)	Commercial structures, (i.e. all structures other than one-, two-, and three-family residential structures):	
	Plumbing permit	
	Fixtures	
	Water heater replacement (also must have new T & P valve)	
	Water softeners (new & replacement)	
	Sewer lines installed (new & replacement) between curb and building for commercial structure applications for 1 lineal foot to 100 lineal feet for each lineal foot over 100 lineal feet not to exceed a total of \$150.00	
	Water lines installed (new & replacement) between curb and building for commercial structure applications for 1 lineal foot to 100 lineal feet for each lineal foot over 100 lineal feet not to exceed a total of \$150.00	

In addition to all other fees charged for permits and inspections for commercial structures, an additional inspection fee, as adopted and utilized by the City of Springfield in accordance with the fees established by the Clark County Combined Health District, will be charged. This shall be for routine inspections [i.e. inspections not qualifying as re-inspections under paragraph (b) of this section or under sections 1369.13 and 1367.25 of the City's Codified Ordinances] over and above the following maximum number of routine inspections:

Plumbing Permit Fee	Maximum Routine Inspections

Up to \$500	8
\$501 to \$750	10
\$751 to \$1,000	12
Multiples of \$1,000	10 per \$1,000

(c) In addition, a fee shall be charged as provided for in Section 1367.25 of the City's Codified Ordinances whenever a re-inspection is necessary as a result of work being improperly or incompletely performed or as a result of an inspector being unable to complete a scheduled inspection through the fault of the permit applicant or his agent.
(Ord. 08-190. Passed 06-17-08. Ord. 25-108. Passed 04-08-25)

1369.03 REVIEW OF PLANS FEE.

When plans are required to be submitted pursuant to this Plumbing Code or the Ohio Plumbing Code, a fee for the review of such plans shall be charged as follows:

Plans Involving Fixtures
1 to 20 fixtures
21 to 40 fixtures
41 to 60 fixtures
61 to 100 fixtures
Over 100 fixtures

(Ord. 08-190. Passed 06-17-08; Ord. 25-108. Passed 04-08-25)

1369.04 EXCEPTIONS.

No permit shall be required for plumbing repairs or replacements which are not subject to or required to be tested or inspected under the provisions prescribed in this Plumbing Code or the Ohio Plumbing Code.

1369.05 CHANGE OF STYLE OR LOCATION.

Where the style or location of a fixture has been changed, a permit for such work shall be required, such as removing a leg tub and replacing with a built-in tub; or an ordinary sink replaced with a cabinet sink; or a range boiler replaced with an automatic heater; or when the location of an old fixture is moved more than three feet from its present waste and vent outlet.

1369.06 WORK DESIGNATED BY PERMIT.

Each permit so issued shall designate the work to be done thereunder and in no case shall any work be done which is not specified therein; nor shall any work be commenced or prosecuted until such permit has been issued and in possession of the person in charge of such work.

1369.07 EXPIRATION OF PERMIT.

If the work authorized by permit is not commenced within six months from the date of its issue, such permit shall be deemed to have expired.

1369.08 ENDORSEMENT OF DIRECTOR OF INSPECTIONS.

No permit shall be issued, nor shall any fee for such a permit be accepted or any work be authorized to be done under any permit until the Manager of Inspection Services has endorsed his approval thereon with respect to the requirements of this Building Code other than plumbing, the Zoning Code and any other ordinance the provisions of which may affect the work to be done under such permit.

1369.09 PERMIT REQUIRED.

Except as provided in Section 1367.23, no person, firm or corporation owning or controlling any building in the City in which plumbing may hereafter be installed or existing piping altered or disconnected, or any plumber or other person shall knowingly allow or permit water from the Municipal water supply to flow through such piping or plumbing system until a permit for such work has been obtained, the same has been tested, inspected and approved by the Plumbing Inspector as herein provided, and the fees for such permit have been paid to the City. However, no fee shall be paid for the permit to disconnect from the Municipal water or sewer system.

1369.10 TO WHOM PERMITS MAY BE ISSUED.

No permits shall be issued to any person, to do or cause to be done any construction or installation of plumbing regulated by this Plumbing Code except to a person holding a valid, unexpired and unrevoked active master plumber's license, except when and as otherwise provided and prescribed in Sections 1367.22 and 1367.23. In the case of a partnership or corporation engaging in the business of plumbing as an active master plumber, permits for plumbing work to be performed by the partnership or corporation may be issued only to the partner or officer holding a valid, active master plumber's license.

(Ord. 93-322. Passed 9-21-93.)

1369.11 PERMITS NOT ASSIGNABLE.

In the event different portions of work are contracted for by different plumbers, each plumber must take out the permits covering his portion of the work. Such permits may not be assigned.

1369.12 LICENSE FOR SCAVENGERS.

(a) No person shall engage in the collection and removal of the contents of privy vaults or sewage tanks until a license therefor is obtained from the Health Commissioner. The license shall be issued for a term of one year upon the payment of an annual license fee of fifty dollars (\$50.00) per operation and ten dollars (\$10.00) per vehicle.

(b) Applications for Scavenger Licenses shall be on a form prescribed by the Health Commissioner. The license shall state the conditions under which the material shall be removed and method of disposal. All such licenses shall expire on December 31.

1369.13 INVESTIGATION OF ILLEGAL OR UNAUTHORIZED WORK CHARGE.

When any person, firm or corporation has commenced work on a project without first procuring the necessary permit therefor, the Plumbing Inspector shall make a thorough investigation to determine whether all work performed prior to the subsequent issuance date of the specified permit conforms to all pertinent provisions of this Plumbing Code. The charge for making such investigations prior to the issuance of the necessary permit shall be the additional charge determined as follows:

One-, two-, and three-family structures	\$30.00 plus and additional 25% of the amount of the required permit fee.
All other structures	\$50.00 plus and additional 25% of the amount of the required permit fee.

(Ord. 03-353. Passed 10-28-03.)

TITLE SEVEN - Vacant Property Registration Program

Chap. 1380. Administration of Vacant Property Registration Program.

CHAPTER 1380

Administration of Vacant Property Registration Program

- 1380.01 Adoption; Purpose.**
- 1380.02 Applicability.**
- 1380.03 Definitions.**
- 1380.04 Owner Required to Act; Enforcement Authority.**
- 1380.05 Registration Required and Penalty.**
- 1380.06 Notice to City of Foreclosure, Filing, Fee.**
- 1380.07 Liability.**
- 1380.08 Appeals.**
- 1380.09 Assignment of Registration Fees, Penalties, and Fines.**
- 1380.10 Exemptions.**
- 1380.11 Removal from Registry.**
- 1380.12 Noncompliance; Additional Remedies.**
- 1380.13 Savings Clause.**
- 1380.14 Severability.**
- 1380.15 Effective Date.**

CROSS REFERENCES

Appeals - see Board of Building Appeals Section 1323.07
Penalties- see Class A Civil Offenses Section 1324.02
Penalties - see Class B Civil Offenses Section 1324.03
Fines - see Civil Fines Section 1324.99
County Land Reutilization Corporations - see Ohio Revised Code Chapter 1724.
Liens - see Ohio Revised Code Chapter 715.261

1380.01 ADOPTION; PURPOSE.

(a) The purpose of this chapter is to establish a vacant property registration program and to regulate the maintenance of properties which are in the foreclosure process, abandoned or vacant. This chapter is intended to reduce and prevent neighborhood blight, to avoid the creation and maintenance of public nuisances, to ameliorate conditions that threaten the public health, safety and welfare, to promote neighborhood stability and occupancy by preserving the condition and appearance of residential properties and the worth and activity of commercial and industrial properties, and to maintain property values and assessments.

(b) Furthermore, the City recognizes and acknowledges the research of the Clark County Combined Health District (the "Health District"). Specifically, the Health District's research documents the deleterious effects of vacant properties in our neighborhoods including chronic illness, environmental stressors, lead poisoning, poor air quality, physical hazards to children and adult residents and increase in fire fighter injuries. Additional deleterious effects, includes but are not limited to, increased violence and crimes such as: narcotics use, sale, and manufacture, juvenile delinquency, stolen property, juvenile runaways, sex offenders, trespassing, vandalism, dumping, burglary and prostitution. The blight caused by vacancies also has a chilling economic affect in lowering home values and slowing economic growth which has an indirect but measurable effect on the overall health of the residents in the neighborhoods.

(c) There is hereby adopted, then, for the aforementioned purposes and for the purpose of providing a means of identifying the owner and/or responsible entities of vacant and/or abandoned properties within the corporate limits of the City, having complete contact information on record for these properties and responsible parties, a registration and maintenance requirement for vacant and/or abandoned properties.

(d) Nothing in this chapter shall be construed to waive, relieve or otherwise excuse an owner of property from compliance with all applicable codes, ordinances, statutes or laws and the owner shall at all times remain responsible and liable therefore. Nothing in this chapter shall be construed to prevent the enforcement of other provisions of the Codified Ordinances of the City of Springfield; Springfield Property Maintenance, Building, or

Fire Code; or the Ohio Revised Code, and nothing in this chapter shall be construed to relieve an owner or interested party from duties imposed pursuant to any regulatory code, ordinance, statute, or law of the City or State of Ohio.

1380.02 APPLICABILITY.

This chapter shall be applicable to all residential structures located within the City pursuant to exemptions listed in this chapter.

1380.03 DEFINITIONS.

As used throughout this chapter:

"Abandoned" means a structure that is unoccupied as the result of the relinquishment of possession or control by an owner or other person with the right of possession or control of the structure, a mortgagor or the mortgagor's assigns whether or not the mortgagor or mortgagor's assigns have relinquished equity and title. A structure may be deemed abandoned when there is evidence of conditions, taken separately or as a whole, that would lead a reasonable person to conclude that the property was abandoned, including, but not limited to, evidence of overgrown or dead vegetation, accumulation of newspapers, circulars, flyers, mail, past due utility notices, or other means of notice by publication, the accumulation of junk, litter, trash, or debris, absence of windows or window treatments, absence of furnishings and personal items, statements of neighbors, delivery agents or similarly situated persons that the property is abandoned.

"Codes" means the Codified Ordinances of the City of Springfield or those adopted by said Codified Ordinances.

"Director" means the Director of Community Development of the City of Springfield or such person as the Director may designate to act on behalf of the Director.

"Owner" means the registered owner of a property, any person who holds legal or equitable title to the property, is a mortgagee, a vendee-in-possession, assignee of rents, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a property. The owner of a property in default or for which foreclosure action is pending or for which a judgment in foreclosure has been issued shall include the mortgagee, the successor in interest to the mortgagee, the lender or servicing company and any agent acting for the mortgagee, its successors, or a lender or servicing company. Under this definition, there may be more than one "owner" of a property for purposes of this chapter.

"Vacant" means a structure that is not lawfully occupied or that otherwise qualifies as "abandoned" under this section. A property shall be considered vacant when it has been unoccupied for ninety (90) days. Multi-family residential structures shall be considered vacant when all of the dwelling units are not lawfully occupied or that otherwise qualifies as "abandoned" under this chapter.

1380.04 OWNER REQUIRED TO ACT; ENFORCEMENT AUTHORITY.

(a) The owner of any structure that has become vacant as defined in Section 1380.03 "Definitions" within thirty days after the structure first becomes vacant, within thirty days of receiving notice that a structure is vacant, or within thirty days after the effective date of this chapter, whichever is later, shall file a "Vacant Property Registration Form", as prescribed by the City Manager. The "Vacant Property Registration Form" shall be filed with the applicable fee for each such structure with the Director or his or her designee.

(b) The registration statement shall remain valid for one year from the date of registration. The registering party shall be required to annually renew the registration as long as the structure remains vacant and shall pay an annual registration fee of one hundred dollars (\$100.00) for each residential structure. The registering party shall not be entitled to a refund of all or any part of the registration fee should the structure no longer be deemed vacant during the annual registration period.

(c) The owner shall notify the Director or his or her designee within twenty days of any change in the registration information by filing an "Amended Vacant Property Registration Form", also prescribed by the City Manager. There shall be no fee for filing an "Amended Vacant Property Registration Form". The "Vacant" or "Amended Property Registration Form" shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City against the owner of the structure. An owner shall be liable under this section for failing to register a vacant structure, paying an appropriate annual registration fee, or timely updating any change in registration.

(d) In addition to other information required by the Director, the City Manager shall prescribe a "Vacant Property Registration Form". The form will request the disclosure of the following information, if known:

- (1) The street address of the property,
- (2) Permanent parcel number assigned by the County Auditor,
- (3) The trash hauling service provided (if provided) by the owner;
- (4) The date upon which the property became vacant (if known to the owner),
- (5) The case name and case number of any foreclosure proceeding with respect to the property,
- (6) The case name and case number of any bankruptcy proceeding with respect to the property,
- (7) Name and telephone number of a person twenty-one years of age or older, designated by the owner as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner in connection with the enforcement of this chapter. This person must maintain an office in Ohio, or must actually reside within Clark County, Ohio. An owner who meets the requirements of this subsection as to location of residence or office may designate him- or herself as agent. By designating an authorized agent under the provisions of this subsection the owner is consenting to receive any and all notices of code violations concerning the registered building and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered structure by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this subsection shall be deemed to consent to the continuation of the agent's designation for the purposes of this subsection until the owner notifies the Director or his or her designee in writing of a change of authorized agent or until the owner files a new annual registration statement and/or amendment. An owner shall be liable under this section for failing to register an authorized agent.
- (8) Such other information as the Director may reasonably require.
(Ord. 24-80. Passed 3-26-2024.)

(e) The owner of any vacant structure shall cause an initial physical inspection of the structure to be made and secure the structure in accordance with this chapter. An owner shall be liable under this section for failing to inspect the property or structure or for failing to maintain the inspection reports as required by this section.

(f) Any owner who fails to register a vacant structure under the provisions of this section shall further be deemed to consent to receive, by posting at the structure, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the structure and premises.

(g) The Director may issue rules and regulations for the administration of this section. These rules may designate board-up materials and methods which must be used when securing a structure beyond the standard provided so that the boarding is reasonably incapable of being removed by trespassers or others acting without the owner's consent.

1380.05 REGISTRATION REQUIRED AND PENALTY.

(a) The owner of any vacant structure shall file a "Vacant Property Registration Form" for each such structure with the Director or his or her designee on the form provided for such purpose. Any such registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City against the owner or owners of the structure.

(b) The owner of any vacant structure who fails to file a registration statement for each such structure within the timeframes established by this chapter or who fails to update a change in registration information within the timeframes established by this chapter shall be subject to a \$25 per day administrative penalty with a maximum penalty of \$750.

(c) Registration fees, penalties, and fines associated with and collected on behalf of the Vacant Property Registration Program shall be deposited in a specific Finance Department account in the annual budget of the City of Springfield and shall only be expended for the specific purposes set forth in this chapter.

(d) If a property is scheduled or placed on the voluntary demolition list, the City may waive in writing the registration fee for that specific property.

1380.06 NOTICE TO CITY OF FORECLOSURE, FILING, FEE.

Any person who files a complaint in any court of competent jurisdiction for foreclosure involving real property located within the City of Springfield on which there is a building or structure shall notify the City of the filing of the foreclosure complaint and shall file a complete copy of the foreclosure complaint with the Department of Community Development within ten (10) calendar days after filing the complaint with the relevant court. The notice to the City shall be on a form as prescribed by the Director.

1380.07 LIABILITY.

(a) Unless otherwise specifically provided, the owner, the owner's agent for the purpose of managing, controlling or collecting rents, and any other person managing or controlling a structure or premises in any part of which there is a violation of the provisions of this chapter, shall be liable for any violation therein, existing or occurring, or which may have existed or occurred, at or during any time when such person is or was the person owning or managing, controlling, or acting as agent in regard to said structure or premises and is subject to injunctions, abatement orders or other remedial orders.

(b) The liabilities and obligations imposed on an owner shall attach to any financial institution, mortgage company, or any other person or entity with or without an interest in the structure or premises who knowingly takes any action in any judicial or administrative proceeding that is intended to delay issuance or enforcement of any remedy for any violation of the Codes, provided that with respect to fines such person shall be liable only for fines which accrue on or after the date of such action and further provided that no liability shall be imposed under this section for any action taken in any proceeding, including a proceeding to foreclose on a lien, that does not delay or prevent the prosecution of any action brought by the City to enforce the adopted Codes.

(c) In the event the City, due to lack of response of an owner or agent, is required to take action, through its own efforts or via a contract for such services, to abate a nuisance at a vacant property the owner will be billed for the cost of the abatement to include all labor and materials needed to correct the violation. Nuisance abatements shall include, but are not be limited to, elimination of hazardous conditions, cutting of weeds and overgrowth, securing and/or boarding of a structure, trash cleanup and disposal and demolition.

1380.08 APPEALS.

Any person aggrieved by any order of the Director may appeal such order directly to the Office of the City Manager within five (5) days of receiving the Director's initial decision. If the aggrieved person is still aggrieved, they may then appeal such order to the Board of Building Appeals in accordance with the procedure set out in Section 1323.07 of these Codified Ordinances

1380.09 ASSIGNMENT OF REGISTRATION FEES, PENALTIES, AND FINES.

(a) Failure to register a vacant residential property as required by this chapter is guilty of a Class B Civil Offense further detailed in Section 1324.03 and Section 1324.99.

(b) Failure to file a Notice of Foreclosure pursuant to Section 1380.06 is guilty of a Class A Civil Offense further detailed in Section 1324.02 and Section 1324.99.

1380.10 EXEMPTIONS.

(a) Any property with foreclosure proceedings with a mortgage held through the Federal Housing Finance Agency ("FHFA"), who acts as a conservator (i.e. Fannie Mae and Freddie Mac) is exempt from the fee requirements of this registry, but are requested to notify the City of properties that may be subject to this list sans FHFA involvement.

(b) This exemption is specifically in accordance with the doctrine of preemption through Article VI, paragraph two (2) of the United State Constitution.

(c) This chapter does not apply to County Land Reutilization Corporations organized under Ohio Revised Code Chapter 1724.

1380.11 REMOVAL FROM REGISTRY.

(a) Any owner or mortgagee of a vacant residential property may apply to the Director to remove a vacant property from the City registry at such time as the property no longer constitutes a vacant property.

(b) Any application for removal allowed under subsection (a) of this section shall be granted or denied by the Director within thirty (30) days, and if no such determination is made within thirty (30) days then the application for removal from the registry shall be deemed granted.

(c) If the property was sold, a copy of the HUD-1 statement and Security Deed must be provided as proof. If the property is rented by a tenant, a copy of the a fully executed lease, duly signed by both the landlord and the tenant(s) must be provided as proof.

1380.12 NONCOMPLIANCE; ADDITIONAL REMEDIES.

(a) Whenever a property is deemed abandoned or vacant pursuant to the terms of this chapter and is not maintained pursuant to the terms of this chapter and the City of Springfield Codified Ordinances, the Director or designee, may order the abatement of the violation or any other action that may be required including, but not limited to, demolition. Any abatement action shall be conducted in accordance with the City of Springfield Codified Ordinances. The cost of any action taken by the City shall be charged against the real estate upon which the structure or violation is located and shall be a lien upon such real estate in accordance with Ohio Revised Code 715.261.

(b) In addition to the penalties set forth in in this chapter, the City may pursue such other remedies it deems necessary to carry out the purpose and intent of this chapter. Those additional remedies may include issuing appropriate administrative orders under this and other chapters of the City of Springfield Codified Ordinances, injunctions, mandatory relief, restraining orders, and damages, appointment of a receiver, issuing assessments, and such other relief as may be allowed in law or equity.

1380.13 SAVINGS CLAUSE.

The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this chapter, as amended.

1380.14 SEVERABILITY.

If any section, subsection, clauses, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

1380.15 EFFECTIVE DATE.

The provisions of Title Seven entitled the "Vacant Property Registration Program" shall become and be effective on or after January 1, 2020.

TITLE NINE - Rental Property Registration Program

Chap. 1390. Administration of Rental Property Registration Program.

CHAPTER 1390

Administration of Rental Property Registration Program

1390.01 Adoption; purpose.

1390.02 Applicability.

1390.03 Definitions.

1390.04 Exempt properties.

1390.05 Owner; designated agent; service of process.

1390.06 Registration requirements and forms.

1390.07 Rental license term; renewal.

1390.08 Fees.

1390.09 Change of ownership.

1390.10 Disclaimer of liability.

1390.11 Savings clause; severability.

1390.12 Penalties.

1390.13 Appeals.

1390.14 Effective date.

1390.15 Removal from registry.

CROSS REFERENCES

Penalties- see Class A Civil Offenses Section 1324.02

Fines - see Civil Fines Section 1324.99

Liens - see Ohio Revised Code Chapter 715.261

1390.01 ADOPTION; PURPOSE.

(a) The purpose of this Chapter is to establish a Rental Property Registration Program to increase transparency and improve accountability in the rental housing market in the City of Springfield. The rationale for the adoption of such a program is to protect the public health, safety, and welfare; eliminate blighting conditions; identify owners of properties and enhance property values in the city by raising the standards of the city's rental properties which represent approximately fifty (50%) percent of the households in the city.

(b) There is hereby created a Rental Property Registration Program within the Department of Community Development. This Chapter shall be applicable to all Rental Dwelling Units in the City of Springfield, Ohio.

(c) Nothing in this Chapter shall be construed to waive, relieve, or otherwise excuse an owner of a Rental Dwelling Unit from compliance with all applicable codes, ordinances, statutes, or laws and the owner shall at all times remain responsible, and liable therein. Nothing in this Chapter shall be construed to prevent the enforcement of other provisions of the Codified Ordinances of the City of Springfield or the Ohio Revised Code and nothing in this Chapter shall be construed to relieve an owner or interested party from duties imposed pursuant to any regulatory code, ordinance, statute, or law of the City or State of Ohio.

1390.02 APPLICABILITY.

This Chapter shall be applicable to all Rental Dwelling Units within the City of Springfield (subject to exemptions in this Chapter).

1390.03 DEFINITIONS.

For the purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number include the plural number. The word "shall" is always mandatory and not merely discretionary.

- (a) "Lease" means the written or oral agreement that sets forth any and all conditions concerning the use and occupancy of rental units.
- (b) "Notice of Violation" means a notice issued by the City Manager, his/her designee, or the Code Enforcement Officer to the owner of real property or to their designated agent that there has been a violation of a provision of this Chapter or any other applicable section of the Springfield City Code, ordinance, rule or regulation concerning the occupancy or condition of a premise that is leased or for lease, vacant or occupied.
- (c) "Premises" means part or all of any lot, parcel, or tract or part or all of any building or structure or group of buildings or structures located thereon. (has the same meaning as defined in 1102.02 (p)(11))
- (d) "Owner" means the registered owner of a Rental Dwelling Unit, any person who holds legal or equitable title to the property, is a mortgagee, a vendee-in-possession, assignee of rents, executor, trustee, lessee, agent, or any other person, firm or corporation that is directly or indirectly in control of a Rental Dwelling Unit.
- (e) "Designated Agent" means a business entity located in or an individual person eighteen (18) years or older residing in the State of Ohio with an address other than a post office box and named by an owner as a secondary point of contact regarding the use or condition of the land and the occupancy and physical condition of structures on a platted lot or parcel of land.
(Ord. 24-81. Passed 3-26-2024.)
- (f) "Rental Dwelling Unit" means any structure or part thereof used by a person or persons other than the owner for residential purposes. Rental dwelling units may also be known as rental dwellings, rental units, dwelling units, or housekeeping units.
- (g) "Tenant" means a person occupying a dwelling unit, other than a guest, or using the property as a legal address for any type.

1390.04 EXEMPT PROPERTIES.

The following properties are exempt from the requirements under this Chapter:

- (a) Single-family, owner-occupied dwellings and dwelling units;
- (b) Hotels, motels, recreational vehicle parks, and camps without continuous occupancy by the same tenants for more than thirty (30) days.
- (c) Dormitories owned and operated by a college or university.
- (d) Adult Family Homes, Adult Group Homes, Community Residential Facilities, Family Foster Homes, Foster Family Homes, Foster Homes, Group homes, Supported Living Homes, and Type "A" or Type "B" Homes operated under Ohio Revised Code Title 51 Public Welfare.
- (e) Nursing homes, assisted living facilities, independent living facilities and mental health placements.
- (f) Prisons, jails, work facilities, or other places of incarceration or correction including but not limited to halfway houses, transitional living facilities, residential facilities under community control sanctions, post-release control sanctions, or parole.
- (g) Parsonage homes owned by a church.
- (h) Properties held within a family trust, estate, or as part of a legally designated family home where no rent is being collected.
- (i) Shelter homes or facilities.
(Ord. 24-81. Passed 3-26-2024.)

1390.05 OWNER; DESIGNATED AGENT; SERVICE OF PROCESS.

(a) Every Owner of a Rental Dwelling Unit utilizing a Designated Agent shall provide the contact information of said Designated Agent who in addition to the Owner shall be responsible for the operation of the unit and who may accept service of process and official notices on behalf of the Owner.

(b) An official notice or service of process issued to a Designated Agent shall be deemed as served or delivered upon the Owner.

(c) Failure to maintain a Rental Dwelling Unit or to maintain any requirements regarding registration shall be grounds for revocation of an existing license or denial of issuance of a renewal Rental License.

(d) Designation of an Agent by an Owner shall cause the Designated Agent to be an additional responsible party for purposes of this Chapter and other Chapters that may apply regarding the operating of a premise. All official notices of the City may be issued to the Designated Agent as well as the Owner and in such case, as notice is served upon a Designated Agent such notice issued shall be deemed as having been served upon the Owner of record.

1390.06 REGISTRATION REQUIREMENTS AND FORMS.

(a) No person shall lease, rent or cause to be occupied a Rental Dwelling Unit without first registering each Rental Dwelling Unit with the City. Registration is required to be made with the Department of Community Development by the Owner of said Rental Dwelling Unit or his/her Designated Agent through the prescribed "Rental Property Registration Form" and paying the applicable fee.

(b) Registration is required regardless of active Tenant occupancy.

(c) Upon registration and approval, the City will grant a "Rental License" permitting said Owner to rent said Rental Dwelling Unit.

(d) Application for registration of Rental Dwelling Units shall be on forms provided by the City of Springfield and shall include all information required by the City but at a minimum the following:

- (1) Name, address, telephone, and e-mail address, if applicable, of an individual owner, sole proprietor or a corporate officer or business representative of a corporation, trust, or other entity capable of holding title; and
- (2) Name, address, telephone, and e-mail address, if applicable, of a company or designated agent; and
- (3) Twenty-four (24) hour emergency contact including name, address, telephone, and e-mail address, if applicable, of a company or designated agent; and
- (4) Parcel identification number and address obtained from the (Clark County Auditor's Office).

(e) Applicants are encouraged, but not required, to provide the following information:

- (1) Address and number of each rental dwelling unit owned in the corporate boundaries within the City of Springfield; and
- (2) A copy of the lease used in renting the Rental Dwelling Units (template form is fine, if no lease is used, must indicate no lease); and
- (3) Indication of whether or not the Owner accepts Vouchers from not-for-profits or other organizations providing shelter; and
- (4) Identification of trash service provider for each Rental Dwelling Unit.

(f) No post office boxes shall be accepted as a legal address for purposes of this Chapter.

(g) Registrations shall be retained at the Community Development Office as a public record and kept by this office pursuant to the City of Springfield, Ohio's record retention schedule.

(h) Upon construction of new residential rental dwelling units or conversion of existing building space not previously used for residential rental purposes an Owner shall complete and submit a rental registration form for each building or portion thereof used for residential rental purposes. (Ord. 24-81. Passed 3-26-2024.)

1390.07 RENTAL LICENSE TERM; RENEWAL.

(a) A Rental License is valid for a period of three (3) years from the date obtained. Following that three-year period, you must renew or obtain a new rental license. (Ord. 24-81. Passed 3-26-2024.)

(b) Sale or transfer of property shall cause the license to expire and be no longer valid.

(c) Any new owner shall make a new application for a Rental License for each Rental Dwelling Unit prior to the closing sale on the Rental Dwelling Unit so as to maintain a continuous record of ownership in case of damage, vandalism, premise condition or other requirement necessitating public notification to the owner, but in no case more than five (5) days after sale or transfer.

1390.08 FEES.

(a) The Registration fee required annually for a rental license of Rental Dwelling Units is as follows:

Single Unit	\$35.00
Two (2) or more Units in the same building	\$25.00 per Unit in the same building

(b) Payment of the annual registration fee shall be made payable to the City of Springfield. The maximum annual registration fee is capped at \$750.00.

EXAMPLE: One individual owns 5 LLC's in the City of Springfield. Each of those LLC's would be subject to an annual registration fee cap of \$750.00.

1390.09 CHANGE OF OWNERSHIP.

(a) In the event that a Rental Dwelling Unit is not occupied for more than ninety (90) days, it shall be considered vacant and shall not be reoccupied unless a valid Rental License is issued.

(1) It shall be the responsibility of the Owner to secure the unit against trespass or vandalism by any means including but not limited to the boarding of windows and doors and securing doors with locks.

(2) If the unit or units constitute the entire area of a building, then the building shall be subject to the provisions of Vacant Property Registration Program, Springfield Codified Ordinance Chapter 1390.

(Ord. 24-81. Passed 3-26-2024.)

1390.10 DISCLAIMER OF LIABILITY.

A Rental License is not a warranty or guarantee that there are no defects in a Rental Dwelling Unit and the City shall not be held liable or held responsible in any way to any person for the condition of the property.

1390.11 SAVINGS CLAUSE; SEVERABILITY.

(a) All proceedings pending and all rights and liabilities existing and acquired or incurred at the effective date of this Chapter are saved and may be consummated according to the law in force when they were commenced.

(b) Should any section, clause, or paragraph of this Chapter be declared invalid by a court of competent jurisdiction, the same shall not affect the validity of the Chapter as a whole or any part thereof other than the part declared invalid.

1390.12 PENALTIES.

(a) Any owner or designated agent who violated the provisions of this Chapter shall be subject to Class A Civil Offense.

(b) Any subsequent violation will also be deemed a "Class A" Civil Offense.

(c) Recalcitrant violators of this Chapter whose Rental License has been revoked and who continue to rent out Rental Dwelling Units may face additional legal remedies sought by the City (i.e. Injunction).

1390.13 APPEALS.

(a) Any Owner or Designated Agent may make an initial appeal specifically detailing the reasons of the appeal to the Director of Community Development regarding a notice received under this Chapter.

(b) Any Owner or Designated Agent that remains aggrieved following the initial decision of the Director of Community Development may appeal such order directly to the Office of the City Manager or his or her designee within fifteen (15) days of receiving the Director's initial decision. The appeal to the City Manager is required to detail specifically the reasons of the appeal. The City Manager will make a decision either approving or reversing the Director of Community Development's decision.

(c) If the aggrieved person believes they are still aggrieved, they may then appeal such order to the Rental Registration Appeals Panel, hereby created by this Section of the Springfield Codified Ordinances, comprised of the City's Finance Director or designee, the City Manager's designee, two (2) members of the City Fire Division; and one (1) member of the Clark County Combined Health District (the "appeal panel").

(1) Any Owner or Designated Agent aggrieved by a decision made on an application filed with the City may file an appeal to the appeal panel with the City Manager's Office or designee along with a processing fee of \$100.00 for a property with a Residential Rental Property designation; provided that the filing of the appeal is made within fourteen days after the City Manager and his/her designee issues his/her decision regarding the appeal.

(2) The appeal panel shall consider the provisions of this Chapter, use data establishing the actual usage of the property, the application and its attachments, the initial decisions of the Community Development Director, and the contents of the appeal document in reviewing the City Manager's decision and shall affirm or reverse or reverse and remand the decision.

(3) The decision of the appeal panel shall be final. Any further appeal shall be to the Court of Common Pleas.

(Ord. 24-81. Passed 3-26-2024.)

1390.14 EFFECTIVE DATE.

The provisions of this Chapter entitled "Rental Property Registration Program" shall become effective on or after February 14, 2023.

1390.15 REMOVAL FROM REGISTRY.

(a) Any owner of a Residential Rental Property may apply to the Director to remove a Residential Rental Property from the City's Rental Property Registry at such time as the property no longer constitutes a Residential Rental Property.

(b) Any application for removal allowed under subsection (a) of this section shall be granted or denied by the Director of Community Development within thirty (30) days, and if no such determination is made within thirty (30) days then the application for removal from the Rental Property Registry shall be deemed granted.

(c) If the property was sold, a copy of the HUD-1 statement and Security Deed must be provided as proof.

CODIFIED ORDINANCES OF SPRINGFIELD

PART FIFTEEN—FIRE PREVENTION CODE

Chap. 1501. Fire Code Adoption; General Provisions.

Chap. 1503. Administration and Enforcement.

Chap. 1507. Special Provisions.

Chap. 1511. Open Burning.

CHAPTER 1501

Fire Code Adoption; General Provisions

- 1501.01 Ohio Fire Code adoption.**
- 1501.02 Owner's responsibility.**
- 1501.03 Occupant's responsibility.**
- 1501.04 Military transports.**
- 1501.05 Interpretation upon conflict.**

1501.01 OHIO FIRE CODE ADOPTION.

(a) Adoption. The 2017 Ohio Fire Code (cited as "OFC") as promulgated by the State Fire Marshal of Ohio Effective December 15, 2017, and as published in Chapter 1301:7-7 of the Ohio Administrative Code (cited as "OAC") is hereby adopted by The City of Springfield, Ohio, as amended by the deletions and modifications described in this Section 1501.01, and is incorporated by reference as if fully rewritten by this Section 1501.01. This Springfield Fire Prevention Code is cited as the "SFPC."

(b) References. The term "the jurisdiction" as used on the OFC shall mean The City of Springfield, Ohio. The terms "fire code official" and "local fire code official" as used in the OFC shall mean the Fire Official, as that term is defined in Section 1503.01 of this SFPC. The term "Building Code" as used in this SFPC shall mean the relevant building code adopted in Part Thirteen of the Codified Ordinances of The City of Springfield, Ohio.

(c) Amendments.

- (1) OFC Section 101.1 is amended to read as follows:

Title. The rules set forth in Chapter 1301:7-7 of the Administrative Code shall be known as the "Ohio Fire Code" abbreviated "OFC," and hereinafter may also be referred to as the "state fire code."

- (2) OFC Section 101.2 is amended to read as follows:

Scope. The SFPC establishes fire marshal rules for the administration and enforcement of authorities granted to the fire marshal and fire code officials in Chapters 3701, 3731, 3737, 3741, 3743, 3781, and 3791 of the Revised Code including but not limited to, regulations affecting or relating to structures, processes, premises and safeguards regarding:

1. The hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices;
2. Conditions hazardous to life, property or public welfare in the occupancy of structures or premises;
3. Fire hazards in the structure or on the premises from occupancy or operation;
4. Matters related to the construction, extension, repair, alteration or removal of protection systems; and
5. Conditions affecting the safety of firefighters and emergency responders during emergency operations.

- (3) OFC Section 101.2.1 is amended to read as follows:

Appendices. The provisions of Appendix D "Fire Apparatus Access Roads" of the OFC is adopted and made part of this SFPC. Except as provided in the preceding sentence, provisions in the appendices, of any "International Fire Code" are not adopted as part of this SFPC.

- (4) OFC Section 101.4 is amended to read as follows:

Severability. It is the intention of the City Commission that each separate provision of this SFPC shall be deemed independent of all other provisions herein, and it is further the intention of the City Commission that if any provision of this SFPC is declared invalid, all other provisions thereof shall remain valid and enforceable.

- (5) OFC Section 102.3.3 is amended to read as follows:

Change of use or occupancy. No change shall be made in the use or occupancy of any structure that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure is made to comply with the requirements of this SFPC and the Building Code.

- (6) OFC Section 103.1 is deleted.

- (7) OFC Section 104.1.1 is deleted.

- (8) OFC Section 104.8 is amended to read as follows:

Variances by the Fire Chief. Whenever there are practical difficulties involved in carrying out the provisions of this SFPC, the Fire Chief, in the Fire Chief's discretion, may modify any provision of this SFPC or any other administrative rule promulgated by the Fire Chief upon written application by an affected party and upon demonstration by that party of both of the following:

1. That the variance will not threaten the public health, safety or welfare; and
2. That the party will provide measures to protect the public health, safety and welfare that are substantially equivalent to the measures otherwise required under the state fire code.

- (a) 104.8.1 A request for a variance submitted pursuant to this rule shall only be considered upon production of any information or documentation requested by the Fire Chief. The particulars of such variance when granted shall be in writing, entered upon the records of the Fire Chief and furnished to the applicant and the authority having jurisdiction, if said authority is other than the Fire Chief.

- (b) 104.8.2 Unless otherwise stipulated by the Fire Chief upon the granting of a variance, each variance granted pursuant to this paragraph shall automatically terminate one year from the date of its issuance.

- (c) 104.8.3 There shall be no automatic renewals of any variance granted pursuant to this paragraph. Each variance shall be specifically applied for in writing by the requesting party and independently considered by the Fire Chief.

- (9) OFC Section 105.1.1.1.1 is amended to read as follows:

Explosives. A permit is required for the storage of explosives and explosive materials.

- (10) OFC Section 105.1.1.1 is amended by the addition thereto of Section 105.1.1.1.5 to read as follows:

LP-gas system. A permit is required for the stationary installation or modification to a stationary LP-gas system.

- (11) OFC Section 105.1.1.1 is amended by the addition thereto of Section 105.1.1.1.6 to read as follows:

Standpipe system. Notwithstanding the provisions of Section 105.7.17, a permit is required for the removal of a standpipe system or appurtenances.

- (12) OFC Section 105.7.18 is amended to read as follows:

Temporary membrane structures, tents and canopies. A permit is required for the construction of an air-supported temporary membrane structure or a tent having an area in excess of 400 square feet (19m²) or a canopy in excess of 200 square feet (37m²).

- (13) OFC Section 108.1 is amended to read as follows:

Appeals of orders. Appeals of orders made by the Fire Official relative to the application of this SFPC shall be in accordance

with the provisions of Chapter 1503 of the SFPC.

- (14) OFC Section 109.1.5 is amended to read as follows:

Fire code enforcement. If upon inspection or investigation, the Fire Official, or a certified fire safety inspector believes that this SFPC has been violated, the Fire Official, or certified fire safety inspector shall issue a citation to the responsible person in accordance with this SFPC.

- (15) OFC Section 109.1.5.1 is amended to read as follows:

If a violation of this SFPC has no direct or immediate relationship to safety or health, the Fire Official or the certified fire safety inspector may issue a notice in lieu of a citation with respect to such de minimus violation in accordance with paragraphs 109.1.5.1.1 through 109.1.5.1.4 of this rule.

- (16) OFC Section 109.1.5 is amended by the addition thereto of Section 109.1.5.2 to read as follows:

Enforcement to remedy dangerous conditions. If the Fire Official or certified fire safety inspector, upon examination or inspection, finds a building or other structure especially liable to fire or endangers life or other buildings or property, or finds a building or any premises with combustible, explosive or flammable materials which are dangerous to the safety of persons, finds any structure, tank, container or vehicle used for the storage, handling or transportation of flammable or combustible materials to be dangerous to the safety of persons, the Fire Official or certified safety inspector shall issue a citation in accordance with this SFPC.

- (17) OFC Section 109.3 and 109.4 along with all of their subdivisions are deleted.

- (18) OFC Section 112 is captioned “**Fire Official permit fees.**”

- (19) OFC Section 112.1 is amended to read as follows:

Permit fees. The fee for all permits issued by the fire official shall be seventy-five dollars unless specifically indicated otherwise in this SFPC.

- (a) **112.1.1 Fees for multiple permits.** When multiple permits are applied for to the fire code official for a specific event or approved construction at the same location, such permit application may be consolidated into a single permit application. The total fees otherwise required for such multiple permits may be consolidated into a single fee, which may be reduced at the discretion of the fire code official in an amount proportionate to the corresponding inspection activity.

Exceptions:

1. If a manufacturer or wholesaler of fireworks has paid an original or a renewal licensure application fee in accordance with paragraph (Q) (1)(3317.1) of rule 1301:7-7-33 of the Ohio Administrative Code, then the manufacturer or wholesaler of fireworks is not required to pay a fee for the Class I magazine storage permit required by paragraph (c)(9) of this Section.
 2. A permit fee is not required for the construction of a temporary membrane structure or tent erected on state property.
- (20) OFC Sections 112.2 and 112.3 are deleted.
- (21) OFC Sections 113 through 116 and all of their subdivisions are deleted.
- (22) OFC Sections 118 through 124 and all of their subdivisions are deleted.
- (23) All references to the *International Building Code* in this SFPC are deleted and replaced with a reference to the Ohio Building Code as adopted in Section 1301.01 of the Codified Ordinances.
- (24) All references to the *ICC Electrical Code* in this SFPC are deleted and replaced with a reference to the National Electrical Code as adopted in Section 1301.02 of the Codified Ordinances.
- (25) All references to the *International Mechanical Code* in this SFPC are deleted and replaced with a reference to the Ohio Mechanical Code as adopted in Section 1301.03 of the Codified Ordinances.
- (26) All references to the *International Residential Code* in this SFPC are deleted and replaced with a reference to the Residential Code for One-, Two-, and Three-Family Dwellings as adopted in Section 1301.04 of the Codified Ordinances.
- (27) All references to the *International Property Maintenance Code* in this SFPC are deleted and replaced with a reference to the Property Maintenance Code as adopted in Section 1305.01 of the Codified Ordinances.
- (28) All references to the *International Plumbing Code* in this SFPC are deleted and replaced with a reference to the Plumbing Code as adopted in Section 1361.01 of the Codified Ordinances.
- (29) All references to the *International Fuel Gas Code* in this SFPC are deleted and replaced with a reference to the Fuel Gas Code for The City of Springfield, Ohio as adopted in Section 1301.05 of the Codified Ordinances.
- (30) All references to the *International Energy Conservation Code* in this SFPC are deleted and replaced with a reference to the Ohio Building Code as adopted in Section 1301.01 of the Codified Ordinances.
- (31) OFC Section 307, **OPEN BURNING AND RECREATIONAL FIRES**, is amended to read as follows:
- (1) **307.1 General.** A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this Section.
 - (a) **307.1.1 Prohibited open burning.** Open burning that is offensive or objectionable because of smoke or odor emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.
 - (2) **307.2 Permit required.** A permit shall be obtained from the fire code official in accordance with the SFPC prior to kindling a fire for all open burning, including, recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, a bonfire or a recreational fire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.
 - (a) **307.2.1 Authorization.** Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.
 - (3) **307.3 Extinguishment authority.** The fire code official is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of open burning that creates or adds to a hazardous or objectionable situation.
 - (4) **307.4 Location.** The location for open burning shall not be less than 50 feet (15,240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15,240 mm) of any structure.

Exceptions:

1. Fires in approved containers (i.e. containers approved by the fire official as safe for open burning) that are not less than 15 feet (4,572 mm) from a structure.
 2. The minimum required distance from a structure shall be 25 feet (7,620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.
- (a) **307.4.1 Bonfires.** A bonfire shall not be conducted within 50 feet (15,240 mm) of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions which could cause a fire to spread within 50 feet (15,240 mm) of a structure shall be eliminated prior to ignition.

- (b) **307.4.2 Recreational fires.** Recreational fires shall not be conducted within 25 feet (7,620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7,620 mm) of a structure shall be eliminated prior to ignition.
- (c) **307.4.3 Portable outdoor fireplaces.** Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3,048 mm) of a structure or combustible material.
Exception: Portable outdoor fireplaces used at one- and two- family dwellings, while still being used in accordance with the manufacturer's instructions, may operate within less than 15 feet of a structure or combustible material.
- (5) **307.5 Attendance.** All open burning fires shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with *paragraph (F)(906) of rule 1301:7- 7-09 of the Administrative Code* with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.
- (32) OFC Section 320 is amended by the addition thereto of **Section 320.8 Exception** to read as follows:
320.8 Exception. A Mobile Food Unit (commonly known as a "food truck") that has been inspected by and has been issued a license by the Clark County Combined Health District may operate within the City; provided that the inspection complied with the following:
 - 320.8.1 Inspection.** During the said health inspection, the inspector conducted a fire safety checklist inspection to determine whether the Mobil Food Unit complies with Sections 320.1 through 320.7 of the OFC.
 - 320.8.2 Failed Inspection.** If the Mobile Food Unit does not pass the Section 320.8.1 fire safety checklist inspection, the inspector may:
 - (a) Refuse to authorize the Mobile Food Unit to operate in the City, and/or
 - (b) Call for the Fire Official, or his designee, to report to the scene to conduct an additional inspection to determine if the Mobile Food Unit complies with the OFC.

(Ord. 13-15. Passed 1-22-13; Ord. 19-44. Passed 2-12-19.)

1501.02 OWNER'S RESPONSIBILITY.

The owner of any building, structure or premise shall be responsible for the safe and proper maintenance of same. In all new and existing buildings and structures the fire protection equipment, means of egress, fire protective signaling systems, automatic fire detection systems and safeguards required by this Fire Prevention Code and other applicable City ordinances shall be maintained in a safe and proper operating condition.
(Ord. 06-303. Passed 8-8-06.)

1501.03 OCCUPANT'S RESPONSIBILITY.

Whenever an occupant of a building creates or permits a condition in violation of this Fire Prevention Code, by virtue of storage, handling, use or misuse of substances, materials, devices or appliances, he shall be responsible for the abatement of such condition, however, such occupants failure to do so shall not relieve the owner of such building of his responsibilities under Section 1501.02.
(Ord. 06-303. Passed 8-8-06.)

1501.04 MILITARY TRANSPORTS.

The provisions contained in this Fire Prevention Code shall not be construed as applying to the transportation of any article or substance shipped under the jurisdiction of and in compliance with the regulations prescribed by the military forces of the United States.
(Ord. 06-303. Passed 8-8-06.)

1501.05 INTERPRETATION UPON CONFLICT.

Nothing in this Fire Prevention Code shall be construed, interpreted or applied to abrogate, nullify or abolish any ordinance or code adopted by the City of Springfield governing the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings and structures specifically provided herein. When any provision of this Code is found to be in conflict with any building, zoning, safety, health or other applicable ordinance or code of the City of Springfield, existing on the effective date of this Fire Prevention Code or hereafter adopted, the provision which establishes the higher standard for the promotion and protection of the safety and welfare of the public shall prevail.
(Ord. 06-303. Passed 8-8-06.)

CHAPTER 1503

Administration and Enforcement

- 1503.01 Definitions.**
- 1503.02 Terms not defined.**
- 1503.03 Fire Marshal's Bureau.**
- 1503.04 Inspections.**
- 1503.05 Cooperation of other officials.**
- 1503.06 Right of entry.**
- 1503.07 Investigation of fires.**
- 1503.08 Annual report.**
- 1503.09 Administrative liability.**
- 1503.10 Rules and regulations.**
- 1503.11 Appeals.**
- 1503.12 Dangerous or hazardous conditions.**
- 1503.13 Evacuation.**
- 1503.14 Issuance of citation; exceptions; enforcement; prohibition.**
- 1503.15 Abatement by City; collection of expense.**
- 1503.99 Penalty.**

1503.01 DEFINITIONS.

As used in this Fire Prevention Code, certain terms are defined as follows:

- (a) "Fire Official" means the Chief of the Fire Division of the City of Springfield, and such members of the Fire Division including, but not limited to, members of the Fire Marshal's Bureau as the Chief may designate and who have been issued a certificate by the State Superintendent of Public Instruction pursuant to Ohio R.C. 3303.07 evidencing his satisfactory completion of a fire safety inspector training program.
- (b) "Jurisdiction" means the City of Springfield, Ohio.
- (c) "Building Code" means Part Thirteen of the Codified Ordinances of the City of Springfield.
(Ord. 06-303. Passed 8-8-06.)

1503.02 TERMS NOT DEFINED.

(a) Where terms are not defined in this Fire Prevention Code and are defined in the Building Code, they shall have the meaning ascribed to them in the Building Code.

(b) Where terms are not defined in this Fire Prevention Code or in the Building Code, they shall have ascribed to them their ordinarily accepted meanings or such as the context hereby may imply.

(c) The term "Fire Official" and "Code Official" shall have the same definition and meaning as used throughout in this Fire Prevention Code.
(Ord. 06-303. Passed 8-8-06.)

1503.03 FIRE MARSHAL'S BUREAU.

(a) There shall be a Fire Marshal's Bureau in the Fire Division of the City of Springfield, Ohio, which Bureau shall be operated under the supervision and control of the Fire Division Chief and shall have as its principal responsibility the enforcement of this Fire Prevention Code and those provisions of the Building Code pertaining to fire protection.

(b) The Fire Division Chief, with the approval of the City Manager, may assign such personnel as he and the City Manager may deem necessary to the Bureau. Such personnel so assigned shall be known as Fire Marshal, Assistant Fire Marshal and Inspectors.
(Ord. 06-303. Passed 8-8-06.)

1503.04 INSPECTIONS.

The Fire Official shall inspect all buildings, structures and premises except one, two and three-family dwellings as often as may be necessary for the purpose of ascertaining and causing to be corrected, any conditions liable to cause fire, contribute to the spread of fire, interfere with fire fighting operations, endanger life or any violations of the provisions or intent of this Fire Prevention Code or any other ordinance affecting fire safety.
(Ord. 06-303. Passed 8-8-06.)

1503.05 COOPERATION OF OTHER OFFICIALS.

The Fire Official may request and shall receive so far as may be necessary, in the discharge of his duties, the assistance and cooperation of the officials of all other departments of the City of Springfield.
(Ord. 06-303. Passed 8-8-06.)

1503.06 RIGHT OF ENTRY.

Whenever necessary for the purpose of enforcing the provisions of this Fire Prevention Code, or whenever the Fire Official has reasonable cause to believe that there exists in any building or structure or upon any premises, any condition which makes such building, structure or premises unsafe, the Fire Official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Fire Official by this Fire Prevention Code; provided that if such building, structure or premises be occupied, he shall first present proper credentials and request entry. If such entry is refused, the Fire Official shall have recourse to every remedy provided by law to secure entry.
(Ord. 06-303. Passed 8-8-06.)

1503.07 INVESTIGATION OF FIRES.

(a) The Fire Official shall investigate, or cause to be investigated, every fire or explosion occurring within the jurisdiction that is of a suspicious nature or which involves the loss of life or serious injury or causes destruction or damage to property. Such investigation shall be initiated immediately upon the occurrence of such fire or explosion; and if it appears that such an occurrence is of a suspicious nature, the Fire Official shall take charge immediately of the physical evidence, and in order to preserve any physical evidence relating to the cause or origin of such fire or explosion, take means to prevent access by any person or persons to such building, structure or premises until such evidence has been properly processed. The Fire Official shall notify such persons designated by law to pursue investigations into such matters and shall further cooperate with such authorities in the collection of evidence and prosecution of the case and shall pursue the investigation to its conclusion.

(b) Any member of the Fire Division of the City who is the Fire Official who has been delegated authority by the Fire Chief to investigate fires shall have the power and duty to investigate the cause of all fires, examine witnesses, compel the attendance of witnesses, and the production of books and papers, enter, for the purpose of examination, any building which, in his opinion, is in danger of fire, and to do and perform all other acts necessary to the effective discharge of such duties.

(c) Any member of the Fire Division of the City who is a Fire Official, a Notary Public, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program and who has been delegated authority by the Fire Chief to investigate fires may compel the attendance of witnesses and the production of books and papers, administer oaths, make arrests, bear firearms, and enter, for the purpose of examination, any building which, in his opinion, is in danger from fire.

(d) Any person ordered by a Fire Official, empowered under divisions (b) or (c) of this section, to appear and give testimony or to produce books and papers shall appear at the time and place designated in such order and shall give testimony and produce books and records in compliance with the order issued by the Fire Official.

(Ord. 06-303, passed 8-8-06; Ord. 13-15, passed 1-22-13.)

1503.08 ANNUAL REPORT.

A report of the Fire Marshal's Bureau shall be made annually and submitted to the City Manager. Such report shall contain all proceedings under the Fire Prevention Code, with such statistics as the Fire Official may wish to include therein. The Fire Official shall also recommend any amendments to this Fire Prevention Code which, in his judgment, shall be desirable.

(Ord. 06-303. Passed 8-8-06.)

1503.09 ADMINISTRATIVE LIABILITY.

No officer, agent or employee of the City of Springfield, shall render himself personally liable for any injury or damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Fire Prevention Code or by reason of any failure to act in connection therewith. No such officer, agent or employee shall be liable for the costs of any action, suit or proceeding that may be instituted in pursuance of the provisions of this Fire Prevention Code, and any suit instituted against any such officer, agent or employee as a result of any act required or permitted in the discharge of his duties under this Fire Prevention Code shall be defended by the Director of Law until the final determination of the proceedings therein.

(Ord. 06-303. Passed 8-8-06.)

1503.10 RULES AND REGULATIONS.

The Fire Official shall have authority as may be necessary in the interest of public safety, health and general welfare to promulgate rules and regulations, to interpret and implement the provisions of this Fire Prevention Code, to secure the intent thereof and to designate requirements, applicable because of climatic or other conditions, but no such rules shall have the effect of waiving any fire safety requirements specifically provided in this Fire Prevention Code, or violating accepted engineering practice involving public safety.

(Ord. 06-303. Passed 8-8-06.)

1503.11 APPEALS.

(a) Any person aggrieved by any decision made by the Fire Official in accordance with this Fire Prevention Code, or any order or citation issued by the Fire Official pursuant to this Fire Prevention Code may appeal in writing to the Board of Building Appeals within ten (10) days following receipt of such decision or service of such order or citation as provided by this Fire Prevention Code. In requesting an appeal, such person or his attorney shall specify the basis for such appeal and the relief sought to be obtained therefrom. The Board of Building Appeals shall schedule a hearing on such appeal within a reasonable time and shall notify such person or his attorney at least seven (7) days in advance of the time and place of such hearing. At such hearing, the Board of Building Appeals shall receive any relevant evidence that such person, his attorney, the Fire Official, and any other person who, in the discretion of the Board of Building Appeals, has an interest in or knowledge of the subject matter of the hearing, may offer. Testimony received at such hearing shall be under oath and shall be reduced to writing unless otherwise dispensed with by such person or his attorney. The Board of Building Appeals may adopt reasonable rules and regulations for conducting such hearing. Following such appeal, the Board of Building Appeals shall affirm, modify, or dismiss the decision, order, or citation of the Fire Official.

(b) Each application for an appeal to the Board of Building Appeals from an action of the Fire Official shall be accompanied by a fee of two hundred dollars (\$200.00). Fees shall be deposited in accordance with applicable laws and shall be used to defray the normal expenses of the appeal.

(Ord. 06-303. Passed 8-8-06.)

1503.12 DANGEROUS OR HAZARDOUS CONDITIONS.

(a) Whenever, upon inspection or investigation, the Fire Official finds in any building or structure or upon any premises dangerous or hazardous conditions or materials, as follows, he shall order such dangerous condition to be removed or remedied in accordance with the provisions of this Fire Prevention Code:

- (1) Dangerous conditions which are liable to cause or contribute to the spread of fire in or on such premises, building or structure or endanger the occupants thereof;
- (2) Conditions which would interfere with the efficiency and use of any fire protection equipment;
- (3) Obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the egress of occupants or the operations of the Fire Division in case of fire;
- (4) Accumulations of dust or waste materials in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts;
- (5) Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment;
- (6) Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material;
- (7) Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances;
- (8) Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible, explosive or otherwise hazardous materials;
- (9) Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials; and
- (10) All equipment, materials, processes or operations which are in violation of the provisions and intent of this Fire Prevention Code.

(Ord. 06-303. Passed 8-8-06.)

1503.13 EVACUATION.

(a) When, in the opinion of the Fire Official, there is a present danger to the occupants or those in the proximity of any building, structure or premises because of unsafe structural conditions, or inadequacy of any means of egress, the presence of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials, the Fire Official may order the immediate evacuation of such building, structure or premises. All of the occupants so notified shall immediately leave the building, structure or premises and persons shall not enter or re-enter until authorized to do so by the Fire Official.

(b) Any person who refuses to leave, interferes with the evacuation of other occupants, or continues any operation after having been given an evacuation order except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this Fire Prevention Code.

(Ord. 06-303. Passed 8-8-06.)

1503.14 ISSUANCE OF CITATION; EXCEPTIONS; ENFORCEMENT; PROHIBITION.

(a) Except as herein provided, whenever the Fire Official finds that this Fire Prevention Code, or any order issued pursuant to it has been violated, he shall with reasonable promptness issue a citation to the persons responsible for such violation. Each citation shall be in writing and shall describe

with particularity the nature of the violation, including a reference to the order or provision of this Fire Prevention Code alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. Such citation shall be served upon the persons responsible for the violation either by personal delivery or by delivering a copy of same to such persons by certified mail to such persons last known post office address, or, if service is unable to be made by personal delivery or by certified mail, service shall be effected by publication once in a newspaper of general circulation within the City of Springfield.

(b) Whenever a citation is not complied with within the time fixed in such citation, the Fire Official shall request the Director of Law to institute the appropriate legal proceeding to abate such violation.

(c) No person shall knowingly fail to abate any violation cited by the Fire Official within the time fixed for such abatement in the citation.
(Ord. 06-303. Passed 8-8-06.)

1503.15 ABATEMENT BY CITY; COLLECTION OF EXPENSE.

If a citation is not complied with within the time fixed in such citation, the City Manager may cause the building or structure to be repaired or demolished, or may cause dangerous or hazardous materials or conditions to be removed or remedied, as necessary to abate the violation, at the expense of the persons responsible for such violation. At least thirty (30) days prior to the repairing or demolition of such building or structure, or the removal or remedying of such materials or conditions, the City Manager shall give or cause to be given notice by certified mail of his intention with respect to such building or structure to the holders of liens of record upon the real property on which such building or structure is located and to the owners of record of such property. The holders of liens of record upon such property may enter into an agreement with the City to perform the repair, demolition, removal or other remedial action. If an emergency exists, as determined by the City Manager, notice may be given other than by certified mail and less than thirty (30) days prior to such repair, demolition, removal or other remedial action. If the persons responsible for such violation fail, neglect or refuse to pay the expenses incurred in the repairing or demolition of such building or structure, or the removal or remedying of such materials or conditions, the City Manager shall, with the assistance of the Director of Law, cause the expense incurred in the repairing or demolition of such building or structure, or the removal or remedying of such materials or conditions, to be charged against the land on which such building or structure is or was situated as a municipal lien or cause such expense to be added to the tax duplicate as an assessment, or to be levied as a special tax against the land on which the building or structure is or was situated, or to be recovered in a suit at law against the persons responsible for such violation.

(Ord. 06-303. Passed 8-8-06.)

1503.99 PENALTY.

Except as otherwise provided, whoever knowingly violates any provision of this Fire Prevention Code, or any order or citation issued pursuant to it, is guilty of a misdemeanor of the first degree, and shall be fined not more than one thousand dollars (\$1,000) or be imprisoned not more than six (6) months, or both. Each day that a violation continues, after service of notice as provided in this Fire Prevention Code, shall be deemed a separate offense.

(Ord. 06-303. Passed 8-8-06.)

CHAPTER 1507

Special Provisions

- 1507.01 Yard systems.**
- 1507.02 Fire suppression equipment.**
- 1507.03 Residential fire protection.**
- 1507.04 Fire safety plan; high rise buildings.**
- 1507.05 Outside storage.**
- 1507.06 Fire lanes.**
- 1507.07 Fire-damaged structures.**
- 1507.08 Fire hydrant and water main systems for fire protection.**
- 1507.09 Fire Division access.**
- 1507.10 Hazardous material information.**

1507.01 YARD SYSTEMS.

All new and existing oil storage plants, lumber yards, amusement or exhibition parks, and educational or institutional buildings and similar occupancies and uses involving high fire, or life hazards, and which are located more than 300 feet from a public fire hydrant or which require quantities of water beyond the fire suppression capabilities of the City's water distribution system shall be provided with properly placed fire hydrants. Such fire hydrants shall be capable of supplying fire flows as required by the Fire Official and shall be connected to a water system in accordance with the accepted engineering practice standards listed in this Fire Prevention Code. The Fire Official shall designate and approve the number and location of such fire hydrants. Such fire hydrants shall not be placed into or removed from service until approved by the Fire Official.

(Ord. 06-303. Passed 8-8-06.)

1507.02 FIRE SUPPRESSION EQUIPMENT.

(a) No person shall damage, obstruct, obscure from view, remove, tamper with or otherwise disturb any fire hydrant, fire department connection, or fire protection system or equipment required to be installed or maintained under the provisions of this Fire Prevention Code or Building Code except for the purpose of extinguishing fire, training or testing purposes, recharging, or making necessary repairs, or when permitted by the Fire Official. Whenever a fire protection system or equipment is removed as herein permitted, it shall be replaced or re-installed as soon as the purpose for which it was removed has been accomplished. Defective and nonapproved fire protection systems or equipment shall be replaced or repaired as ordered by the Fire Official.

(b) No person shall sell, offer for sale, or use any fire protection system or equipment which does not meet the minimum standards for such system or equipment as specified in this Fire Prevention Code.

(c) No person shall service, test, repair or install for profit any fire protection or fire fighting equipment without first being certified by the Ohio Fire Marshal, as required by Ohio R.C. 3737.65.
(Ord. 06-303. Passed 8-8-06.)

1507.03 RESIDENTIAL FIRE PROTECTION.

(a) All one, two and three-family dwellings and all dwelling units in any residential building constructed after the effective date of this Fire Prevention Code shall be equipped with one or more approved smoke detector devices installed in a manner and location in accordance with The Residential Code For One, Two-and Three-Family Dwellings as adopted in Springfield Codified Ordinances Part 13.

(b) Whenever the structural parts of a one, two or three-family dwelling are altered or improved in an amount in excess of two thousand dollars (\$2,000) in value, such dwelling shall be equipped with one or more approved smoke detector devices installed in a manner and location in accordance with The Residential Code For One, Two-and Three-Family Dwellings as adopted in Springfield Codified Ordinances Part 13.

(c) All one, two and three-family dwellings occupied after the effective date of this Fire Prevention Code by any handicapped person shall be equipped with one or more approved smoke detector devices installed in a manner and location in accordance with The Residential Code For One, Two-and Three-Family Dwellings as adopted in Springfield Codified Ordinances Part 13. The term "handicapped person" means any individual whose ability to protect himself in the event of a fire is significantly limited by reason of illness, injury, age, congenital malfunction, or other permanent incapacity or disability, and whose vulnerability to the hazards of fire is appreciably greater than persons not so affected.

(d) All buildings constructed or converted for use after the effective date of this Fire Prevention Code as a hotel, motel, lodging house, boarding house or dormitory building arranged for the shelter and sleeping accommodation of more than twenty (20) persons shall have an approved automatic fire suppression system installed therein.
(Ord. 06-303. Passed 8-8-06.)

1507.04 FIRE SAFETY PLAN; HIGH RISE BUILDINGS.

(a) The owner or other person having charge of buildings identified as high rise buildings in the Building Code shall be required to prepare and submit for the review and approval of the Fire Official a fire safety plan and evacuation procedure as set forth in this section.

(b) A fire safety plan, prepared in accordance with the requirements of the Fire Official, shall be distributed to the tenants and building service employees. Tenants shall distribute to their employees applicable parts of the fire safety plan which affect their action in the event of a fire or emergency.

(c) It shall be the responsibility of the owner or his agent to promptly update the fire safety plan and evacuation procedures upon changes in occupancy, use or physical arrangement.
(Ord. 06-303. Passed 8-8-06.)

1507.05 OUTSIDE STORAGE.

Notwithstanding the provisions of Chapter 1501 of the Codified Ordinances, the outside storage of combustible or flammable materials shall be enclosed by chain link fencing at least six (6) feet in height.
(Ord. 06-303. Passed 8-8-06.)

1507.06 FIRE LANES.

Notwithstanding the provisions of 1501 of the Codified Ordinances, additional requirements regarding fire lanes are set out in the following sections.

- (a) Extent. Fire lanes shall be required by the Fire Official to extend on any or all sides of a building's perimeter where necessary for fire fighting access.
- (b) Turning Radius. Turning radius within fire lanes shall be a minimum of forty-five (45) feet turning path. "Turning path" means that area which includes the outer front overhang and the inner rear wheel of the fire apparatus.
- (c) Special Equipment. The Fire Official shall require when necessary a larger turning path for other typical fire apparatus of the jurisdiction.
- (d) Signs. Fire lanes shall be posted at a maximum of every seventy-five (75) feet with an approved sign capable of being seen from the direction of travel.
- (e) Sign Installation. The property owner, or any agent shall furnish, install and maintain all signs required to properly designate the fire lanes required by this Fire Prevention Code.
- (f) Site Plan. The property owner, or any agent, shall provide a scaled site plan of the premises for the Fire Official to visually illustrate designated fire lanes.
- (g) Special Areas. The Fire Official may, upon written request from the property owner or any agent, designate certain loading/unloading areas within the fire lanes. These loading/unloading shall be designated for reasons such as the movement of merchandise or materials to stores within the fire lane area, the loading or discharging of passengers from a means of public mass transit, or the movement of handicapped persons.
- (h) Obstructions. The obstructing, parking, standing, stopping or any cessation of motion of a vehicle or object, irrespective of whether such vehicle is occupied or not and irrespective of the duration of time, within a designated fire lane, is prohibited except where lawfully permitted, or by a public safety vehicle on an emergency basis.

(Ord. 06-303. Passed 8-8-06.)

1507.07 FIRE-DAMAGED STRUCTURES.

Any building, grounds or structure that has been damaged by fire, shall be secured from tampering or trespass and maintained in a nuisance free condition by the owner or his agent, in a manner acceptable to the Fire Official. All fire debris shall be removed from the outside of the property within fifteen (15) days after being damaged by the fire or explosion. All structures damaged by fire or explosion shall have repairs begun, demolished or torn down, within ninety (90) days after being damaged by fire or explosion. An exception shall be for structures involved in suspicious or arson fires which are deemed as evidence by the Fire Official.
(Ord. 06-303. Passed 8-8-06.)

1507.08 FIRE HYDRANT AND WATER MAIN SYSTEMS FOR FIRE PROTECTION.

- (a) General. Where a public water supply is within a reasonable distance of a property or area being built upon, or where a structure is being constructed, added to or remodeled to the extent that a fire flow is required, or where a change in occupancy or use will result in a greater hazard classification requiring an increase in available water for fire protection, the owner or developer shall comply with the applicable requirements of this Fire Prevention Code.
- (b) Water Mains. All water mains shall be sized a minimum of eight inches in diameter as well as to meet usage and fire flow demands unless otherwise specified as follows:
- (1) Lines may be required to be larger than eight inch if identified in the City's master water or facilities plan. Lines may also be required to be larger if an identified need can be documented based on flow or pressure deficiencies or if the City desires to enter into an oversize agreement.
 - (2) If a line segment is to be installed that completes a loop, grid, or extends lines of uniform size and no current deficiencies for pressure or flow can be identified, a like diameter pipe size will be installed.
 - (3) Should it be determined by the Service Department that inadequate cycling of the water would occur, thus resulting in noncompliance with water quality standards and regulations, alternative line sizing and connection configurations will be identified by the City Engineer. The City Engineer shall cooperate with the Fire Official in determining the main size to ensure adequate fire flow demands.
 - (4) Waterlines in one- and two-family residential subdivisions may be six-inch diameter if interconnected and looped in segments unless a segment of a main functions as a transmission or supply main through the subdivision.
- (c) All water distribution systems in a subdivision shall be designed with looping for proper water flow. Dead end lines shall be approved by the City Engineer, after consultation with the Fire Official, only if the developer can show no feasible means to loop the lines.
- (d) Adequacy. Where an area or property is being developed or built upon, and such area or property is being served by water mains not meeting the minimum requirements of this standard, the Fire Official may permit connection to such water mains if it is demonstrated that the available water for fire protection from those water mains is adequate to protect the properties being served, except that, in no case shall a water main less than six (6) inches in diameter be considered acceptable.
- (e) Fire Hydrants. Fire hydrants shall be installed as designated by the Fire Official based on the following guidelines:
- (1) Installed along public and/or private water mains at distances no greater than 400 feet apart, as measured along the main, except in areas of one- and two-family residential buildings. Such distances shall be no greater than 500 feet. All fire hydrants shall be placed on lot lines.
 - (2) Installed at the end of six-inch lines or greater.
 - (3) Installed at street corners ten foot from end of radius.
 - (4) Installed as required for maintenance and operational purposes.
 - (5) All cul-de-sacs shall have a fire hydrant at the end for fire flow demands.
 - (6) Fire hydrants shall be located within four hundred (400) feet of all building access points as designated by the Fire Official, and shall be measured along actual fire apparatus routes of travel.
- (f) Hydrant Location and Setback. Fire apparatus and equipment shall be provided safe, unconstrained access to all fire hydrants as determined by the Fire Official. No natural or man-made barriers such as walls, fences, posts, curbs, shrubbery or trees shall be installed or maintained so as to impede the use or operation of a fire hydrant. Exact fire hydrant locations shall be as detailed by the Fire Official.
- (g) Private Fire Hydrants. All fire hydrants not part of a private yard system, shall meet the Service Department specifications and shall have at least two (2), two and one-half (2-1/2) inch hose nozzles, and one four (4) inch steamer type nozzle. All nozzles shall have threads conforming to the Springfield Fire Division thread specifications. Fire hydrants shall be installed as designated by the Fire Official. Fire hydrant colors shall be designated by the Fire Official.
- (h) Option. When fire hydrants are required by the Fire Official, the owner of the property, or his agent, shall have the option of installing a hydrant or hydrants as required by subsection (e) hereof or may install a single barrel hydrant with only the steamer nozzle conforming with the requirements of subsection (g) hereof, subject to the approval of the Fire Official.
- (i) Hydrant Height. Fire hydrant height shall be at least twelve (12) inches, but no more than twenty-one (21) inches above the surrounding finished grade of the hydrant. Such measurements shall be made from the bottom of the lowest nozzle on the hydrant barrel. Break type fire hydrants shall have such feature installed as close as practical, or to serve such purpose, to the surrounding finished grade.
- (j) Hydrant Protection. In areas subject to vehicular traffic where fire hydrants are located, such hydrants, when deemed necessary by the Fire Official, shall have collision protection installed; the extent and type of such protection shall be acceptable to the Fire Official.
- (k) Hydrant Service. A fire hydrant shall not be placed into or removed from service unless such condition is reported to the Fire Official.
- (l) Hydrant Damage. Any person who damages, witnesses damage to, or has knowledge of damage to a fire hydrant shall report same to the Fire Official or the Service Department.
- (m) Tampering. No person, not duly authorized in writing, shall knowingly move, deface, paint, damage, destroy or otherwise unlawfully tamper with any fire hydrant, valve, plug, or other fixture or facility of the public water supply unless authorized in writing by the Fire Official or Service Department.
- (n) Obstructing Prohibited. No person shall obscure from view, obstruct, block or restrict the use or access to any fire hydrant. Such obstruction, blockage or restriction shall be considered a violation of this section.
- (o) Fire Suppression Support. In those buildings or structures where automatic fire suppression is provided throughout, the number and location of fire hydrants may be reduced or altered by the Fire Official.

(p) Suppression System Hydrant. A fire hydrant meeting the specifications and installed according to this section and connected to a public water supply, shall be installed at a location designated by the Fire Official that is within seventy-five (75) feet of a suppression system Fire Department connection, but no closer than forty (40) feet to the building or structure, except as modified in subsection (o) hereof.

(q) Fire Suppression Equipment. No person shall damage, obstruct, obscure from view, remove, tamper with, or otherwise disturb any fire hydrant, Fire Department connection, or fire protection system or equipment required to be installed or maintained under the provisions of this Fire Prevention Code or Building Code except for the purpose of extinguishing fire, training or testing purposes, recharging, or making necessary repairs, or when permitted by the Fire Official. Whenever a fire protection system or equipment is removed as herein permitted, it shall be replaced or re-installed as soon as the purpose for which it was removed has been accomplished. Defective and nonapproved fire protection systems or equipment shall be replaced or repaired as ordered by the Fire Official.

(r) All water mains and water services shall have a minimum of 48-inches of cover.

(s) Fire Hydrant Colors. All public, private, and/or yard fire hydrants shall be painted colors as designated by the Fire Official. All caps on all fire hydrants all be painted as designated by the Fire Official to indicate the amount of water flow available from said hydrant.

(t) Fire Hydrant Flows and Flushing.

- (1) All public, private, and/or yard fire hydrants shall be flowed and/or flushed to determine the adequacy of water availability and fire flows on a regular basis and as determined by the Fire Official.
- (2) Every owner of a privately-owned fire hydrant or of a yard hydrant shall maintain his applicable hydrant(s) in good operating order at all times.
- (3) Members of the City's Fire Division or of the City's Service Department may enter onto private property at any time for the purpose of performing flow and/or flushing functions on a private fire hydrant or a yard hydrant.
- (4) The City shall not be liable for any damage or harm occurring in connection with performing flow and/or flushing functions on a private and/or yard fire hydrant when the damage or harm is proximately caused by failure of the private and/or yard fire hydrant to be in good operating order.

(Ord. 06-303. Passed 8-8-06; Ord. 19-44. Passed 2-12-19.)

1507.09 FIRE DIVISION ACCESS.

(a) Scope. The provisions of this section shall apply to all premises which the Fire Division may be called upon to protect. Suitable gates, access roads and fire lanes shall be provided so that all buildings on the premises are accessible to emergency vehicles.

(b) Restricted Access. When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for lifesaving or fire fighting purposes, the Fire Official may require a key box to be installed in an accessible location. The key box shall be of a type approved by the Fire Official and shall contain keys to gain necessary access as required by the Fire Official.

(c) Automatic Alarms. When an area is protected by an automatic fire alarm, the Fire Official may require a key box to be installed in an accessible location. The key box shall be of a type approved by the Fire Official and shall contain keys to gain necessary access as required by the Fire Official.

(Ord. 06-303. Passed 8-8-06.)

1507.10 HAZARDOUS MATERIAL INFORMATION.

(a) The owner or operator of any facility which is required to prepare or have available a "Material Safety Data Sheet" (MSDS) or an emergency and hazardous chemical inventory from under subtitle B, Sections 311 and 312 of the Superfund Amendments and Re-authorization Act of 1986 hereinafter referred to as "(SARA)", or any facility where such information is deemed necessary by the Fire Chief or his designee, shall provide and maintain the following information at the facility site for emergency response personnel:

- (1) A current list of key facility personnel knowledgeable about safety procedures of materials on site, complete with current telephone numbers for such personnel in the event of an incident after normal business hours of facility operation.
- (2) A current emergency and hazardous chemical inventory form as per Section 312 SARA.
- (3) A binder containing the MSDS required under Subtitle B, Section 311 of SARA or in the event of a volume of MSDS too great to practically keep in the lock box or boxes, the information in the lock box or boxes shall give the location of the on site MSDS and the MSDS shall be readily available for use by emergency personnel.
- (4) A site plan which shall include the following:
 - A. The location of storage and use of hazardous materials on-site.
 - B. The location of on-site emergency fire fighting and spill clean-up equipment.
 - C. A diagram of the complete sewer system, water system, fire hydrants and topographical information relative to the facility.

(b) Lock Boxes. The information required in subsection (a) hereof shall be maintained in an approved lock box or boxes at a location or locations approved by the Fire Official. All information required by this chapter shall be maintained in current order in accordance with this chapter and Sections 311 and 312 of Subtitle B of SARA.

(c) Lock Box Specifications. All lock boxes as required by subsection (b) hereof shall be a minimum of fourteen (14) inches x eighteen (18) inches x five (5) inches and constructed of one-eighth (1/8) inch plate steel with an additional one-fourth (1/4) inch steel front plate or equivalent. All lock boxes required shall be equipped with a high security Medeco Level three (3) lock or equivalent.

(d) Lock Box Alternative. When the information required by subsection (a) hereof is too great for a lock box or boxes an alternative method for making the information available shall be permitted. The information may be kept in a locked file cabinet or cabinets in a location protected from vandalism and fire, in an area remote from where the hazardous materials are stored, handled or processed. The alternative method and location shall be acceptable to, and approval by, the Fire Official. When this method is used to provide the required information keys to the building, area within the building where the cabinet or cabinets are, and the file cabinet or cabinets shall be kept in a lock box as required by subsection (b) hereof.

(e) Identification of Lock Box or Boxes and/or Alternative. The location of all lock boxes or alternative filing cabinets required by this section shall be clearly identified by a highly visible three (3) inch reflective federal safety yellow diagonal stripe across the "Box or Cabinet".

(f) Large Facilities. For larger facilities or facilities with multiple buildings, the Fire Chief or his designee shall designate the number and location of the lock boxes.
(Ord. 06-303. Passed 8-8-06.)

CHAPTER 1511

Open Burning

- 1511.01 Definitions.**
- 1511.02 Relations to other prohibitions; conflict.**
- 1511.03 Open burning in restricted areas.**
- 1511.04 Permission and notice to open burn.**
- 1511.05 Bonfires and outdoor rubbish fires.**
- 1511.99 Penalty.**

CROSS REFERENCES

See sectional histories for similar State law
Air pollution control--see Ohio R.C. Ch. 3704
Permit to burn construction debris--see Ohio R.C. 3704.11(C)
Spreading fire through negligence--see Ohio R.C. 3737.62
Open burning--see OAC Ch. 3745

1511.01 DEFINITIONS.

As used in Chapter 3745-19 of the Ohio Administrative Code and this chapter:

- (a) "Agricultural waste" means any matter generated by crop, horticultural or livestock production practices, and includes such items as bags, cartons, structural materials and landscape wastes that are generated in agricultural activities, but does not include land clearing waste; buildings; garbage; dead animals; motor vehicles and parts thereof; nor economic poisons and containers therefor, unless the manufacturer has identified open burning as a safe disposal procedure.
- (b) "Economic poisons" include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliants.
- (c) "Garbage" means any matter resulting from the handling, processing, preparation, cooking and consumption of food or food products.
- (d) "Landscape waste" means any plant matter, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings and crop residues.
- (e) "Land clearing waste" means plant matter which is removed from land, including plant matter removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial or industrial development.
- (f) "Ohio EPA" means the Ohio Environmental Protection Agency Director or agencies delegated authority by such Director pursuant to Ohio R.C. 3704.03 or the Chief of any Ohio Environmental Protection Agency district office.
- (g) "Open burning" means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney. Open burning includes the burning of any refuse or salvageable material in any device not subject to or designed specifically to comply with the requirements of Ohio Administrative Code 3745-17-09 or 3745-17-10.
- (h) "Residential waste" means any matter, including landscape wastes, generated on a one-, two- or three-family residence as a result of residential activities, but not including garbage.
- (i) "Restricted area" means the area within the boundary of any municipal corporation established in accordance with the provisions of Title 7 of the Ohio Revised Code, plus a zone extending 1,000 feet beyond the boundaries of any such municipal corporation having a population of 1,000 to 10,000 persons and a zone extending one mile beyond any such municipal corporation having a population of 10,000 persons or more according to the latest federal census.
- (j) "Unrestricted area" means all areas outside the boundaries of a restricted area as defined in subsection (i) hereof.
(OAC 3745-19-01)

1511.02 RELATIONS TO OTHER PROHIBITIONS; CONFLICT.

(a) Notwithstanding any provision in Ohio Administrative Code Chapter 3745-19, no open burning shall be conducted in an area where an air alert, warning or emergency under Ohio Administrative Code Chapter 3745-25 is in effect.

(b) No provisions of Ohio Administrative Code Chapter 3745-19, permitting open burning, and no permission to open burn granted by the Ohio EPA, shall exempt any person from compliance with any section of the Ohio Revised Code, or any regulation of any State department, or any local ordinance or regulation dealing with open burning.
(OAC 3745-19-02)

(c) In case of conflict, the provisions of this chapter shall control over Section F-301.0 of the BOCA National Fire Prevention Code adopted in Section 1507.01(a).

1511.03 OPEN BURNING IN RESTRICTED AREAS.

- (a) No person or property owner shall cause or allow open burning in a restricted area except as provided in subsections (b) to (d) hereof or in Ohio R.C. 3704.11.
- (b) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA:
 - (1) Cooking for human consumption;
 - (2) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots and similar occupational needs.

Fires allowed by subsections (b)(1) and (b)(2) hereof shall not be used for waste disposal purposes and shall be of minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants.

(c) Open burning shall be allowed for the following purposes with prior notification to the Ohio EPA:

- (1) Prevention or control of disease or pests, with written or verbal verification to the Ohio EPA from the local health department, cooperative extension service, Ohio Department of Agriculture, or U.S. Department of Agriculture, that open burning is the only appropriate disposal method.
- (2) Ceremonial fires provided the following conditions are met:
 - A. The ceremonial fires shall be less than five feet by five feet in dimension and shall burn no longer than three hours;
 - B. The ceremonial fires shall not be used for waste disposal purposes; and
 - C. The fuel shall be chosen so as to minimize the generation and emission of air contaminants.

(d) Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA provided that any conditions specified in the permission are followed:

- (1) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal;
- (2) Instruction in methods of fire fighting or for research in the control of fires;
- (3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Ohio EPA; and
- (4) Recognized horticultural, silvicultural, range or wildlife management practices.

(OAC 3745-19-03)

1511.04 PERMISSION AND NOTICE TO OPEN BURN.

(a) Permission.

- (1) An application for permission to open burn shall be submitted in writing at least ten days before the fire is to be set. It shall be in such form and contain such information as required by the Ohio EPA.
- (2) Such applications shall contain, as a minimum, information regarding:
 - A. The purpose of the proposed burning;
 - B. The nature and quantities of material to be burned;
 - C. The date or dates when such burning will take place;
 - D. The location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields and other pertinent landmarks; and
 - E. The methods or actions which will be taken to reduce the emissions of air contaminants.
- (3) Permission to open burn shall not be granted unless the applicant demonstrates to the satisfaction of the Ohio EPA that open burning is necessary to the public interest; will be conducted in a time, place and manner as to minimize the emission of air contaminants; and will have no serious detrimental effect upon adjacent properties or the occupants thereof. The Ohio EPA may impose such conditions as may be necessary to accomplish the purpose of Ohio Administrative Code Chapter 3745-19.
- (4) Permission to open burn shall be obtained for each specific project. In emergencies where public health or environmental quality will be seriously threatened by delay while written permission is sought, the fire may be set with oral permission of the Ohio EPA.
- (5) Violations of any of the conditions set forth by the Ohio EPA in granting permission to open burn shall be grounds for revocation of such permission and refusal to grant future permission, as well as for the imposition of other sanctions provided by law.

(b) Notification.

- (1) Notification shall be submitted in writing at least ten days before the fire is to be set. It shall be in such form and contain such information as shall be required by the Ohio EPA.
- (2) Such notification shall inform the Ohio EPA regarding:
 - A. The purpose of the proposed burning;
 - B. The nature and quantities of materials to be burned;
 - C. The date or dates when such burning will take place; and
 - D. The location of the burning site.
- (3) The Ohio EPA, after receiving notification, may determine that the open burning is not allowed under Ohio Administrative Code Chapter 3745-19 and the Ohio EPA shall notify the applicant to this effect.

(OAC 3745-19-05)

1511.05 BONFIRES AND OUTDOOR RUBBISH FIRES.

(a) General. Burning of rubbish shall be prohibited except in approved incinerators. Bonfires may be permitted only under the following conditions and subject to the air pollution provisions of this chapter.

(b) Permit Required. A person shall not kindle or maintain any bonfire or authorize any such fire to be kindled or maintained on any premises without having obtained a permit or other proper authorization from the Fire Official. All permits shall be requested by and issued to the owner of the land upon which the bonfire is to be kindled.

(c) Location Restricted. A person shall not kindle or maintain any bonfire or authorize any such fire to be kindled or maintained unless:

- (1) The location is approved by the Fire Official and is not less than fifty feet from any structure and adequate provision is made to prevent fire from spreading to within fifty feet of any structure; or
- (2) The fire is contained in an approved burner located safely not less than fifteen feet from any structure.

(d) Bonfire Material. Fuel for bonfires shall consist of seasoned dry wood only and shall be ignited with a small quantity of paper only. Bonfires shall not contain any rubbish, garbage, trash, any material made of or coated with rubber, plastic, leather or petroleum based materials and shall not contain any flammable or combustible liquids. The allowable quantity of wood to be burnt shall be determined by the Fire Official and shall be based upon the fire safety requirements of the situation and the desirable duration of burn.

(e) Attendance at Open Fires. Bonfires shall be constantly attended by a competent person until such fire is extinguished. This person shall have fire extinguishing equipment readily available for use as deemed necessary by the Fire Official.

(f) Prohibited Bonfires. The Fire Official may prohibit any or all bonfires when atmospheric conditions or local circumstances make such fire

hazardous or which are or could be offensive or objectionable due to smoke or odor emissions. The Fire Official shall order the extinguishment, by the permit holder or the Fire Division, of any bonfire which creates or adds to a hazardous or objectionable situation.
(OAC 1301:7-7-03.)

1511.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both.

CHAPTER 1513

Fireworks

- 1513.01 Definitions.**
- 1513.02 Public exhibition permit required; fee; bond; records.**
- 1513.03 Unlawful conduct by exhibitor.**
- 1513.04 Possession, sale or discharge prohibited; exceptions.**
- 1513.05 Application.**
- 1513.06 Conflict.**
- 1513.99 Penalty.**

CROSS REFERENCES

Manufacturers to comply with building and zoning ordinances - see Ohio R.C. 3743.06(F)

Wholesalers to comply with building and zoning ordinances – see Ohio R.C. 3743.19(G)

Arrests, seizure of fireworks by certified fire safety inspector - see Ohio R.C. 3743.68

Conflict of Fire Marshal's rules with rules of Ohio Board of Building Standards- see Ohio R.C. 3781.11(0)

1513.01 DEFINITIONS.

As used in this chapter:

- (a) "Beer" and "intoxicating liquor" have the same meanings as in Ohio R.C. 4301.01.
 - (b) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition and that is ignited by pulling the ends of the string.
 - (c) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.
 - (d) "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.
 - (e) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in Section 1513.05.
 - (f) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to Ohio R.C. 3743.50 to 3743.55.
 - (g) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to Ohio R.C. 3743.02 to 3743.08.
 - (h) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to Ohio R.C. 3743.15 to 3743.21.
 - (i) "Novelties and trick noisemakers" include the following items:
 - (1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers and snappers;
 - (2) Snakes or glow worms;
 - (3) Smoke devices;
 - (4) Trick matches.
 - (j) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling string protruding from the item, and from which paper streamers are expelled when the item is ignited.
 - (k) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs and sidings installed and primarily used in serving a mine, quarry or plant.
 - (l) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.
 - (m) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.
 - (n) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.
 - (o) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.
- (ORC 3743.01)

1513.02 PUBLIC EXHIBITION PERMIT REQUIRED; FEE; BOND; RECORDS.

(a) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition within the City of Springfield shall apply for approval to conduct the exhibition to the Fire Chief and the Police Chief.

The required approval shall be evidenced by the Fire Chief or Fire Official and the Police Chief signing a permit for the exhibition, the form for which shall be prescribed by the State Fire Marshal. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the Fire Marshal or, if it is available, from the Fire Chief, Fire Official or Police Chief.

(b) Before signing a permit and issuing it to a licensed exhibitor of fireworks, the Fire Chief or Fire Official and the Police Chief shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show his license as an exhibitor of fireworks to the Fire Chief or Fire Official and the Police Chief.

The Fire Chief or Fire Official and the Police Chief shall give their approval to conduct a public fireworks exhibition only if they are satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and that the applicant is, in fact, a licensed exhibitor of fireworks. The Fire Chief or Fire Official and the Police Chief may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke the permit for noncompliance with the rules.

(c) The Fire Chief or Fire Official and the Police Chief shall not issue a permit until the applicant pays a permit fee of seventy-five dollars (\$75.00) plus any necessary costs of investigation of the applicant and of inspecting the premises on which the exhibition will be conducted.

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars (\$1,000,000) with surety satisfactory to the Fire Chief or Fire Official and the Police Chief, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars (\$1,000,000) for liability arising from injury, death or loss to persons or property emanating from the fireworks exhibition.

The City Commission may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this subsection. The Fire Chief or Fire Official and Police Chief shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this subsection.
(Ord. 97-149. Passed 4-29-97.)

(d) (1) Each permit for a fireworks exhibition issued by the Fire Chief or Fire Official and the Police Chief shall contain a distinct number, together with a designation of the Municipality. A copy of each permit issued shall be forwarded by the Fire Chief or Fire Official and the Police Chief issuing it to the Fire Marshal, who shall keep a record of the permits he receives. A permit is not transferable or assignable.

(2) The Fire Chief, Fire Official and Police Chief shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, Fire Official or Police Chief shall list the name of the exhibitor, his license number, the premises on which the exhibition will be conducted, the date and time of the exhibition and the number of the permit issued to the exhibitor for the exhibition.

(ORC 3743.54)

1513.03 UNLAWFUL CONDUCT BY EXHIBITOR.

(a) No licensed exhibitor of fireworks shall fail to comply with the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B).

(b) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Section 1513.02 or if a permit so secured is revoked by the Fire Chief or Fire Official and Police Chief pursuant to that section.

(c) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55.

(d) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have in his possession or under his control, or be under the influence of, any intoxicating liquor, beer or controlled substance while on the premises on which the exhibition is being conducted. (ORC 3743.64)

1513.04 POSSESSION. SALE OR DISCHARGE PROHIBITED; EXCEPTIONS.

(a) No person shall possess fireworks in this Municipality or shall possess for sale or sell fireworks in this Municipality, except a licensed manufacturer of fireworks as authorized by Ohio R.C. 3743.02 to 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 to 3743.21, an out-of-state resident as authorized by Ohio R.C. 3743.44, a resident of this State as authorized by Ohio R.C. 3743.45, or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 to 3743.55 and Section 1513.02 and except as provided in Section 1513.05.

(b) Except as provided in Section 1513.05 and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 to 3743.55 and Section 1513.02, no person shall discharge, ignite or explode any fireworks in this Municipality.

(c) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(d) No person shall sell fireworks of any kind to a person under eighteen years of age.

(e) No person shall advertise Class C fireworks for sale. A sign located on a seller's premises identifying him as a seller of fireworks is not the advertising of fireworks for sale.

(ORC 3743.65)

1513.05 APPLICATION.

This chapter does not prohibit or apply to the following:

(a) The manufacture, sale, possession, transportation, storage or use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation or highway use;

(b) The manufacture, sale, possession, transportation, storage or use of fuses, torpedoes or other signals necessary for the safe operation of railroads;

(c) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals or for ceremonial purposes;

(d) The manufacture for, the transportation, storage, possession or use by, or sale to the Armed Forces of the United States and the militia of this State of pyrotechnic devices;

(e) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage or use of those caps;

(f) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms or model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models;

(g) The manufacture, sale, possession, transportation, storage or use of sparklers on a wire stick, as this term is defined in the regulations of the United States Department of Transportation. (ORC 3743.80)

1513.06 CONFLICT.

In the event of conflict, the provisions of this chapter shall control over Chapter 31 of the BOCA National Fire Prevention Code as adopted in Section 1507.01(a).
(Ord. 97-149. Passed 4-29-97.)

1513.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for a first offense and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both.
(ORC 3743.99(C))

CODIFIED ORDINANCES OF SPRINGFIELD
PART SEVENTEEN - HEALTH CODE

TITLE ONE - Food and Food Products

- Chap. 1711. Food Establishments.
- Chap. 1715. Meat and Meat Products.
- Chap. 1717. Food Service Operations.
- Chap. 1721. Tobacco Retailer Licensing and Sales.

TITLE THREE - Sanitation

- Chap. 1731. Littering.
- Chap. 1733. Expectoration.
- Chap. 1735. Animals.
- Chap. 1737. Rat Control.
- Chap. 1741. Hazardous Substances.
- Chap. 1743. Swimming Pools.
- Chap. 1745. Child Day Care.

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CHAPTER 1711

Food Establishments

- 1711.01 Definitions.**
- 1711.02 Compliance procedures; permit to operate.**
- 1711.03 Construction and maintenance of physical facilities.**
- 1711.04 Health of employees.**
- 1711.05 Approval of plans and equipment.**
- 1711.06 Equipment and utensils.**
- 1711.07 Cleaning, sanitization and storage of equipment and utensils.**
- 1711.08 Sanitary facilities and controls.**
- 1711.09 Plumbing.**
- 1711.10 Food.**
- 1711.99 Penalty.**

CROSS REFERENCES

- Food establishments - see OAC 901:3-29
- Food service operations - see HLTH. Ch. 1717

1711.01 DEFINITIONS.

(a) "Food establishment" means any place whether temporary or permanent, stationary or mobile, or whether it be considered public, semi-public or private, where food or drink is prepared, processed, manufactured, packaged, stored, served, sold or offered for sale. Provided that the following places are not included: homes containing what is commonly known as the family unit and their nonpaying guests; food service operations as defined in Ohio R.C. 3732.01; dairy plants, meat plants, slaughter houses, abattoirs and food-processing and food-manufacturing establishments which are under regulatory authority of the State and/or Federal Government.

(b) "Board of Health" means the Board of Health of the Springfield City Health District as created by the provisions of Ohio R.C. 3709.02 and 3709.05 and Chapter 159 of the Codified Ordinances of the City.

(c) "Health Commissioner" means the person occupying the office in the Springfield City Health District which is created by Ohio R.C. 3709.11 and 3709.14 and Chapter 137 of the Codified Ordinances of the City.

(d) "Mobile food establishment" means one which may be moved from one location to another without significant alteration of the structure or equipment.

(e) "Food product" means any raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

(f) "Bulk food product" means processed or unprocessed food in aggregate containers from which individual quantities are withdrawn for the consumer.

(g) "Equipment" means items other than utensils used in the storage, preparation, display and transportation of food such as stoves, ovens, hoods, slicers, grinders, mixers, scales, meat blocks, tables, food shelving, reach-in refrigerators and freezers, sinks, ice makers and similar items used in the operation of food establishments.

(h) "Utensils" means and includes any food-contact implement used in the storage, preparation, transportation or dispensing of food and food products.

(i) "Food-contact surfaces" means those surfaces of equipment and utensils with which food normally comes into contact, and those surfaces from which food may drain, drip or splash back onto surfaces normally in contact with food.

(j) "Unwholesomeness" means adulteration as defined in Ohio R.C. 3715.59.

(k) "Corrosion-resistant materials" means those materials that maintain acceptable sanitary surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and sanitizing solutions, and other conditions of the use environment.

(l) "Easily cleanable" means that surfaces are readily accessible and made of material and finish and are so fabricated that residue can effectively be removed by normal cleaning methods.

(m) "Hermetically sealed container" means that container which is designed and intended to be secure against the entry of microorganisms and will maintain the commercial sterility of its contents after processing.

(n) "Packaged" means bottled, canned, cartoned, bagged or securely wrapped.

(o) "Operator" means any person, partnership, corporation, association, or other legal entity operating a food establishment within the jurisdiction of the City Health District.

(p) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients, including synthetic ingredients, and which is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

(q) "Permit" means that document issued by the Board of Health which authorizes the operation of a food establishment within the jurisdiction of the City Health District.

(Ord. 89-20. Passed 1-10-89.)

1711.02 COMPLIANCE PROCEDURES; PERMIT TO OPERATE.

(a) No person, partnership, corporation, association or other legal entity shall operate a food establishment in the Springfield City Health District without a permit from the Board of Health. Such permit shall be displayed in a conspicuous place in the food establishment.

(b) Prior to conducting a food establishment operation in the City Health District, every person, partnership, corporation, association or legal entity shall procure a permit to operate a food establishment from the Board of Health and shall renew the permit on or before the first day of July each year. If a permit fee is not received by the licenser on or before the date it is due, an additional processing fee of twenty-five percent (25%) of any such fee shall be imposed and paid. However, a seasonal food establishment as determined by the Board of Health, that operates no longer than forty-five consecutive days a year may obtain or renew a permit at any time before it begins operation of a food establishment during the calendar year.

(c) An annual permit fee shall be levied upon each food establishment for the purpose of enforcing and paying the expense of inspections. The permit fee for a food establishment is defined as follows:

	Permit Description	Fee
(1)	Seasonal food establishments (mobile or stationary, selling fruits and vegetables), operating no more than thirty consecutive days in a calendar year.	\$ 30.00
(2)	Food establishments selling pre-packaged, nonperishable food only.	30.00
(3)	Food establishments selling all prepackaged food items, including perishable foods.	52.50
(4)	Carnival and/or fair operations and roadside stands (mobile or stationary) operating within the City for no more than thirty consecutive days and which are not covered under Ohio R.C. 3732.01, selling confections as such: cotton candy, snow cones, candy apples, popcorn, sugar waffles, peanuts, soft ice cream, etc.	30.00
(5)	Non-seasonal food establishments selling fruits and vegetables.	52.50

(6)	Food establishments that package or dispense candy, peanuts, ice cream and other confectionery items.	52.50
(7)	Warehouses storing packaged food and/or beverages for distributing.	35.00
(8)	Wholesale fruit and produce distributors.	\$ 52.50
(9)	Food establishments of less than 2,500 square feet, selling all food items, including the packaging and handling of various raw food products.	75.00
(10)	Food establishments of 2,500 square feet or more, selling all food items, including the packaging and handling of raw food products.	150.00
(11)	Beverage plants and all general bakeries.	150.00
(12)	Non-profit organizations, churches, schools, fraternal or veteran organizations selling products for five or more consecutive days or not more than fifty-two times per year.	7.50

(d) If an operator in one category becomes involved in the sale or production of products from a higher category, the latter shall take precedence.

(e) The following operations are exempt from the provisions of this chapter:

- (1) Milk-bread routes, when base of operations, where the product is placed in the vehicle, has been certified as inspected by the Health Department.
- (2) Food services whose entire operation and management is regulated by the State of Ohio or by another state.
- (3) Non-profit organizations, churches, schools, fraternal or veteran organizations selling products less than five consecutive days or less than fifty-two times per year.

(f) Each food operation at separate locations or at the same location, but leased or owned by different operators require separate permits.

(g) Suspension of permit. The Health Commissioner or an authorized representative may, upon written notice, without prior warning, notice, or hearing, suspend the permit to operate a food establishment, within the jurisdiction of the City Health District, if the operation constitutes an imminent hazard to the public health, such as an extended loss of water supply, adulterated foods, an extended power outage or sewage back-up into the establishment. When the permit is suspended, the food establishment shall suspend operations immediately.

(h) Revocation of food establishment permit.

- (1) The Board of Health of the City Health District may, after providing the operator of a food establishment an opportunity for a hearing, revoke a permit for:
 - A. Violations as denoted in Section 1711.02(g); or
 - B. Repeated violations of this chapter, found in consecutive inspections; or
 - C. Interference with the Health Commissioner or an authorized representative in the performance of his duty.
- (2) Before revocation, the Health Commissioner shall notify the holder of the permit to operate the food establishment, or the person in charge, in writing, of the reasons for which such permit is subject to revocation. The permit to operate the food establishment shall be revoked at the end of the ten days following service of such notice unless a written request for a hearing is filed with the Board of Health by the holder of the permit within such ten-day period. If no request for a hearing is filed within the ten-day period, the revocation of the permit to operate the food establishment becomes final.

(i) Service of notice. A notice provided for in this section is properly served when it is delivered to the holder of the permit to operate, the person in charge, or when it is sent by registered or certified mail, with return receipt requested, or posted on the premises of the food establishment. A copy of the notice shall be filed in the record of the City Health Department.

(j) Hearings. A hearing, as provided for in this section, shall be conducted by the Board of Health at a time and place so designated by the Board of Health. Any oral testimony given at a hearing shall be reported verbatim, and the Board of Health shall make provisions for sufficient copies of the transcript of such hearings. The Board of Health of the City Health District shall make a final decision based upon the complete hearing record and shall sustain, modify or rescind any notice or orders considered in the hearing. A written report of the final decision of the Board of Health, including the reason(s) for such decision, shall be furnished to all interested parties within ten days after date of hearing.

(k) Application of permit reinstatement. Whenever a permit to operate a food establishment within the City Health District has been revoked, the holder of such permit may make written application to the Board of Health for a new permit as provided for in Section 1711.02(b).

(l) Before approving an application to operate a food establishment within the City Health District, the Health Commissioner, or an authorized representative, shall inspect the proposed food establishment to determine compliance with all provisions of this chapter.
(Ord. 89-20. Passed 1-10-89.)

1711.03 CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES.

(a) Floor Construction.

- (1) Floors and floor coverings of all food preparation, food storage and warewashing areas, and floors of all walk-in refrigerators, dressing rooms, employee locker rooms, toilet rooms and vestibules, shall be constructed of smooth durable materials such as sealed concrete, terrazzo, quarry tile, ceramic tile, durable grades of vinyl or plastic tile or tightfitting wood impregnated with plastic, and shall be maintained in good repair.
- (2) Floors which are water flushed or receive discharge of water or other fluid wastes or are in areas where pressurized spray methods are used for cleaning, shall be provided with properly installed trapped drains. Such floors shall be constructed of sealed concrete, terrazzo tile, quarry tile, ceramic tile or similar materials and shall be graded to drain. All other floors shall be so constructed as to provide for the juncture between walls and floor to be covered with no more than a 1/32 inch (0.8mm) open seam.

(b) Floor Carpeting. Carpeting, if used as a floor covering, shall be of closely woven construction, properly installed, easily cleanable and maintained in good repair. Carpeting shall not be used in food preparation and warewashing areas, in food storage areas or in toilet areas where urinals or fixtures are located.

(c) Prohibited Floor Coverings. Sawdust, wood shavings, granular salt, baked clay, diatomaceous earth or similar materials shall not be used as

floor coverings; however, these materials may be used in amounts necessary for immediate clean-up of spills or drippage on floors.

(d) Mats and Duckboards. Mats and duckboards shall be of nonabsorbent, grease resistant materials, and shall be of such design and construction to facilitate cleaning and shall be maintained in good repair.

(e) Utility Line Installation. Exposed utility service lines and pipes shall be installed so as not to obstruct or prevent cleaning of the walls and floors. Installation of exposed horizontal utility service lines and pipes on the floor are prohibited.

(f) Walls and Ceilings. All walls, wall coverings and ceilings of refrigeration units, food preparation areas, warewashing areas, toilets and their vestibules shall be constructed of smooth nonabsorbent, and easily cleanable materials. Concrete or pumice blocks and bricks used for interior wall construction in these locations shall be finished and sealed so as to provide a smooth easily cleanable surface.

(g) Attachments and Covering Materials.

- (1) Light fixtures, vent coverings, wall mounted fans, decorative materials and similar attachments to walls and ceilings shall be easily cleanable and shall be maintained in good repair.
- (2) Walls and ceiling covering material shall be attached and sealed in such a manner so they may be easily cleanable.

(h) Cleaning Physical Facilities. Cleaning of floors, walls and ceilings shall be done as often as necessary. Only dustless methods of cleaning floors, walls and ceilings shall be used. Floors, mats, duckboards, walls, ceilings, attachments, and decorative material shall be kept clean at all times.

(i) Service Sinks. At least one service sink or curbed cleaning facility with floor drain shall be provided and used for cleaning of mops and similar wet floor cleaning tools and for the disposal of mop water or similar liquid cleaning waste water. Handwashing or warewashing facilities, or food preparation sinks shall not be used for this purpose.

(j) Lighting.

- (1) Permanently fixed artificial light sources shall be installed so as to provide at least twenty foot candles of light on all food preparation surfaces and at warewashing work levels.
- (2) Permanently fixed artificial light sources shall be so installed as to provide, at least a distance of thirty inches (762 mm) of light from the floor, and at least twenty foot candle (215 lux) of light in all sales areas, utensil and equipment storage areas, handwashing and toilet areas; and at least ten foot candles (108 lux) of light in walk-in refrigeration units, dry food storage areas, and all other areas.

(k) Protective Shielding.

- (1) All lighting located over or within food storage, food preparation, food display facilities and where utensils and equipment are cleaned and stored shall be shielded, coated or otherwise provided with shatter proof shielding devices or materials.
- (2) Infrared or other heat lamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

(l) Ventilation. All rooms of a retail food establishment shall be properly ventilated and kept free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes. Ventilation systems shall be installed and operated so the discharge of intake and exhaust air shall not create nuisances and will be maintained to prevent the entrance of dust, dirt, insects and other contaminating materials.

(m) Dressing Rooms and Locker Areas. Rooms shall be provided and designated as employee dressing areas and lockers or other suitable facilities shall be provided and used for the orderly storage of employee clothing and other personal effects. This room shall be separated from all food preparation areas.

(n) Poisonous and Toxic Materials.

- (1) Only those poisonous or toxic materials necessary and intended for the maintenance of the food establishment, including the cleaning and sanitization of equipment and utensils, and the control of insects and rodents, shall be present in food establishments, except those items being stored and/or displayed for sale to the consumer or other persons.
- (2) Containers of poisonous and/or toxic materials necessary for operational maintenance of food establishments shall be prominently and distinctly labeled in accordance with all federal, state and local requirements. Small working containers of bulk cleaning agents shall be individually labeled for easy identification of contents.
- (3) Insecticides, rodenticides, detergents, sanitizers, and related cleaning or drying agents, and caustics, acids, polishes and other chemicals, shall be stored, located or displayed so they are physically separated from each other and shall be stored, located or displayed in such a manner so they are not intermingled with food, food products, equipment, utensils, or single-service articles, except detergents, sanitizers and sanitizers intended for warewashing facilities may be stored for convenient use.
- (4) Sanitizers, cleaning compounds or other compounds intended for use on food-contact surfaces shall not be used in any way that leaves a residue on such surfaces, nor in any way that constitutes a hazard to employees or other persons.
- (5) Poisonous or toxic materials shall not be used in any way that contaminates food, food products, equipment or utensils, or in any way other than specified in the manufacturer's labeling.

(o) Storage and Display of Materials for Sale. Poisonous or toxic materials stored or displayed for sale shall be separated from food, food products and single-service articles by spacing, partitioning or dividers, nor shall they be stored or displayed above food, food products or single-service articles.

(p) First-Aid Supplies and Personal Medications. Food establishment employee first-aid supplies and personal medications shall be stored in a way that prevents contamination of food, food products and food-contact surfaces.

(q) Premises.

- (1) Food establishments and all parts thereto of the premises used in connection with the operation of the establishment shall be free from litter and other articles not essential to the operation or maintenance of the establishment.
- (2) Walkways and driving surfaces of all exterior areas of food establishments shall be surfaced with concrete, asphalt or other suitable material

to facilitate maintenance and minimize dust. These surfaces shall be graded to facilitate drainage.

(r) Living Areas. No operation of a food establishment shall be conducted in any room used as living or sleeping quarters. All food establishment operations shall be separated from any living or sleeping quarters by complete partitioning and/or solid self-closing doors.

(s) Laundry Facilities.

- (1) Food establishments providing laundry facilities within the building shall be restricted to the washing and drying of linens and work clothes used only in the operation of the establishment. Where such articles are laundered on the premises, an electric or gas dryer shall be provided and used.
- (2) Separate rooms shall be provided for laundry facilities, away from storage rooms containing food, food products, packaged and single-service articles.
- (3) Clean laundered work clothes and linens, including articles such as clean wiping cloths shall be stored in a clean place and protected from contamination until used.
- (4) Soiled work clothes, linen and articles such as soiled wiping cloths shall be kept in nonabsorbent containers or washable laundry bags until removed for laundering and shall be stored to prevent contamination of food, food products, food equipment and utensils.

(t) Cleaning Equipment and Storage. Maintenance and cleaning tools such as brooms, mops, vacuum cleaners and similar equipment shall be maintained in good repair and stored in such a way that prevents contamination of food, food products, single-service articles, utensils, equipment or linens and facilitates cleaning of the storage location.

(u) Animals. Live animals shall be excluded from within all food establishments, with the exception of edible fish, crustacea, shellfish and fish in an aquarium.

- (1) Live or dead fish bait shall be stored separately from food and food products.
- (2) Patrol dogs accompanying security or police officers shall be permitted in offices, storage areas and outside establishment premises. Sentry dogs may be permitted to run loose in outside fenced areas for security reasons. Guide dogs accompanying blind persons shall be permitted in sales areas.
- (3) While on duty, persons employed in the food operational areas of a food establishment shall not care for or handle any pets or patrol or sentry dogs.

(Ord. 89-20. Passed 1-10-89.)

1711.04 HEALTH OF EMPLOYEES.

(a) No employee of a food establishment, while infected with a communicable disease, boils, infected wounds or acute respiratory infection shall work in a food establishment in any capacity in which there is the possibility of contamination of food, food products or food-contact surfaces, or the spread of pathogenic organisms to other persons.

(b) Employees engaged in food preparation and warewashing operations shall thoroughly wash their hands and exposed portions of their arms with soap or detergent and warm water before beginning work; after smoking, eating or using the toilet; before and after handling raw meat, or poultry or raw seafood; and as often as is necessary during working hours to keep them clean. Employees shall keep their fingernails trimmed and clean.

(c) Employees of food establishments shall wear clean clothing and use effective hair restraints where necessary to prevent the contamination of food and food-contact surfaces.

(d) Employees shall maintain personal cleanliness and shall conform to good hygienic practices at all times during working hours. Employees shall not consume food or use tobacco products in areas other than those so designated for such activities.

(e) When there is reasonable cause to suspect possible disease transmission from any food establishment employee, the Health Commissioner may secure a morbidity history of the suspected employee, or make any other investigation indicated and shall take appropriate action. The Health Commissioner may require:

- (1) The immediate exclusion of the employee from employment in all food establishments;
- (2) The immediate closing of the food establishment concerned until, in the opinion of the Health Commissioner, no further danger of disease outbreak exists;
- (3) Restriction of the employee's service to some area of the food establishment where there is no danger of transmitting disease;
- (4) Adequate medical and laboratory examination of the employee, or other employees, and the body discharges of such employees.

(Ord. 89-20. Passed 1-10-89.)

1711.05 APPROVAL OF PLANS AND EQUIPMENT.

(a) Before the construction or remodeling of a food establishment and whenever an existing structure is converted for the use of a food establishment, detail plans and specifications of such construction, major remodeling or conversion must be submitted to the Ohio Department of Agriculture and the City Board of Health for review and approval. When plans are submitted to the Board of Health, these plans shall be acted upon within thirty days after date of receipt.

(b) All plans and specifications submitted to the Board of Health shall clearly confirm that all provisions of this chapter can be met adequately. All plans and specifications shall include:

- (1) The type of operation proposed and foods and food products and other items to be prepared and/or offered for sale to the general public for their use or human consumption;
- (2) Total area to be used for the food establishment operation;
- (3) All locations within the establishment where food or food products are to be prepared, stored or displayed;
- (4) All entrances and exits;
- (5) Location, number and types of plumbing fixtures, including all water supply and toilet facilities;
- (6) All plans of lighting, both natural and artificial, with foot-candles indicated for critical areas;
- (7) All floor plans showing the general layout of fixtures and other equipment;
- (8) Building materials and surface finishes to be used; and

(9) All equipment identified with manufacturers and model numbers.

(c) The City Health District shall treat plans and specifications as confidential and/or trade secret information in accordance with state and federal laws and shall approve all plans and specifications, provided they meet all requirements of these regulations within thirty days after receipt.

(d) Preoperational inspection. Whenever plans and specifications of a food establishment have been approved, and prior to the beginning of operations of the establishment an inspection of the food establishment shall be conducted to determine compliance with the approved plans and specifications and requirements of these regulations.

(e) Approval of equipment. All equipment used in a food establishment operation shall be of a type approved by the Board of Health or by the NSF (National Sanitation Foundation). All equipment shall be of such material and so constructed and installed as to readily conform to these regulations.

(f) Plan review fee. The following plan review fees shall be paid:

	Food Establishment	Plan Review Fee
(1)	Food establishments selling pre-packaged, nonperishable food only.	\$ 10.00
(2)	Food establishments selling all pre-packaged food items, including perishable foods.	20.00
(3)	Carnival and/or fair operations and roadside stands (mobile or stationary), operating within the City for no more than thirty consecutive days and which are not covered under Ohio R.C. 3732.01, selling confections such as: cotton candy, snow cones, candy apples, popcorn, sugar waffles, peanuts, soft ice cream, etc.	20.00
(4)	Non-seasonal food establishments selling fruits and vegetables.	20.00
(5)	Food establishments that package or dispense candy, peanuts, ice cream and other confectionery items.	20.00
(6)	Warehouses storing packaged food and/or beverages for distributing.	20.00
(7)	Wholesale fruit and produce distributors.	20.00
(8)	Food establishments of less than 2,500 square feet, selling all food items, including the packaging and handling of various raw food products.	20.00
(9)	Food establishments of 2,500 feet or more selling all food items, including the packaging and handling of raw food products.	30.00
(10)	Beverage plants and bakeries.	30.00

(Ord. 89-20. Passed 1-10-89.)

1711.06 EQUIPMENT AND UTENSILS.

(a) Multi-Use Equipment and Utensils. Multi-use equipment shall be constructed of material and design which under normal use shall be resistant to denting, buckling, distortion, pitting, scratching, crazing, chipping and decomposition, and shall be nonabsorbent with a smooth, easily cleanable surface. Single-service articles shall be made from clean, sanitary, safe materials. All equipment, utensils and single-service articles shall not impart odors, color, taste or contribute to the contamination of food or food products.

(b) Solder. If solder is used, it shall be composed of safe materials and be corrosion-resistant.

(c) Wood Construction. All equipment and utensils constructed of wood shall be of the hard maple variety or equivalent which is nonabsorbent and meets all requirements of this chapter, as set forth in subsection (a) hereof. Wood shall not be used as a food-contact surface under any circumstances, except for contact with raw fruits, raw vegetables and nuts in the shell.

(d) Plastics and Rubber Materials. Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal warewashing methods, and which meet the general requirements set forth in subsection (a) hereof, may be permitted for repeated use.

(e) Cutting Surfaces. Cutting surfaces subject to scratching and scoring must be resurfaced so as to be easily cleanable, or be discarded when the surface can no longer be effectively cleaned and sanitized.

(f) Single-Service Articles. Single-service articles shall not be reused.

(g) Equipment and Utensil Design and Fabrication.

(1) All equipment and utensils, including plasticware, shall be designed and fabricated for durability under normal circumstances and shall conform to the regulations as set forth in this section.

(2) Food-contact surfaces shall be easily cleanable, smooth and free of breaks, open seams, cracks, chips, pits and similar imperfection, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is used for cooking. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited in food-contact surfaces, except that in equipment such as ice makers, hot oil cooking equipment or hot oil filtering systems, such threads shall be minimized.

(3) Equipment containing bearings and gears requiring lubricants not made of safe materials shall be designed and constructed so that the lubricant cannot leak, drip or be forced into food or onto food contact surfaces. Equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces shall be lubricated with materials meeting the requirements of 21 CFR 178.3570.

(4) Sinks and drain boards shall be sloped to drain and be self-draining.

(h) Food-Contact Surface. Food-contact surface equipment shall be designed for in-place cleaning or be easily accessible for cleaning and inspection:

- (1) Without being disassembled; or
- (2) By disassembling without the use of tools; or
- (3) By easy disassembling with the use of only simple tools, such as mallets, screwdrivers or open-end wrenches which are kept near the equipment.

(i) Equipment Cleaning in Place. Equipment designed and constructed for cleaning-in-place shall meet the requirements equivalent to those contained in subsection (h) hereof.

(j) Food Product Thermometers. Indicating thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled and accurate to $\pm 2^{\circ}$ F. ($\pm 1^{\circ}$ C).

(k) Non-Food-Contact Surfaces. Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated to be smooth, washable, free of unnecessary ledges, projections or crevices, and readily accessible for cleaning and shall be of such materials to be easily cleaned and maintained and in good sanitary condition.

(l) Ventilation Hoods. Ventilation hoods and devices, where installed, shall be designed to prevent grease or condensation from collecting on walls and ceilings, and from dripping into food or onto food-contact surfaces. Filter or other grease extracting equipment shall be readily removable for cleaning and replacement, if not designed to be cleaned in place.

(m) Maintenance of Equipment and Utensils. All equipment and utensils shall be maintained in good repair and comply with the requirements of this chapter.

(n) Equipment Installation and Location. Equipment, including ice makers and ice storage equipment, shall not be located under exposed or unprotected sewer lines, water lines that are leaking or on which condensed water accumulates, open stairwells or other sources of contamination.

(o) Table-Mounted Equipment.

- (1) Table-mounted equipment shall be installed to facilitate the cleaning of the equipment and adjacent areas.
- (2) Equipment that is mounted on tables or counters, unless portable, shall be sealed to the table or counter or elevated on legs to provide at least a four-inch (102 mm) clearance between the table or counter, except that if no parts of the table under the equipment is no more than eighteen inches (457 mm) from cleaning access, the clearance space shall be three inches (76 mm) or more; or if no part of the table under the equipment is more than three inches (76 mm) from cleaning access, the clearance space shall be two inches (51 mm) or more.
- (3) Equipment is portable within the meaning of this subsection (o) if:
 - A. It is small and light enough to be moved easily by one person; and
 - B. It has no utility connection, has a utility that disconnects quickly or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning; and
 - C. It is table-mounted, such as powered mixers, grinders, slicers, tenderizers and similar equipment, and;
 1. Does not exceed eighty pounds (thirty-six kilograms), or
 2. Is equipped with mechanical means of safety tilting the unit for cleaning.

(p) Floor-Mounted Equipment.

- (1) Floor-mounted equipment, unless easily movable, shall be:
 - A. Sealed to the floor; or
 - B. Elevated on legs to provide at least six-inches (152 mm) clearance between the floor and equipment, except that equipment may be elevated to provide at least a four-inch (102 mm) clearance between the floor and equipment if no part of the floor under the equipment is more than six-inches (152 mm) from cleaning access.
 - C. Display shelving units, display refrigeration units, and display freezer units are exempt from provisions of subsection (p)(1) hereof, if they are installed so that the floor beneath the units can be easily cleaned.
- (2) Equipment is easily movable if:
 - A. It is mounted on wheels or casters; and
 - B. It has no utility connection, has a utility connection that disconnects quickly or has a flexible utility line of sufficient length to permit the equipment to be moved for easy cleaning.
- (3) Unless sufficient space is provided for easy cleaning between, behind, and above each unit of fixed equipment, the space between it and the adjoining equipment units and adjacent walls or ceilings shall be no more than 1/32 inch (.08 mm) and, if exposed to seepage, the space shall be sealed.

(q) Aisles and Working Areas. Aisles and working areas between units of equipment and between equipment and walls, shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact. All easily movable storage equipment such as dollies, skids, racks and open-ended pallets shall be positioned to provide accessibility to working areas.

(Ord. 89-20. Passed 1-10-89.)

1711.07 CLEANING, SANITIZATION AND STORAGE OF EQUIPMENT AND UTENSILS.

(a) Cleaning Frequency.

- (1) Utensils and food-contact surfaces of equipment shall be cleaned and sanitized;
 - A. Each time there is a change in processing between raw beef, raw pork, raw poultry or raw seafood, or a change in processing from raw to ready-to-eat foods;
 - B. After any interruption of operations during which time contamination may have occurred; and
 - C. After final use each working day.
- (2) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be cleaned and sanitized at intervals throughout the day on a schedule based

on food temperature, type of food and amount of food particle accumulation.

- (3) The food-contact surfaces of cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once each day of use, except that this shall not apply to hot oil cooking equipment and hot oil filtering systems. The food-contact surfaces of all baking equipment and pans shall be kept free of encrusted grease deposits and other accumulated soils.
- (4) Non-food-contact surfaces of equipment, including transport vehicles, shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles and other debris.

(b) Cleaning Materials.

- (1) Cloths or sponges used for wiping food spills on food-contact surfaces of equipment shall be clean and rinsed frequently in an approved sanitizing solution. These cloths and sponges shall be kept in the sanitizing solution between uses.
- (2) Cloths or sponges used for cleaning non-food-contact surfaces of equipment shall be clean and rinsed as specified in subsection (b)(1) hereof and used for no other purpose.
- (3) Single-service disposable towels are permitted in lieu of wiping cloths or sponges if they are discarded after each use.

(c) Manual Cleaning and Sanitizing.

- (1) For manual cleaning and sanitizing of equipment and utensils, a sink with not less than three compartments shall be provided and used. Sink compartments shall be large enough to accommodate the immersion of equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water. Where immersion in sinks is impracticable, equipment and utensils shall be cleaned and sanitized manually or by pressure spray methods.
- (2) Drain boards or easily moveable utensil tables of adequate size shall be provided for proper storage and handling of soiled utensils prior to cleaning and for cleaned utensils following sanitizing and shall be located so as not to interfere with proper use of warewashing facilities.
- (3) Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove food particles and soil.
- (4) All sinks shall be cleaned before use, and the cleaning process of equipment and utensils shall be in the following manner:
 - A. Equipment and utensils shall be thoroughly cleaned in the first compartment with hot detergent solution that is kept clean and at a concentration indicated on the manufacturer's label; and
 - B. Equipment and utensils shall be rinsed free of detergent and abrasives with clean water in the second compartment; and
 - C. Equipment and utensils shall be sanitized in the third compartment according to methods required in this chapter.
- (5) When pressure spray methods are utilized for cleaning and sanitizing, the equipment and utensils shall be thoroughly flushed with a detergent-sanitizer solution until the article is free of visible food particles and soil. The detergent-sanitizer shall be used in accordance with the manufacturer's instructions and shall be of a type that does not require a potable water rinse when used according to the manufacturer's instruction.
- (6) The food-contact surface of all equipment and utensils shall be sanitized by:
 - A. Immersion for at least thirty seconds in clean, hot water of a temperature of at least 170° F (77° C); or
 - B. Immersion for at least one minute in a clean solution containing at least fifty parts per million of available chlorine as a hypochlorite and having a temperature of at least 75° F (24° C); or
 - C. Immersion for at least one minute in a clean solution containing at least twelve and one-half parts per million of available iodine, having a pH range which the manufacturer has demonstrated to be effective and at a temperature of at least 75° F (24° C); or
 - D. Immersion for at least one minute in a clean solution containing 200 parts per million of a quaternary ammonium compound and having a temperature of at least 75° F (24° C). The quaternary ammonium compound used shall have been compounded by the manufacturer to assure effectiveness in waters up to 500 parts per million hardness at use concentration; or
 - E. Immersion in a clean solution containing any other chemical sanitizing agent allowed under 21 CFR 178.1010 that will provide the equivalent bactericidal effect of a solution containing at least fifty parts per million of available chlorine as a hypochlorite at a temperature of at least 75° F (24° C) for one minute; or
 - F. Treatment with steam free from materials or additives other than those specified in 21 CFR 173.310 in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or
 - G. Rinsing, spraying or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under this section in the case of equipment too large to sanitize by immersion.
- (7) When hot water is used for sanitizing, the following equipment shall be provided and used:
 - A. An integral heating device or fixture installed in, on or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170° F (77° C); and
 - B. A numerically scaled indicating thermometer, accurate to $\pm 2^{\circ}$ F ($\pm 1^{\circ}$ C) convenient to the sink for frequent checks of water temperature; and
 - C. Utensil racks or baskets of such size and design to permit complete immersion of utensils and equipment in the hot water.
- (8) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under 21 CFR 178.1010 and a test kit or other device that measures the parts per million concentration of the solution shall be provided and used.

(d) Notwithstanding subsection (c)(1) hereof, a two-compartment sink may be used for manually washing and sanitizing utensils and equipment when an approved detergent-sanitizer is used and the two-compartment sink meet the requirements of Chapter 3701-21 of the Ohio Administrative Code and has been in use prior to May 1, 1983.

(e) Unless used immediately after sanitizing, all equipment and utensils shall be air dried. Towel drying shall not be permitted.

(f) Food establishments that do not have facilities for proper cleaning and sanitizing of utensils and equipment shall not prepare or package food or dispense unpackaged food other than raw fruits and raw vegetables.

(g) Equipment and Utensil Handling and Storage. Cleaned and sanitized equipment and utensils shall be handled in such a manner that they will be protected from contamination.

- (1) Cleaned and sanitized equipment and utensils shall be stored at least six inches (152 mm) above the floor in a clean, dry location in a way that protects them from splash, dust and other means of contamination. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed or unprotected sewer lines, or water lines that are leaking or on which condensation has accumulated.

- (2) Utensils shall be air dried before being stored or shall be stored in self-draining positions.
- (3) Stored utensils shall be covered or inverted wherever practical.

(h) Single-Service Articles.

- (1) Single-service articles shall be stored in closed cartons or containers at least six inches (152 mm) above the floor or on easily movable dollies, skids, racks or open-ended pallets. Such storage shall protect the articles from contamination and shall not be located under exposed or unprotected sewer lines, or water lines that are leaking or on which condensation accumulates.
- (2) Single-service articles shall be handled in a manner which prevents contamination of surfaces that may come in contact with food.

(i) Prohibited Storage Areas. Food equipment, utensils or single-service articles shall not be stored in locker rooms, toilet rooms or their vestibules, garbage rooms or mechanical rooms.

(Ord. 89-20. Passed 1-10-89.)

1711.08 SANITARY FACILITIES AND CONTROLS.

(a) Water supply. A sufficient potable water supply shall be provided food establishments from a source constructed, maintained and operated in accordance with all applicable state, federal and local regulations.

(b) All potable water not provided a food establishment directly from an approved source by pipe shall be delivered in a bulk water transport system and shall be transferred to a closed water system. Both systems shall be constructed, maintained, and operated in accordance with all applicable state, federal and local regulations.

(c) Water, under pressure, at the required temperatures shall be provided to all fixtures and equipment that use water.

(d) Steam used in contact with food or food-contact surfaces shall be free from material or additives other than those specified in 21 CFR 173.310.

(e) Sewage. All sewage, including liquid waste, shall be disposed of by a sanitary sewage system or by a sewage disposal system constructed and maintained in accordance with state and local regulations. Nonwater carried sewage disposal facilities are prohibited, except as permitted by the Board of Health.

(Ord. 89-20. Passed 1-10-89.)

1711.09 PLUMBING.

(a) Installation. Plumbing shall be installed in food establishments in accordance with the Ohio Plumbing Code. There shall be no cross-connections between the potable water supply and any other containing:

- (1) Water of unknown or questionable quality; or
- (2) Contaminants or pollutants.

(b) Non-potable Water System.

- (1) A non-potable water system is permitted for air conditioning, equipment cooling and fire protection, and shall be installed in accordance with applicable state, federal and local regulations. Non-potable water shall not directly or indirectly contact food or equipment or utensils that contact food.
- (2) All piping from a non-potable water system shall be durably identified and readily distinguishable from the potable water supply.

(c) Backflow. The potable water supply to a food establishment shall be protected with a backflow prevention device in accordance with the requirement of the Ohio Plumbing Code. The backflow device shall be installed to protect the potable water supply against contamination from any backflow or back-siphonage within the establishment structure. All water faucets and fixtures shall be installed in such a manner as to provide an air gap of at least twice the diameter of the water supply inlet and the flood level rim of the fixture. No hose shall be attached to a faucet that is not equipped with a backflow prevention device.

(d) Grease Traps. All grease traps and interceptors shall be installed in accordance with the Ohio Plumbing Code and located in easily accessible places for maintenance and cleaning. Grease traps and interceptors shall be maintained by the Owner so as to be in continuous effective operation. The City may require an Owner to document the cleaning of grease traps and interceptors at specified intervals. An owner who fails to install, maintain or clean a grease trap or interceptor is subject to a Class A civil penalty as described in Section 1324.02 of these Codified Ordinances.

(e) Drains. Except for properly trapped open sinks, there shall be no direct connection between the sewerage system and any drains originating from equipment in which food, portable equipment or utensils are placed. When a warewashing machine is located within five feet of a trapped floor drain, the warewasher waste outlet may be connected directly to the inlet of a properly vented and trapped floor drain.

(f) Toilet Facilities. Toilet facilities shall be provided in accordance with Section 4101:2-28-08 of the Ohio Administrative Code (Article 28 of the Ohio Basic Building Code). Toilet rooms shall be provided each sex and all toilet rooms that open into food preparation, equipment and utensil washing, or storage areas shall be completely enclosed and shall have tight-fitting, self-closing doors, which shall be closed except during cleaning and maintenance. Toilet facilities shall be conveniently located and shall be accessible to employees at all times.

- (1) Toilets and urinals shall be designed and installed so as to be easily cleanable.
- (2) Lavatories shall be provided and installed in accordance with all applicable regulations and shall be located for convenient use by all employees in food packaging and/or preparation areas, and equipment and utensil washing areas. Lavatories shall be located in or immediately adjacent to toilet rooms or vestibules.
- (3) Each lavatory shall be provided with hot and cold potable running water.
- (4) A supply of hand-cleaning soap or detergent shall be available at each lavatory. Each lavatory shall be supplied with sanitary hand towels or a hand-drying device providing heated air which is conveniently located for employee use when using the lavatory.
- (5) Toilet facilities, including toilet fixtures and related vestibules, shall be kept clean and in good repair. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials. Toilet rooms provided women shall have at least one covered waste receptacle.

(g) Handwashing Facilities. Handwashing facilities shall be installed in accordance with all applicable regulations, and there shall be at least one

and not less than the number required by all applicable food protection regulations, and shall be conveniently located for employee use in food preparation and warewashing areas. Handwashing facilities shall be accessible to employees at all times. Sinks used for food preparation or warewashing shall not be used for washing of hands or other such uses.

- (1) Each handwashing facility shall be provided with hot and cold water tempered by means of a mixing valve or combination faucet. Any self-closing, slow-closing or metering faucet used shall be designed to provide a flow of water for at least fifteen seconds without having to be reactivated. Steam mixing valves are prohibited at handwashing facilities.
- (2) A supply of hand-cleaning soap or detergent shall be available at each handwashing facility. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each handwashing facility. Common towels are prohibited. At least one easily cleanable waste receptacle shall be conveniently located near each handwashing facility.
- (3) Handwashing facilities, soap or detergent dispensers, hand-drying devices and all related facilities shall be kept clean and in good repair.

(h) Garbage and Refuse. Garbage and refuse shall be held in durable, easily cleanable, insect-resistant, and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet strength paper bags may be used to line these containers. Such bags and durable plastic garbage and refuse containers may be used for storage inside the retail food store.

- (1) Containers used in food preparation and equipment and utensil washing areas shall be kept covered during nonworking hours and after they have been filled.
- (2) Containers stored outside the establishment, including dumpsters, compactors and compactor systems, shall be provided with tight-fitting lids, doors, or covers, and shall be kept covered when not in use. In containers designed with drains, drain plugs shall be in place at all times, except during cleaning.
- (3) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.
- (4) Soiled containers shall be cleaned as needed to prevent insect and rodent attraction. Each container shall be thoroughly cleaned on the inside and on the outside in a manner that does not contaminate food, food products, equipment, utensils or food preparation areas. Suitable facilities, detergent, and hot water or steam, shall be provided and used for cleaning containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

(i) Garbage and Refuse Storage. Garbage and refuse on the premises of a food establishment shall be stored in a manner to make them inaccessible to insects and rodents. Outside storage of non-rodent-resistant plastic containers, unprotected plastic bags, wet strength paper bags or baled units which contain garbage or refuse is prohibited. Cardboard or other packing materials not containing garbage or food wastes need not be stored in covered containers, but must be stored in such a manner as to not create a nuisance.

- (1) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, non-absorbent, washable materials, shall be kept clean, shall be insect and rodent proof, and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency.
- (2) Outside storage areas or enclosures, shall be kept clean and shall be large enough to store all the garbage and refuse containers necessitated by disposal pick-up frequency. Garbage and refuse containers, dumpsters and compactor systems located outside, shall be stored on or above a smooth surface of nonabsorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

(j) Garbage and Refuse Disposal. Garbage and refuse shall be stored and disposed of as often as is necessary to prevent the development of objectionable odors and the attraction of insects and rodents.

(k) Insect and Rodent Control. Effective measures shall be utilized to prevent the entry, presence, and propagation of rodents, flies, cockroaches or other insects. The premises shall be maintained in a state of repair that prevents the harborage or feeding of insects or rodents.

(l) Rodent Protection. All openings to the outside shall be protected against the entry of rodents. Outside openings shall be protected against the entry of insects by tight-fitting, self-closing doors; closed windows, screening; controlled air currents; or other means. Screen doors shall be self-closing, and screens for windows, skylights, intake and exhaust air ducts, and other openings to the outside shall be tight-fitting and free of breaks. Screening materials shall not be less than sixteen mesh to the inch.

(Ord. 19-127. Passed 5-7-19.)

1711.10 FOOD.

Food shall be wholesome, in sound condition and safe for human consumption. Food shall be obtained from sources that comply with all applicable laws relating to food safety. Food prepared in a home shall not be used or offered for sale.

- (a) Milk. Fluid milk and fluid milk products used or offered for sale shall comply with Grade A standards as established by law. Dry milk and milk products used or offered for sale shall be made from pasteurized milk and milk products.
- (b) Shellfish. Fresh and frozen shucked shellfish shall be packed in non-returnable containers and identified with the name and address of the shucker-packer and the state certification number issued according to law. Shucked shellfish should be kept in their original container until used or sold. Each container of unshucked shellfish shall be identified by an attached identifying tag, which shall be retained for a period of ninety days, that states the name and address of the original shellfish processor, the kind and quantity of shellfish and the certification number issued by the state or foreign shellfish control agency, where applicable.
- (c) Eggs. Only eggs, in clean shells, meeting applicable grade standards or pasteurized liquid, frozen or dry eggs, or pasteurized dry egg products shall be used or offered for sale.
- (d) Ice. Only ice manufactured from potable water and handled in a sanitary manner shall be used or offered for sale. Ice offered for sale shall be packaged.
- (e) Food Protection. Food shall be protected at all times from cross-contamination between foods and potential contamination by insects, insecticides, rodents, rodenticides, probe-type pricing or probe-type identification tags, unclean equipment and utensils, unnecessary handling, flooding, draining and overhead leakage or condensation, or other agents of public health significance. The temperature of potentially hazardous foods shall be 45° F. (7° C) or below or 140° F. (60° C) or above at all times, except as otherwise provided in this section. Hermetically sealed packages shall be handled so as to maintain product and container integrity. Food items that are spoiled, outdated or in damaged containers that may affect the product and those food items that have been returned to, or are being detained by, the food establishment because of spoilage, container damage or other public health considerations, shall be segregated and held in designated areas pending proper disposition unless disposed of under the supervision of the City Health Department or the Ohio Department of Agriculture.
- (f) Food Storage. Food packaged in an immediate closed container, once the container is opened in the food establishment prior to use or sale,

shall be kept covered and protected from contamination. Food, whether raw or prepared, if removed from the immediate closed container in which it was originally packaged prior to use or offered for sale, shall be stored in a clean, covered container, except during necessary periods of preparation. Whole and unprocessed fresh raw vegetables and fresh raw fruits shall be exempted from this requirement. Container covers shall be impervious and nonabsorbent. During periods of storage, subprimal cuts of meat shall be covered with single-service wrapping material. Primal cuts, quarters or sides of meat, or processed meats such as country hams, slab bacon and smoked or cured sausages, may be hung uncovered on clean, sanitized hooks or placed on clean, sanitized metal racks in such a manner as to preclude contamination of any food products in storage.

- (1) Containers of food shall be stored a minimum of six inches (152 mm) above the floor or stored on dollies, skids, racks or open-ended pallets, provided such equipment is easily movable, either by hand or with the use of pallet-moving equipment that is on the premises and used. Such storage areas shall be kept clean. Cased food packaged in cans, glass or other waterproof containers need not be elevated when the case of food is not exposed to floor moisture and the storage area is kept clean.
- (2) Food and containers of food shall not be stored under exposed or unprotected sewer lines, or water lines that are leaking or on which condensed water accumulates.
- (3) Packaged foods shall not be stored in contact with water or undrained ice.
- (4) Food ingredients such as flour, sugar, salt, baking power, cooking oil or vinegar, that is not stored in the original container and is not readily identifiable on sight, shall be stored in containers and identified by their common name.
- (5) Toilet rooms and their vestibules, and garbage or mechanical rooms shall not be used for storage of food or food products.

(g) Refrigerated Storage.

- (1) Refrigeration units or effectively insulated units shall be provided in sufficient number and capacity to assure the proper refrigerated storage of potentially hazardous foods at their required temperatures. Each mechanically refrigerated unit storing potentially hazardous food shall be equipped with numerically scaled indicating thermometer, accurate to $\pm 2^{\circ}\text{F}$ ($\pm 1^{\circ}\text{C}$). The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the air temperature in the unit. The thermometer scale shall be located to be easily readable. Recording thermometers, accurate to $\pm 2^{\circ}\text{F}$ ($\pm 1^{\circ}\text{C}$) may be used in lieu of indicating thermometers.
- (2) Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to an internal temperature of 45°F (7°C) or below. Potentially hazardous food of large volume or prepared in large quantities shall be rapidly cooled utilizing such methods as shallow pans, agitation, quick chilling, or water circulation external to the food container so the cooling period shall not exceed four hours. Potentially hazardous food to be transported shall be pre-chilled and held at a temperature of 45°F (7°C) or below unless maintained in accordance with hot storage requirements of this section.
- (3) Potentially hazardous frozen foods shall be kept frozen and stored at air temperature of 0°F (-18°C) or below except for defrost cycles and brief periods of loading or unloading.
- (4) Ice used as a cooling medium for foods or food storage shall not be used or sold for human consumption.

(h) Hot Storage.

- (1) Hot food storage units shall be provided in such number and of such capacity to assure the maintenance of potentially hazardous food at required temperature during storage. Each hot food storage unit storing potentially hazardous food shall be equipped with a numerically scaled indicating thermometer, accurate to $\pm 2^{\circ}\text{F}$ ($\pm 1^{\circ}\text{C}$). The sensing element shall be located to measure the air temperature in the unit at a location that is representative of the temperature in the unit. The thermometer scale shall be located to be easily readable. Recording thermometers accurate to $\pm 2^{\circ}\text{F}$ ($\pm 1^{\circ}\text{C}$) may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as heat lamps, calrod units or insulated food transport carrier, a food product thermometer shall be available to check internal food temperatures.
- (2) The internal temperature of potentially hazardous food requiring hot storage shall be 140°F (60°C) or above, except during necessary periods of preparation. Potentially hazardous food to be transported shall be held at a temperature of 140°F (60°C) or above unless maintained in accordance with the refrigerated storage requirements of this section.

(i) Food Preparation.

- (1) All food shall be prepared with a minimum of manual contact. Food shall be prepared on food-contact surfaces and with utensils which are clean and have been sanitized.
- (2) With each change in the processing of raw beef, raw pork, raw poultry or raw seafood, or a change in processing from raw to ready-to-eat foods, each new operation shall begin with clean food-contact surfaces and utensils which have been sanitized. Salads and other ready-to-eat foods should be prepared in separate rooms or in areas that are separated by a barrier or open space from areas used for processing potentially hazardous raw products.
- (3) Potentially hazardous foods are in a form to be consumed without further cooking such as salads, sandwiches and filled pastry products should be prepared from chilled products.

7(j) Raw Fruits and Raw Vegetables. Raw fruits and raw vegetables that will be cut or combined with other ingredients or will be otherwise processed into food products by the food establishment shall be thoroughly cleaned with potable water before being used.

(k) Preparing Potentially Hazardous Foods. Potentially hazardous foods being processed within the food establishment by cooking shall be cooked to heat all parts of the food to a temperature of at least 140°F (60°C) except that:

- (1) Poultry, poultry stuffings, stuffed meats and stuffings containing meat, shall be cooked to all parts of the food to at least 165°F (74°C) with no interruption of the cooking process.
- (2) Pork and pork products shall be cooked to heat all parts of the food to at least 150°F (66°C), or, if cooked in a microwave oven, to at least 170°F (77°C).
- (3) When beef roasts under ten pounds in weight are cooked in a still dry heat oven, the oven shall be preheated to and held at an air temperature of at least 350°F (177°C) throughout the process. When cooked in a convection oven, the oven shall be pre-heated to and held at an air temperature of at least 325°F (163°C) throughout the process. When beef roasts of ten pounds or over in weight are cooked in a dry heat oven, the oven shall be pre-heated to and held at an air temperature of at least 250°F (122°C) throughout the process.
- (4) Beef roasts, if cooked in a microwave oven, shall be cooked to an internal temperature of at least 145°F (63°C).
- (l) Bakery Product Fillings. Custards, cream fillings, and similar products, including synthetic fillings, shall meet the temperature requirements in subsection (g) hereof following preparation and be maintained at that temperature during storage, transportation, and display. Products with synthetic fillings may be excluded from this requirement if:

- (1) The food, including the interface between the bakery product and the filling has a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less under standard conditions; or
- (2) It is handled in such a manner as to preclude contamination with and the growth of pathogenic microorganisms after heat processing; or
- (3) Other scientific evidence is on file with the City Health Department demonstrating that the specific product will not support the growth of pathogenic microorganisms.
- (m) Reheating Food. Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to an internal temperature of 165° F (74° C) or higher before being placed in hot food storage holding units. Food warmers and other hot food holding units shall not be used for the reheating of potentially hazardous foods.
- (n) Food Product Thermometers. Metal stem-type numerically scaled indicating thermometers, accurate to $\pm 2^\circ$ F ($\pm 1^\circ$ C) shall be provided and used to assure attainment and maintenance of proper temperatures during preparation of all potentially hazardous foods.
- (o) Thawing Potentially Hazardous Foods. Potentially hazardous foods shall be thawed:
 - (1) In a refrigerated unit at a temperature not to exceed 45° F (7° C); or
 - (2) Under potable running water at a temperature of 170° F (21° C) or below, with sufficient water velocity to agitate and float off loose food particles into the overflow and for a period not to exceed that necessary to thaw the food; or
 - (3) In a microwave oven only when the food will be immediately transferred to conventional cooking units as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in a microwave oven; or
 - (4) As part of the conventional cooking process.
- (p) Food Display. Potentially hazardous foods shall be held at an internal temperature of 45° F (7° C) or below or at an internal temperature of 140° F (60° C) or higher during display, except that rare roast beef offered for sale hot shall be held at a temperature of at least 130° F (55° C).
- (q) Frozen Foods. Food intended for sale in a frozen state shall be displayed at an air temperature of 0° F (-18° C) or below, except for defrost cycles and brief periods of loading or unloading. Frozen foods should be displayed below or behind product food lines according to cabinet manufacturer's specification.
- (r) Food Products. Food on display, other than whole, unprocessed raw fruits and unprocessed raw vegetables, shall be protected from contamination by being packaged, by display cases, by covered containers for self-service, or by similar protective equipment. All food shall be displayed above the floor in a manner that protects the food from contamination. Hot and cold food units shall be provided to assure the maintenance of potentially hazardous food at the required temperature during display. Potentially hazardous food shall not be provided for consumer self-service.
- (s) Food Dispensing Utensils. Unnecessary manual contact with food shall be avoided and suitable dispensing utensils and single-service articles shall be provided and used by the food establishment employees. Consumers who serve themselves bulk food shall be provided suitable dispensing utensils. Dispensing utensils shall be:
 - (1) Stored in the food with the dispensing utensil handle extended out of the food;
 - (2) Stored clean and dry in a place free from contamination;
 - (3) Stored in potable running water with sufficient water velocity to agitate and float-off loose particles into the overflow.
- (t) Food Promotion and Demonstration Samples. When food sample demonstrations and food promotions are carried out in food establishments, the person in charge shall ensure that such promotional activities comply with applicable sanitation provisions of this chapter.
- (u) Food Transport By Food Establishment. Food, other than hanging primal cuts, quarters or sides of meat, and raw fruits and raw vegetables, shall be protected from contamination by use of packaging or covered containers while being transported. All food being transported shall meet the applicable requirements of this chapter relating to food protection and food storage. Food packaged in immediate closed containers do not need to be overwrapped or covered if immediate closed containers have not been opened, torn or broken.

(Ord. 89-20. Passed 1-10-89.)

1711.99 PENALTY.

- (a) Whoever violates any provision of this chapter or any rule, regulation or order promulgated thereunder shall be guilty of a minor misdemeanor.
 - (b) Any violation of this chapter shall constitute a separate offense on each successive day such violation continues.
- (Ord. 89-20. Passed 1-10-89.)

CHAPTER 1715

Meat and Meat Products

- 1715.01 Sale permit required.**
- 1715.02 Sanitation requirements for vending meat.**
- 1715.03 Protection of meat used for food.**
- 1715.04 Sanitation requirements for premises.**
- 1715.05 Refrigeration requirements.**
- 1715.06 Personal cleanliness; sterilization; testing methods.**
- 1715.07 Food unfit for human consumption prohibited.**
- 1715.08 Food from animals which died diseased or by accident.**
- 1715.09 Inspection of property where food is sold.**
- 1715.10 Food offered for sale.**
- 1715.11 Condemnation and destruction of unwholesome food.**
- 1715.12 Harmful preservatives and adulterants.**
- 1715.13 Transporting bound animals prohibited.**
- 1715.14 Stuffing poultry.**
- 1715.15 Housing and sale of poultry.**
- 1715.16 Additions or remodeling buildings.**
- 1715.99 Penalty.**

CROSS REFERENCES

Food processing places to be kept sanitary - see Ohio R.C. 913.41 et seq.
Horse meat - see Ohio R.C. Ch. 919
Marketing standards - see Ohio R.C. Ch. 925
State inspections - see Ohio R.C. 925.11, 3715.61, 3715.70
Animal diseases - see Ohio R.C. Ch. 941
Disposal of dead animals - see Ohio R.C. Ch. 953, 3767.12
Selling diseased animals - see Ohio R.C. 959.05 et seq.
Board of Health power to inspect - see Ohio R.C. 3707.33, 3707.36, 3709.22
Board may require permit to vend milk or meat; fees - see Ohio R.C. 3707.34
Adulterated, misbranded and unsafe food - see Ohio R.C. 3715.52, 3715.59 et seq.
Meat standards - see OAC 901:3-31

1715.01 SALE PERMIT REQUIRED.

No person shall vend meat, meat products, meat-food products, fish, game or poultry, wholesale or retail, in the City unless he first obtains a vending permit from the Department of Public Health.
(Ord. 70-30. Passed 2-24-70.)

1715.02 SANITATION REQUIREMENTS FOR VENDING MEAT.

All vending of meats or meat-food products shall be done in a strictly sanitary manner; the carriers shall be clean and the handling of meats shall not be permitted by the vendor.
(Ord. 3057. Passed 6-23-30.)

1715.03 PROTECTION OF MEAT USED FOR FOOD.

The body of any animal or fowl, or part thereof, which is to be used for food, shall not be carted or carried through the streets or avenues of the City unless it is covered so as to protect it from dust and dirt. No meat, poultry, game or fish shall be hung or exposed for sale in any street or outside of any shop or store, or in the open windows and doorways thereof, in the City. At all times meat, poultry, game or fish on the market shall be protected from flies, dust and dirt by a glass cover.

No person shall display any poultry, game or meat of any kind for sale, unless it is protected by glass or other substantial material necessary and to the proper heights, also extending over the counter at least ten inches, so as to keep the general public from handling the different named articles of food before they are sold to them.
(Ord. 3057. Passed 6-23-30.)

1715.04 SANITATION REQUIREMENTS FOR PREMISES.

Each butcher or other person occupying or using any room or building where any cattle are slaughtered, dressed for market or stored shall cause such room or building, and all appurtenances thereto, to be thoroughly cleansed, and all offal, blood, fat, garbage, refuse and unwholesome or offensive matter to be removed therefrom once every twenty-four hours after the use thereof for any purpose herein mentioned. Such room or building shall be well drained into a sewer or other place acceptable to the inspector.

All butchers, meat, poultry and fish dealers shall keep their stores, salesrooms, market stalls, slaughterhouses and all appurtenances thereunto in a clean and sanitary condition and provide proper drainage, light and ventilation for the same. All meat, meat-food products, poultry, game and fish intended for human food shall be protected from flies and other insects. Rats, mice and other vermin shall be excluded.

For fish handling, floors shall be of impervious material and all work tables shall have a cover of metal or other impervious material.

No basement of any building shall be used for keeping, holding, slaughtering or dressing any poultry, rabbits, fish, game or other livestock.
(Ord. 3057. Passed 6-23-30.)

1715.05 REFRIGERATION REQUIREMENTS.

All meat, game or poultry offered for sale in the City shall be kept under refrigeration, or removed to a refrigerator at the close of each day.

No meat dealer or butcher shall keep meat, meat products, meat-food products, fish, game or poultry in any refrigerator or ice box unless the same shall be lined with some impervious material or other proper substance so as to be watertight; nor unless the same is provided with drainage as prescribed in the Building Code of the City, and the same shall be kept clean and in a sanitary condition.
(Ord. 3057. Passed 6-23-30.)

1715.06 PERSONAL CLEANLINESS; STERILIZATION; TESTING METHODS.

All persons engaged in the handling of meat, meat-food products, fish, game or poultry shall maintain their bodies and clothing in a cleanly manner. Knife scabbards shall be kept clean.

Butchers and others who dress or handle diseased carcasses or parts shall, before handling or dressing other carcasses or parts, cleanse their hands of grease, immerse them in a prescribed disinfectant and rinse them in clean water. Implements used in dressing diseased carcasses shall be thoroughly cleansed in boiling water or in a prescribed disinfectant, followed by rinsing in clean water. The employees of the establishment who handle any meat or product shall keep their hands clean, and in all cases, after visiting the toilet rooms or urinals, shall wash their hands before handling any meat or product or implements used in the preparation of the same.

Such practices as spitting on whetstones, placing skewers or knives in the mouth, inflating lungs or casings or testing with air from the mouth such receptacles as tierces, kegs, casks and the like, containing or intended as containers of any meat or products, are prohibited. Only mechanical means may be used for testing. Care shall be taken to prevent the contamination of meats and products with perspiration.
(Ord. 3057. Passed 6-23-30.)

1715.07 FOOD UNFIT FOR HUMAN CONSUMPTION PROHIBITED.

No person shall bring into the City or sell, expose or offer for sale in any market, public or private, any cattle, sheep, swine or lamb, or any meat, fish, game or poultry that is diseased, unsound, unwholesome or that for any other reason is unfit for human food.
(Ord. 3057. Passed 6-23-30.)

1715.08 FOOD FROM ANIMALS WHICH DIED DISEASED OR BY ACCIDENT.

No person shall sell or offer for sale for human food or keep in any market, public or private, in the City, any cased, blown, raised, stuffed, nauseous, putrid, impure, unhealthy or unwholesome meats, meat products, meat-food products, fish, game or poultry or the meat of any animal that may have died of any disease or accident.
(Ord. 3057. Passed 6-23-30.)

1715.09 INSPECTION OF PROPERTY WHERE FOOD IS SOLD.

No person owning or having control of any shop, stall, ice chest or other place where meat, meat products, meat-food products, fish, game or poultry is kept for sale shall refuse permission to an inspector to enter and inspect the same and if necessary, condemn and order the same to be removed immediately.
(Ord. 3057. Passed 6-23-30.)

1715.10 FOOD OFFERED FOR SALE.

The fact that any cattle, sheep, swine or lamb are in a stockyard, slaughterhouse, pen or crate shall be considered sufficient evidence that the same are being offered for sale; and the fact that the carcasses of any cattle, sheep, swine or lamb or any part thereof, are found in any public or private marketplace, dressed and prepared as such meat usually is for market, shall be deemed as sufficient evidence that the same are on sale. No animal or part thereof, or any fish, game or poultry that has been examined and condemned by an inspector shall be held, sold or offered for human food in the City.
(Ord. 3057. Passed 6-23-30.)

1715.11 CONDEMNATION AND DESTRUCTION OF UNWHOLESOME FOOD.

Upon any meat, meat products, meat-food products, fish, game or poultry being found by an inspector in a condition which renders them in his opinion, unwholesome or unfit for use as human food, he is empowered, authorized and directed to immediately condemn the same and cause them to be destroyed or rendered unfit for human food, and to report his action in the prescribed manner to the Chief Dairy and Food Inspector.
(Ord. 3057. Passed 6-23-60.)

1715.12 HARMFUL PRESERVATIVES AND ADULTERANTS.

No person shall sell or offer for sale any meat, meat products, meat-food products, fish, game or poultry containing any harmful preservatives such as boric acid, borates, aniline dyes, sulphurs, sulfites, benzoates, formaldehydes, permanganate of potash or other harmful ingredients; nor shall any meat products, meat, meat-food products, fish, game or poultry be sold or offered for sale which contains any adulterant used to change its color or appearance for the purpose of disguising its quality or to make it appear of better quality than it really is, except only such preservatives or coloring as are permitted by the Federal meat inspection regulations.
(Ord. 3057. Passed 6-23-30.)

1715.13 TRANSPORTING BOUND ANIMALS PROHIBITED.

No person shall transport any cattle, swine, sheep, lambs, calves or poultry while bound or tied by the legs or bound down in any manner, in any vehicle in the City. Such animals shall be allowed to freely stand in any vehicle while transported and being therein.
(Ord. 3057. Passed 6-23-30.)

1715.14 STUFFING POULTRY.

Poultry offered for sale, alive or dressed, shall not be stuffed with food, water or other material to such a degree that unusual weight is added. This practice shall be construed as a "fraudulent practice" and shall be prosecuted under this chapter.
(Ord. 3057. Passed 6-23-30.)

1715.15 HOUSING AND SALE OF POULTRY.

All establishments, either wholesale or retail, engaged in the handling of live poultry shall provide clean, well ventilated quarters for housing the same. No person shall sell or offer for sale or hold in his possession sick, injured, emaciated or otherwise unmerchantable or unwholesome poultry for sale.
(Ord. 3057. Passed 6-23-30.)

1715.16 ADDITIONS OR REMODELING BUILDINGS.

All plans for new additions, remodeling or new buildings where meat, meat products, meat-food products, fish, game or poultry are handled or are to be handled or processed and sold in the City shall first be submitted to the Department of Public Health for its approval.
(Ord. 3057. Passed 6-23-30.)

1715.99 PENALTY.

Whoever violates any provision of this chapter, or fails to conform to any provision thereof or fails to obey any officer charged with the enforcement of this chapter is guilty of a misdemeanor of the second degree. Each day on which such person continues to violate any provision of this chapter after having been notified of such violation shall constitute a separate offense.

CHAPTER 1717

Food Service Operations

1717.01 Laws adopted; identity and purpose.

1717.02 Inspection and sale copies.

1717.03 Annual license fee.

1717.04 Enforcement and right of entry.

1717.05 Sanitation requirements.

1717.99 Penalty.

CROSS REFERENCES

Food service operations to be kept sanitary - see Ohio R.C. 913.41 et seq.
Annual inspection by Board of Health - see Ohio R.C. 3709.22, 3732.05 et seq.
Adulterated, misbranded and unsafe food - see Ohio R.C. 3715.52, 3715.59 et seq.
Serving imitation butter or cheese - see Ohio R.C. 3717.15
Required marking of oleomargarine serving - see Ohio R.C. 3717.19
Selling unwholesome provisions - see Ohio R.C. 3715.21
Food services operation - see Ohio R.C. Ch. 3732; OAC Ch. 3701-21
Packaging and labeling - see OAC Ch. 901:6-3

1717.01 LAWS ADOPTED; IDENTITY AND PURPOSE.

Pursuant to the provisions of Ohio R.C. 731.231, Chapter 3701-21, Food Service Operations, of the Ohio Administrative Code relative to food service operations and the regulations of the Ohio Public Health Council issued pursuant to Ohio R.C. 3732.02 are hereby adopted by the City, and incorporated by reference as if fully set out herein. The purpose of the adopted Food Service Operations Law and Regulations is to provide regulations of general application throughout the City governing food service operations and to provide uniform sanitation standards and approval of plans, equipment and supplies to that portion of any premises utilized for the food service operation.

1717.02 INSPECTION AND SALE COPIES.

A complete copy of the Food Service Operations Law and Regulations, as adopted herein, is on file with the City Clerk and the Department of Health for inspection by the public and a complete copy is also on file in the County Law Library. The Department of Health has copies available for distribution to the public at cost.

1717.03 ANNUAL LICENSE FEE.

An annual license fee shall be levied upon each food service operation in the City in accordance with Ohio R.C. 3732.04.

1717.04 ENFORCEMENT AND RIGHT OF ENTRY.

The Department of Health shall enforce the Food Service Operations Law and Regulations, as adopted herein, and authorized employees in the performance of official duties shall have authority, upon proper identification, to enter any building, structure or premises at any reasonable hour to make inspections and ascertain compliance with such law and regulations.

1717.05 SANITATION REQUIREMENTS.

No person owning, operating or participating in the operation of any restaurant, hotel or other food service operation, while pursuing such occupation or employment, shall, either personally or by agent or servant, engage in the handling of food, drink or utensils used in connection therewith without observing and complying with the following requirements.

- (a) All wearing apparel shall be maintained in a clean and sanitary condition.
- (b) Hair shall be kept controlled and in order, by means of a cap, net, band or other device or material, so as to prevent the same from falling into or upon any such food, drink, utensils or equipment.

(Ord. 72-1. Passed 1-4-72.)

1717.99 PENALTY.

Whoever violates any provision of this chapter or the Food Service Operations Law and Regulations as adopted herein, or any lawful order of an authorized employee of the Department of Health issued pursuant thereto, or whoever obstructs or interferes with the execution of such order or willfully or illegally omits to obey such order, is guilty of a minor misdemeanor. Any such violation shall constitute a separate offense on each successive day continued.

CHAPTER 1721

Tobacco Retailer Licensing and Sales

Note: Chapter 1721 was enacted by Ordinance No. 21-323 passed October 26, 2021 and became effective November 9, 2021.

- 1721.01 Definitions.**
- 1721.02 License Application.**
- 1721.03 Sign Distribution and Posting.**
- 1721.04 Illegal Distribution.**
- 1721.05 License Application Denial, Suspension, and Revocation.**
- 1721.06 Enforcement and Civil Penalty.**
- 1721.07 Appeals.**
- 1721.08 Appeal Hearings and Decisions.**

1721.01 DEFINITIONS.

As used in this Chapter:

- (a) "District" means the Clark County Combined Health District and its authorized employees, agents, or representatives.
- (b) "Board" means the Board of Health for Clark County, Ohio.
- (c) "Electronic smoking device" means any device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device 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. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.
- (d) "Applicant" means a person, corporation, Limited Liability Company ("LLC"), association, partnership, or other legal entity that applies for, or has applied for, a retail tobacco and paraphernalia sales license.
- (e) "Licensee" means a person, corporation, LLC, association, partnership, or other legal entity that applied for and was issued a retail tobacco and paraphernalia sales license.

- (f) "Paraphernalia" means any product that is used to assist in chewing, smoking, absorbing, dissolving, inhaling, or any other consumption of nicotine to include, but not limited to, pipes and rolling papers. This does not include any nicotine cessation or replacement therapy products including, but not limited to, gum, patches, and lozenges.
- (g) "Retailer" means a person, corporation, LLC, association, partnership, or other legal entity that engages in selling, offering for sale, giving, or otherwise distributing tobacco products and/or paraphernalia.
- (h) "Retail Paraphernalia Sales" means the act of giving, selling, offering for sale, or otherwise distributing paraphernalia in a retail setting including, but not limited to, gas stations, convenience stores, carry-out markets, groceries, supermarkets, retail warehouse clubs, drug stores, vape shops, and hookah bars.
- (i) "Retail Tobacco Sales" means the act of giving, selling, offering for sale, or otherwise distributing tobacco products in a retail setting including, but not limited to, gas stations, convenience stores, carry-out markets, groceries, supermarkets, retail warehouse clubs, drug stores, vape shops, and hookah bars.
- (j) "Tobacco Product" means any product that is made from or derived from tobacco and 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, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The term also includes, but is not limited to, an electronic smoking device and any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, or liquids used in electronic smoking devices, whether or not they contain nicotine. Tobacco product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.
- (k) "Underage Buy Attempt" means a person, authorized by the District, who, while under the age of twenty-one (21), requests tobacco products or paraphernalia from a retailer or licensee for purchase or otherwise.
- (l) "Agent" means any person who is completing the transaction of selling, giving, or otherwise distributing tobacco products and/or paraphernalia.
- (m) "Person" includes individual persons as well as corporations, LLCs, associations, partnerships, retailers, and other legal entities regardless if referred to in the singular or plural.
- (n) "Retail Tobacco and Paraphernalia Sales License" or "License" is a written certificate or permit issued by the Board and granting permission to the licensee to engage in Retail Tobacco Sales and Retail Paraphernalia Sales, and that without such valid license is illegal to engage in.
- (o) "Vending Machine" means any mechanical or electronic device designed to do both of the following:
 - (1) Receive a coin, bill, token, or credit card including, but not limited to, a card, code, device, or other means of access to a customer's account, made for that purpose.
 - (2) In return for the insertion or deposit of a coin, bill, token, or credit card, automatically dispense property, provide a service, or grant a license.
- (p) "Referee or examiner" is a person appointed by the Board to hear appeals in accordance with this Chapter and who is admitted to the practice of law in the State of Ohio, is in good standing with the Supreme Court of Ohio, and is possessed of such additional qualifications as the Board may require.

1721.02 LICENSE APPLICATION.

(a) All retailers of tobacco products and/or paraphernalia shall apply to the District for a valid retail tobacco and paraphernalia sales license. For the purposes of this Chapter, retailers shall include any person engaging in, or intending to engage in, retail tobacco sales or retail paraphernalia sales. Retail tobacco and paraphernalia sales licenses shall be issued by the District annually. A separate license shall be required for each location where tobacco sales or retail paraphernalia sales are to be conducted. All licenses are non-transferable.

(b) Any retailer applying for a retail tobacco and paraphernalia sales license shall submit a current and valid vendor's license as required by the Ohio Department of Taxation to the District. Any retailer who distributes, stores, or sells cigarettes shall submit a current and valid Retail Cigarette Dealer's License as required by Ohio Revised Code Chapter 5743 to the District prior to approval for a retail tobacco and paraphernalia sales license.

(c) The annual retail tobacco and paraphernalia sales license fee shall be \$150.00. Unless the license is suspended or revoked, the license shall be valid beginning on the first day of January through the last day of December of that calendar year. All retailers shall apply for and receive from the District a retail tobacco and paraphernalia sales license prior to engaging in Retail Tobacco Sales or Retail Paraphernalia Sales. A penalty of twenty-five percent (25%) of the retail tobacco and paraphernalia sales license fee shall be assessed by the District for a license fee payment that is not received by the District or postmarked by the first day of January. Any penalties assessed must be paid in full prior to the issuance by the District of a valid retail tobacco and paraphernalia sales license.

(d) Applicants for a license for a new retail tobacco and/or paraphernalia sales location that apply for the license on or after the first day of July, shall pay a fee of \$75.00 for the license. Unless the license is suspended or revoked, the license is valid for the remainder of that calendar year for that location only.

(e) License fees are due in full at the time of application and are not refundable.

1721.03 SIGN DISTRIBUTION AND POSTING.

(a) The District shall make signs available to all retail tobacco and paraphernalia sales licensees. Signs shall be provided by the District at the time of license approval upon request of the licensee.

(b) The signs are issued by the Ohio Department of Health and state substantially the following:

TOBACCO AGE OF SALE ONLY 21+ It's the LAW.
TOBACCO PRODUCTS, ALTERNATIVE NICOTINE
PRODUCTS, E-CIGARETTES, AND VAPE SALES
AGE 21 AND OVER In accordance with ORC 2927.02.

(c) The retailers shall post the signs provided by the District at points of transaction, which may include, but are not limited to, cash registers, sales counters, on any display cases of tobacco products and paraphernalia. The signs shall be prominently displayed and not obscured.

1721.04 ILLEGAL DISTRIBUTION.

(a) No retailer shall do any the following:

(1) Give, sell, offer for sale, or otherwise distribute cigarettes, tobacco products, or paraphernalia to any person under twenty-one (21) years of age.

(2) Give, sell, offer for sale, or otherwise distribute cigarettes, tobacco products, or paraphernalia without viewing proof of age demonstrating that the recipient or purchaser is at least twenty-one (21) years of age. "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 Sections 4507.50 to 4507.52 of the Ohio Revised Code demonstrating that the recipient or purchaser is at least twenty-one (21) years of age.

(b) No person shall give, sell or offer for sale, cigarettes, tobacco products, or paraphernalia by or from a vending machine to a person under twenty-one (21) years of age.

1721.05 LICENSE APPLICATION DENIAL, SUSPENSION, AND REVOCATION.

(a) The District may deny applications for retail tobacco and paraphernalia sales licenses, and may recommend to the Board that such licenses be suspended or revoked for any of the following:

(1) The applicant or licensee is giving, selling, or offering to sell cigarettes, tobacco products, or paraphernalia by or from a vending machine to any person under the age of twenty-one (21).

(2) Observation by the District or its authorized agent that the applicant or licensee, or any agent, employee, or representative of said applicant or licensee, has violated any provision of this Chapter.

(3) Failure by the retailer to post signs as required by 1721.03 of this Chapter.

(4) The applicant or licensee, or its agent, employee or representative, has a conviction for, or is convicted of, a violation of Section 2927.02 of the Ohio Revised Code. In the case of licensees, convictions of the licensee or its agent, employee or representative for a violation of Section 2927.02 of the Ohio Revised Code is a sufficient basis for denying the renewal of a license, for suspending a license, or for revoking a license, if the date of conviction is within two (2) years of the issuance of the current

retail tobacco and paraphernalia sales license.

- (5) An order by a court of competent jurisdiction that a retail tobacco sales location and/or retail paraphernalia sales location owned and/or operated by the applicant or licensee constitutes a public nuisance.
 - (6) Information contained in the application for a retail tobacco and paraphernalia sales license is determined by the Department to be false, misleading or inaccurate.
 - (7) The applicant, licensee or retailer owes fees, penalties or fines pursuant to this Chapter, or for a conviction of Ohio Revised Code Section 2927.02 at any time.
- (b) Applicants for a retail tobacco and paraphernalia sales license that are denied a license shall be notified in writing by the District. The denial of an application for a license shall state the reason(s) for such denial with reference to the applicable section(s) of this Chapter. Appeals of denials for a retail tobacco and paraphernalia sales license may be made in accordance with Section 1721.07 of this Chapter.
- (c) Retail tobacco and paraphernalia sales licensees that are recommended to the Board for suspension or revocation of their license shall be notified in writing by the District. The recommendation for suspension or revocation of a license shall state the reason(s) for such recommendation with reference to the applicable section(s) of this Chapter. Appeals of suspensions or revocations of retail tobacco and paraphernalia sales licenses may be made in accordance with Section 1721.07 of this Chapter.

1721.06 ENFORCEMENT AND CIVIL PENALTY.

- (a) The District shall conduct an inspection, which shall include an underage buy attempt, at least once every calendar year for all retail tobacco and paraphernalia sales licenses.
- (b) The District shall conduct an inspection, which shall include an underage buy attempt, at least once every calendar year for all retail tobacco and paraphernalia sales licenses.
- (1) For a first violation, \$500.00.
 - (2) Second and additional violations within two years of the first violation, \$1,000.00 per violation.
 - (3) Violations of this Chapter which occur more than two years after a prior violation shall not be considered a second or additional violation of this Chapter if there has been no violation during the intervening time period.
 - (4) Giving, selling, offering for sale, or otherwise distributing cigarettes or other tobacco products or paraphernalia without a license, \$1,000.00 per occurrence.
 - (5) Licensees have the right to appeal civil penalties in accordance with Section 1721.07 of this Chapter.
- (c) The City of Springfield Division of Police retains authority to enforce Sections 2927.02 and 2927.021 of the Ohio Revised Code.

1721.07 APPEALS.

- (a) Appeals of penalties, and denials, suspensions or revocations of licenses under this Chapter shall be made in writing and submitted to the District within fifteen (15) days of the date on the order or notice assessing the penalty or penalties appealed from, or on the denial, suspension or revocation of a license. The written appeal shall indicate whether a hearing is requested on the appeal.
- The request for an appeal shall not prejudice or otherwise deter pending criminal or civil proceedings which have been initiated.
- Late requests for an appeal may be granted or denied by the District on an individual basis after consideration of the totality of the circumstances including any reason provided for the lateness of the request for an appeal. Late requests for an appeal shall not, however, prejudice or otherwise deter pending criminal or civil proceedings which have been initiated during the late period.
- (b) Appeals will be heard by the Board in accordance with the procedures of 1721.08 of this Chapter. If a hearing is requested on the appeal, the hearing will be held at the next scheduled Board meeting, if practicable, unless the Board grants an extension for good cause shown. The party requesting the hearing will receive notice by the Board or its representative of the date, time, and location of the hearing.
- (c) The Board may appoint a referee or examiner to hear matters of the Board, including appeal hearings, in accordance with Ohio Revised Code Section 3709.20(B). In the event that a matter or appeal will be heard by a referee or examiner, the appeal will be heard at the earliest practicable date. The party requesting the hearing will receive notice by referee or examiner, or the Board or its representative, of the date, time, and location of the hearing. As prescribed by Ohio Revised Code Section 3709.20(B), at least one member of the Board must be present at any hearing conducted by a referee or examiner. The referee or examiner appointed to conduct the hearing shall have the same powers and authority in conducting the hearing as is granted to the Board.

1721.08 APPEAL HEARINGS AND DECISIONS

- (a) The following procedures shall apply to hearings conducted by the Board for appeals of penalties, and denials, suspensions or revocations of licenses under this Chapter.
- (1) The District shall have the burden of going forward with the presentation of evidence. Parties appealing a decision of the District have the right to appear and be heard in person, with or without legal counsel, to present their case. All parties to the appeal shall have the right to:
 - A. Offer and examine witnesses and present evidence in support of their case; and
 - B. Cross examine adverse witnesses; and
 - C. Proffer evidence into the record if its admission has been denied.
 - (2) Testimony shall be given under oath, or upon written or oral stipulation as agreed to by the Board and the party appealing a decision of the District, or his/her legal counsel. The following oath shall be given by the Board to all persons who give testimony or evidence before it including staff, witnesses, and parties appealing a decision of the District: "Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?"
 - (3) The Board shall rule on all matters of evidence. In so doing, the Board is not strictly bound by the Ohio Rules of Evidence. The Board may ask questions of any witness at any point in the proceedings. The Board may set time and limitations for each side in the presentation of evidence. A record of proceedings in the form of an audio recording shall be kept for not less than thirty (30) days from the date of the final decision by the Board. Parties seeking a stenographic record shall acquire such stenographic record at their own expense.
 - (4) A hearing may be continued by the Board either on its own motion or at the request of either side.
 - (5) The standard of proof for appeals of penalties assessed by the District, and for the denials, suspensions or revocations of licenses, shall be proof by the preponderance of the evidence.
 - (6) At the conclusion of the presentation of evidence by both sides, the Board may take the matter under consideration and issue a decision in writing within ten (10) days or issue an immediate decision.
 - (7) The decision of the Board is effective upon service to the affected parties, unless otherwise stated in the Board decision.
- (b) The following procedures shall apply to hearings conducted by a referee or examiner appointed by the Board pursuant to Section 1721.07(c) of this Chapter.
- (1) The District shall have the burden of going forward with the presentation of evidence. Parties appealing a decision of the District have the right to appear and be heard in person, with or without legal counsel, to present their case. All parties to the appeal shall have the right to:
 - A. Offer and examine witnesses and present evidence in support of their case; and
 - B. Cross examine adverse witnesses; and
 - C. Proffer evidence into the record if its admission has been denied.
 - (2) Testimony shall be given under oath, or upon written or oral stipulation as agreed to by the Board and the party appealing a decision of the District, or his/her legal counsel. The following oath shall be given by the referee or examiner to all persons who give testimony or evidence before it including staff, witnesses, and parties appealing a decision of the District: "Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?"
 - (3) The referee or examiner shall rule on all matters of evidence. In so doing, the referee or examiner is not strictly bound by the Ohio Rules of Evidence. The referee or examiner may ask questions of any witness at any point in the proceedings. The referee or examiner may set time and limitations for each side in the presentation of evidence. A record of proceedings in the form of an audio recording shall be kept for not less than thirty (30) days from the date of the final decision by the referee or examiner. Parties seeking a stenographic record shall acquire such stenographic record at their own expense.

- (4) A hearing may be continued by the referee or examiner on his/her own motion or at the request of either side.
- (5) The standard of proof for appeals heard by a referee or examiner of penalties assessed by the District, and for the denials, suspensions or revocations of licenses, shall be proof by the preponderance of the
- (6) At the conclusion of the presentation of evidence by both sides, the referee or examiner shall submit to the Board a written report setting forth his/her findings of fact and conclusions of law and a recommendation of the action to be taken by the Board. A copy of such written report and recommendation of the referee or examiner shall, within five (5) days of the date of submission to the Board thereof, be served upon the party or his or her attorney or other representative of record by certified mail. The party may, within ten (10) days of receipt of the copy of the written report or recommendation, file with the Board written objections to the report and recommendation, which objections shall be considered by the Board before approving, modifying, or disapproving the recommendation. The Board may grant extensions of time to the party within which to file such objections.
- (7) The Board, by majority vote, may approve, modify or disapprove the recommendation of the referee or examiner by written decision which shall become effective upon service to the affected parties, unless otherwise stated in the Board decision.
- (8) No recommendation of the referee or examiner shall be approved, modified, or disapproved by the Board until ten (10) days after the service of the report and recommendation as provided in this Section.
- (9) The Board may order additional testimony to be taken or permit the introduction of further documentary evidence prior to the vote to approve, modify, or disapprove the recommendation of the referee or examiner.
- (10) No recommendation shall be final until approved by a quorum of the entire Board as indicated by an order on its record of proceedings.

TITLE THREE - Sanitation

Chap. 1731. Littering.
 Chap. 1733. Expectoration.
 Chap. 1735. Animals.
 Chap. 1737. Rat Control.
 Chap. 1741. Hazardous Substances.
 Chap. 1743. Swimming Pools.
 Chap. 1745. Child Day Care Operations.

CHAPTER 1731

Littering

- 1731.01 Definitions.**
- 1731.02 Depositing litter on private premises.**
- 1731.03 Owner to maintain premises free of litter.**
- 1731.04 Notice to remove litter.**
- 1731.05 Action upon noncompliance.**
- 1731.06 Written return to County Auditor; amount of lien.**
- 1731.99 Penalty.**

CROSS REFERENCES

Removal of litter - see Ohio R.C. 731.51 et seq.
 Litter control - see Ohio R.C. Ch. 1502
 Littering and deposit of garbage, rubbish, junk - see GEN. OFF. 521.08
 Garbage and rubbish collection - see S.U. & P.S. Ch. 919

1731.01 DEFINITIONS.

- (a) "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- (b) "Litter" means "garbage", "refuse" and "rubbish" as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.
- (c) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (d) "Private premises" means any dwelling, house, building or any other structure used or designed to be used either wholly or in part for residential or commercial purposes, whether in use or vacant and includes any yard, walk, grounds, driveway or parking area belonging to or appurtenant to such structure, building, dwelling or house.
- (e) "Refuse" means all putrescible and nonputrescible solid wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals and solid market and industrial wastes.
- (f) "Rubbish" means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.
 (Ord. 68-43. Passed 3-18-68.)

1731.02 DEPOSITING LITTER ON PRIVATE PREMISES.

No person shall throw or deposit litter on any private premises within the City, whether owned by such person or not, except that the owner or person in control of private premises may maintain private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private premises.
 (Ord. 68-43. Passed 3-18-68.)

1731.03 OWNER TO MAINTAIN PREMISES FREE OF LITTER.

The owner or person in control of any private premises shall at all times maintain the premises free of litter. However, this section shall not prohibit the storage of litter in private receptacles for collection.
(Ord. 68-43. Passed 3-18-68.)

1731.04 NOTICE TO REMOVE LITTER.

The Health Commissioner shall cause notice to be issued to the owner of any open or vacant private premises located within the City or the agent of such owner, to dispose of litter located on such premises which is dangerous to the public health, safety or welfare. Such notice shall be by certified mail addressed to such owner or agent at his last known address. In the event the address of the owner or other person having charge of such land is unknown, it shall be sufficient to publish such notice once in a newspaper of general circulation in the County.
(Ord. 69-70. Passed 5-5-69.)

1731.05 ACTION UPON NONCOMPLIANCE.

Upon the failure of any owner or agent to comply with such notice as provided in Section 1731.04 within five days after receipt of such notification, or within ten days after the date of such notice if unclaimed by the addressee, or within ten days after the date such notice is published as provided in Section 1731.04, the City Manager shall employ the necessary labor to perform compliance with the notice.
(Ord. 68-43. Passed 3-18-68.)

1731.06 WRITTEN RETURN TO COUNTY AUDITOR; AMOUNT OF LIEN.

The City Manager shall make a written return to the County Auditor of his action under Sections 1731.04 and 1731.05, with a statement of the charges for services, together with a description of the premises. Such amount shall be entered upon the tax duplicate and shall be a lien upon such lands for the date of entry, and shall be collected as other taxes and returned to the City with the General Fund.
(Ord. 68-43. Passed 3-18-68.)

1731.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the fourth degree. When litter which was the cause of a prosecution brought pursuant to this chapter has not been properly disposed of, such violator may be required to properly dispose of same or both. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

CHAPTER 1733

Expectoration

1733.01 Spitting in public places prohibited.

1733.02 Spitting in public conveyances prohibited.

1733.99 Penalty.

1733.01 SPITTING IN PUBLIC PLACES PROHIBITED.

No person shall spit upon the sidewalk of any street, alley or other public place, or upon the floor, walls or seats of any room, hall, office or other part of any tenement, hotel or lodging place, which is used in common by the guests or inmates thereof, or upon the floor, walls or other part of any store, theater or other building or room which is used in common by the public.
(1969 Code Sec. 833.01)

1733.02 SPITTING IN PUBLIC CONVEYANCES PROHIBITED.

No person shall spit upon the floor, seats, walls or other part of any public conveyance.
(1969 Code Sec. 833.02)

1733.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor. Any such violation shall constitute a separate offense on each successive day continued.

CHAPTER 1735

Animals

1735.01 Keeping hogs prohibited without consent.

1735.99 Penalty.

CROSS REFERENCES

Animal regulations generally - see GEN. OFF. Ch. 505

Rabies quarantine - see GEN. OFF. 505.10

Offensive odors from place where animal kept or fed - see GEN. OFF. 521.09

1735.01 KEEPING HOGS PROHIBITED WITHOUT CONSENT.

No person shall keep any hog within the City, except with the written consent of the Health Commissioner and upon such terms and conditions as he may prescribe.

1735.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor. Any such violation shall constitute a separate offense on each successive day continued.

CHAPTER 1737

Rat Control

- 1737.01 Definitions.**
- 1737.02 Business buildings to be rat-free.**
- 1737.03 Notice to owners of buildings.**
- 1737.04 Notice to occupants of buildings.**
- 1737.05 Maintenance and repair of ratproofing.**
- 1737.06 Construction or repair where food kept to render building ratproofed.**
- 1737.07 Storage of animal feed.**
- 1737.08 Garbage containers to withstand rat gnawing.**
- 1737.09 Dumping carcass or garbage on land or water prohibited.**
- 1737.10 Trash accumulations which afford rat harborage prohibited.**
- 1737.99 Penalty.**

CROSS REFERENCES

Ratproofing - see OAC 4101:2-8-08

1737.01 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply:

- (a) "Business building" means any structure, whether public or private, that is adapted for occupancy, for transaction of business, for rendering of professional service, for amusement, for the display, sale or storage of goods, wares or merchandise, or for the performance of work or labor, including hotels, apartment buildings, tenement houses, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories and all outhouses, sheds, barns and other structures on premises used for business purposes.
- (b) "Ratproofing", as used herein, applies to a form of construction to prevent the ingress of rats into business buildings from the exterior or from one business building or establishment to another. It consists essentially of treating with material, impervious to rat gnawing, all actual or potential openings in exterior walls, ground or first floors, basements, roof and foundations, that may be reached by rats from the ground by climbing or by burrowing.
- (c) "Rat harborage" means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside of any structure.
- (d) "Rat eradication" means the elimination or extermination of rats within buildings by any or all of the accepted measures, such as: poisoning, fumigation, trapping, clubbing, etc.
- (e) "Commissioner", as used herein, means the Commissioner of Public Health or any duly authorized representative thereof.
- (f) "Owner" means the actual owner, agent or custodian of the business building, whether an individual, partnership or corporation. The lessee shall be construed as the owner for the purpose of this chapter when business building agreements hold the lessee responsible for maintenance and repairs.
- (g) "Occupant", as used herein, means the individual, partnership or corporation that uses or occupies any business building or part thereof, whether the actual owner or tenant. In the case of vacant business buildings or vacant portions thereof, the owner, agent or custodian shall have the responsibility as occupant.

(Ord. 5243. Passed 10-29-51.)

1737.02 BUSINESS BUILDINGS TO BE RAT-FREE.

All business buildings shall be ratproofed, freed of rats or maintained in a rat-free condition in accordance with the following sections and with any and all regulations of the Commissioner issued pursuant to the following sections.

(Ord. 5323. Passed 5-12-52.)

1737.03 NOTICE TO OWNERS OF BUILDINGS.

Whenever conditions inside or under any business buildings provide harborage for rats, or whenever there is evidence of rat infestation of any business building, the Commissioner shall give written notice to the owner of such business building requiring the owner to take immediate measures for ratproofing the building or to take immediate measures for rat eradication in such building or to take both such immediate measures, and to fix the time for compliance with such written notice.

(Ord. 5323. Passed 5-12-52.)

1737.04 NOTICE TO OCCUPANTS OF BUILDINGS.

Whenever conditions inside or under any business buildings provide harborage for rats, or whenever there is evidence of rat infestation of any business building, the Commissioner shall give written notice to the occupant or occupants of the business building requiring such occupant or occupants to take immediate measures for ratproofing the building or to take immediate measures for rat eradication in such building, or to take both such immediate measures, and to fix the time for compliance with the written notice.

(Ord. 5323. Passed 5-12-52.)

1737.05 MAINTENANCE AND REPAIR OF RATPROOFING.

The owners of all ratproofed business buildings shall maintain the premises in a ratproof condition and repair all breakes or leaks that may occur in

the ratproofing.
(Ord. 5243. Passed 10-29-51.)

1737.06 CONSTRUCTION OR REPAIR WHERE FOOD KEPT TO RENDER BUILDING RATPROOFED.

No person, firm or corporation shall hereinafter undertake any major construction, repair or remodeling of any business building wherein foodstuffs are stored, kept, handled or sold, unless such construction, repair and remodeling shall be performed in such a manner as to render the building ratproof.
(Ord. 5243. Passed 10-29-51.)

1737.07 STORAGE OF ANIMAL FEED.

No person shall store any food or feed within the City for feeding chickens, cows, pigs, horses and other animals in any container other than rat-free or ratproof containers, compartments or rooms unless such food or feed is stored in a ratproofed building.
(Ord. 5243. Passed 10-29-51.)

1737.08 GARBAGE CONTAINERS TO WITHSTAND RAT GNAWING.

No person shall place or store any garbage or refuse consisting of waste animal or vegetable matter upon which rats may feed, or any small dead animals, in any container and on any premises for collection other than in a covered container which is constructed of a material which is impervious to rat gnawing.
(Ord. 5243. Passed 10-29-51.)

1737.09 DUMPING CARCASS OR GARBAGE ON LAND OR WATER PROHIBITED.

No person shall dump or place on any premises, land or waterway any dead animals or waste vegetable or animal matter of any kind.
(Ord. 5243. Passed 10-29-51.)

1737.10 TRASH ACCUMULATIONS WHICH AFFORD RAT HARBORAGE PROHIBITED.

No person shall permit to accumulate on any premises, improved or vacant, or upon any open lot, street or alley within the City, any lumber, boxes, barrels, bottles, cans, containers or similar materials, the accumulation of which materials afford harborage for rats.
(Ord. 5243. Passed 10-29-51.)

1737.99 PENALTY.

Whoever violates or assists in the violation of any provision of this chapter or any order or regulation of the Commissioner made pursuant to any provision of this chapter, or obstructs or interferes with the execution of any such order of the Commissioner or willfully or unlawfully omits to obey such order of the Commissioner is guilty of a misdemeanor of the second degree. However, no person shall be imprisoned under this section for the first offense, and the prosecution shall always be as and for a first offense, unless an affidavit upon which the prosecution is instituted contains the allegation that the offense is a second or repeated offense.

CHAPTER 1741

Hazardous Substances

1741.01 Definitions.

1741.02 Disposal of hazardous waste.

1741.03 Disposal and storage of PCB or PCBs.

1741.04 Use of PCB or PCBs.

1741.05 Transportation and shipment of radioactive material.

1741.06 Application of other regulatory provisions.

1741.07 Exemptions.

1741.08 Inspections.

1741.09 Right of entry.

1741.10 Injunctive relief.

1741.99 Penalty.

CROSS REFERENCES

Labeling of hazardous wastes - see Ohio R.C. Ch. 3716

Hazardous wastes - see Ohio R.C. Ch. 3734

1741.01 DEFINITIONS.

For the purpose of this chapter, the following words and phrases shall have the following meanings ascribed to them respectively:

(a) "Hazardous substances" means any of the following:

- (1) Any hazardous waste.
- (2) Any radioactive material.
- (3) Any chemical substance listed below, or mixture containing any chemical substances listed below:
PCB or PCBs (polychlorinated biphenyl)

(b) "Hazardous waste" means any waste or combination of wastes which pose a substantial present or potential hazard to human health or living organisms because such wastes are nondegradable or persistent in nature or because they can be biologically magnified, or because they can be lethal or because they may otherwise cause or tend to cause detrimental cumulative effects, including any substance, combination of substances or mixtures as defined as "hazardous waste" in the Code of Federal Regulations (CFR), Title 40, Part 261, Subpart A 261.3 which is not specifically excluded under 261.4(b) under such Title or this chapter of the Codified Ordinances. The provisions of 40 CFR Part 261, Subpart A 261.2, 261.3 and 261.4, and corresponding sections of Subparts C and D and appendices cited therein, which define, describe and identify hazardous waste are hereby incorporated by reference into this section and made a

part hereof the same as if each were set forth fully herein. All subsequent amendments to such provisions of Subparts C and D and appendices cited therein which define, describe and identify hazardous waste, and the section of Subpart B specifically delineated herein, automatically become a part of this section as of the effective dates of each amendment, subject to the provisions of this section. Hazardous wastes do not include chemical substances or mixtures listed in Section 1741.01(a)(3) hereof or any radioactive material.

- (c) "PCB" and "PCBs" means any chemical substance that is limited to the biphenyl molecule that has been chlorinated to varying degrees or any combination of substances, or mixture which contains chlorinated biphenyl molecules.
- (d) "PCB article" means any manufactured article other than a PCB container that contains PCBs and whose surface(s) has been in direct contact with PCBs. "PCB article" includes capacitors, transformers, electric motors, pumps, pipes and any other manufactured item
 - (1) which is formed to a specific shape or design during manufacture;
 - (2) which has end use function(s) dependent in whole or in part upon its shape or design during end use; and
 - (3) which has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the PCB article.
- (e) "PCB equipment" means any manufactured item, other than a PCB container or a PCB article container, which contains a PCB article or other PCB equipment and includes microwave ovens, electronic equipment and fluorescent light ballasts and fixtures.
- (f) "PCB container" means any package, can, bottle, barrel, drum, tank or other device exclusive of a PCB article or PCB equipment that contains a PCB or PCBs article and whose surface(s) has been in direct contact with PCBs.
- (g) "Chemical substance" except as provided in subsection (3) hereof, means any organic or inorganic substance of a particular molecular identity, including:
 - (1) Any combination of such substances occurring in whole or part as a result of a chemical reaction or occurring in nature, and
 - (2) Any element or uncombined radical.
 - (3) Such term does not include:
 - A. Any mixture;
 - B. Any pesticide, as defined in the Federal Insecticide, Fungicide and Rodenticide Act, when manufactured, processed or distributed in commerce for use as a pesticide;
 - C. Tobacco or any tobacco product;
 - D. Any source material, special nuclear material, or by-product material, as such terms are defined in the Atomic Energy Act of 1954, as amended, and regulations issued under such Act, and the Energy Reorganization Act of 1974 and any regulations issued under such Act;
 - E. Any article the sale of which is subject to the tax imposed by Section 4181 of the Internal Revenue Code of 1954, determined without regard to any exemptions from such tax provided by Section 4182 or Section 4221 or any provisions of such Code; and
 - F. Any food, food additive, drug, cosmetic, or device, as such terms are defined in Section 201 of the Federal Food, Drug and Cosmetic Act, when manufactured, processed or distributed in commerce for use as a food, food additive, drug, cosmetic or device.
- (h) "Mixture" means any combination of two or more chemical substances if the combination does not occur in nature and is not, in whole or in part, the result of a chemical reaction; except that "mixture" includes any combination which occurs, in whole or in part, as a result of a chemical reaction if none of the chemical substances comprising the combination is a new chemical substance and if the combination could have been manufactured for commercial purposes without a chemical reaction at the time the chemical substances comprising the combination were combined.
- (i) "By-product" means a chemical substance produced without separate commercial intent during the manufacturing or processing of another chemical substance(s) or mixture(s).
- (j) "Use" means putting into service to attain an end other than disposal.
- (k) "Store for disposal" means to store, confine or contain for or incidental to discarding, destroying, decontaminating, degrading, reprocessing or recycling of substances whose useful lives have been terminated or completed, or which have otherwise been taken out of service.
 - (l) "Person" means any natural or legally created artificial person including any individual, corporation, partnership or association. "Person" includes any individual, partnership, association or corporation engaged in the transportation of passengers or property, as common, contract or private carrier, or freight forwarder, as those terms are used in the Interstate Commerce Act, as amended.
- (m) "Radioactive material" means any material or combination of materials, which spontaneously emits ionizing radiation. Materials in which the estimated specific activity is not greater than 0.002 microcuries per gram of material, and in which the radioactivity is essentially uniformly distributed, are not considered to be radioactive materials.
- (n) "Curie" means an expression of the quantity of radiation in terms of the number of atoms which disintegrate per second; a curie is that quantity of radioactive material which decays such that thirty-seven billion atoms disintegrate per second.
- (o) "Microcurie" means one millionth of a curie.
- (p) "Waste oil" means used products primarily derived from petroleum, which include, but are not limited to, fuel oils, motor oils, gear oils, cutting oils, transmission fluids, hydraulic fluids and dielectric fluids.
- (q) "Hazardous substance disposal site" means any chemical waste landfill or incinerator used to dispose of hazardous substances.
- (r) "Chemical waste landfill" means a landfill at which protection against risk of injury to health or the environment from migration of hazardous substances to land, water or the atmosphere is provided from hazardous substances deposited therein by locating, engineering and operating the landfill in accordance with Federal and State law.

(Ord. 83-309. Passed 6-28-83.)

1741.02 DISPOSAL OF HAZARDOUS WASTE.

(a) No person shall knowingly discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any hazardous waste within the corporate limits of the City.

(b) No person shall knowingly cause any other persons by contract or otherwise to discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any hazardous waste within the corporate limits of the City.

(c) No person shall negligently discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any hazardous waste within the corporate limits of the City.

(Ord. 83-309. Passed 6-28-83.)

1741.03 DISPOSAL AND STORAGE OF PCB OR PCBs.

(a) No person shall knowingly discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any PCB or PCBs either in liquid, crystalline or solid resin form, within the corporate limits of the City.

(b) No person shall knowingly cause any person by contract or otherwise to discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any PCB or PCBs either in liquid, crystalline or solid resin form, within the corporate limits of the City.

(c) No person shall negligently discard, dispose, discharge, deposit, inject, dump, spill, leak, spray, place or otherwise cast into or upon any land, whether improved or unimproved, upon any public or private street, roadway or highway, into any drain, gutter, sewer or culvert, into any lake, pond, watercourse or ditch, or into any pit or excavation, or into or atop of any aquifer, any PCB or PCBs either in liquid, crystalline or solid resin form, within the corporate limits of the City.

(d) After October 1, 1983, no person shall store for disposal any PCB or PCBs, regardless of form, in one or more PCB containers, within the corporate limits of the City at any of the following locations:

- (1) Within the Fire Zone, within any floodplain, atop any aquifer or within any drainage basin of any aquifer, lake or pond;
- (2) Any other location not enumerated in subsection (d)(1) hereof.

(e) After October 1, 1983, no person shall cause any other person by contract or otherwise to store for disposal any PCB or PCBs, regardless of form, in one or more PCB containers, within the corporate limits of the City at any of the following locations:

- (1) Within the Fire Zone, within any floodplain, atop any aquifer or within any drainage basin of any aquifer, lake or pond;
- (2) Any other location not enumerated in subsection (e)(1) hereof.

- (f) (1) "PCB" and "PCBs" as used in this section means any chemical substance, combination of substances or mixture that contains fifty parts per million, on a dry weight basis, or greater of PCBs, as defined in Section 1741.01(c) hereof including any by-product, intermediate or impurity manufactured at any point in the process.
- (2) Substances that are regulated by this section include, but are not limited to, dielectric fluids, contaminated solvents, waste oils, heat transfer fluids, hydraulic fluids, paints, sludges, slurries, dredge spoils, soils, materials contaminated as a result of spills and other chemical substances or combination of substances, or mixtures of substances, including impurities and by-products, provided, such chemical substances or combination of substances or mixtures, regardless of form contain PCB or PCBs.

(g) Storage or use of PCB or PCBs in PCB articles or PCB equipment is not in violation of this section. Disposal of PCB articles or PCB equipment containing any measurable amount of PCB or PCBs therein is not a violation of this section.

(Ord. 83-309. Passed 6-28-83.)

1741.04 USE OF PCB OR PCBs.

(a) No person shall use any PCB or PCBs other than in the manufacturing or processing of other substances or mixtures, or in PCB articles, PCB equipment or incidental to placing into service or continuing service of PCB articles or PCB equipment.

(b) The prohibitions of subsection (a) hereof shall be subject to the exemptions set forth in Section 1741.07(b) of this chapter.
(Ord. 83-309. Passed 6-28-83.)

1741.05 TRANSPORTATION AND SHIPMENT OF RADIOACTIVE MATERIAL.

No person shall ship or transport into, within, through or out of the City any radioactive material contrary to the applicable Federal regulations of the Department of Transportation and the Nuclear Regulatory Commission in effect at the date of shipment or transport.

(Ord. 83-309. Passed 6-28-83.)

1741.06 APPLICATION OF OTHER REGULATORY PROVISIONS.

Regardless and notwithstanding the provisions of Section 1741.03, any and all applicable provisions, ordinances and regulations requiring permits for the storage of any hazardous materials are still in full force and effect unless otherwise specifically repealed.

(Ord. 83-309. Passed 6-28-83.)

1741.07 EXEMPTIONS.

(a) The provisions of this chapter shall not apply to the storage or disposal of hazardous waste and PCB or PCBs in any hazardous substance disposal site specifically approved by either the U.S. Environmental Protection Agency or the Ohio Environmental Protection Agency and which comport to Federal and State law.

(b) A person may petition the City Manager or his designee for an exemption from the requirement of Section 1741.04(a), and the City Manager or his designee may grant in writing an exemption, where not precluded by State or Federal law, if he finds that:

- (1) Unreasonable risk of injury to health or environment would not result;
- (2) Good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such PCB;
- (3) The best interests of the City would be served by granting the exemption.

(c) The provisions of Sections 1741.03 and 1741.04 shall not apply to the use of waste samples of PCB or PCBs, samples of other substances or material containing PCB or PCBs, or PCB or PCBs reference samples for or in conducting analytical tests to determine the composition or characteristics of the sample.

(d) The provisions of Section 1741.02 shall not apply to the discharge of wastewater or wastewater derivatives authorized under a valid National Pollution Discharge Elimination System permit, or otherwise authorized to be discharged into a publicly-owned water treatment works.

(e) The provisions of Section 1741.03(d) shall not apply to the temporary storage of PCB or PCBs taken out of service, provided:

- (1) The temporary storage does not exceed sixty days from the date that the PCB or PCBs are taken out of service;
- (2) The PCB or PCBs being temporarily stored were previously placed into use and taken out of service within the corporate limits of the City or removed from service by a person lawfully using the PCB or PCBs within the corporate limits of the City;
- (3) The PCB or PCBs being temporarily stored remain in the possession, custody, control or ownership of the person who used the PCB or PCBs;
- (4) The previous use of the PCB or PCBs being temporarily stored was lawful;
- (5) The date or dates that the PCB or PCBs were taken out of service and an indication that the containerized substance or mixture is a PCB or PCBs are clearly and indelibly marked on each respective storage container utilized whether a "PCB container", other container or receptacle. The date so marked shall be prima facie evidence of the date the PCB or PCBs were taken out of service.

(f) Notwithstanding the provisions of subsection (e) hereof, the provisions of Section 1741.03(d) shall not apply to the temporary storage or temporary accumulation of a PCB or PCBs taken out of service and being temporarily stored or temporarily accumulated, on or after January 1, 1983, and prior to the effective date of this chapter, which storage or accumulation is prior to the movement of the PCB or PCBs off-site for disposal at another location outside the corporate limits of the City, provided:

- (1) The incidental temporary storage or accumulation does not exceed sixty days from the date that the respective PCB or PCBs were taken out of service; and
- (2) Effective October 1, 1983, the date or dates the PCB or PCBs were taken out of service are clearly and indelibly marked on each respective storage container utilized whether a "PCB container" or other container, or receptacle in which the PCB or PCBs are being temporarily stored or temporarily accumulated, together with a clear and indelible indication that the particular containerized substance or mixture is a PCB or PCBs. The date or dates so marked shall be prima facie evidence of the date or dates the PCB or PCBs were taken out of service.

(Ord. 83-309. Passed 6-28-83.)

(g) The provisions of Section 1741.03(d)(2) shall not apply to the storage of a PCB or PCBs taken out of service, provided:

- (1) That not more than 2,000 gallons of a PCB or PCBs may be stored by any one person within the City;
- (2) That the PCB or PCBs being stored remain in the possession, custody, control or ownership of the person who used the PCB or PCBs;
- (3) That the previous use of the PCB or PCBs being stored was lawful;
- (4) That the PCB or PCBs being stored were previously placed into use and taken out of service within the corporate limits of the City or removed from service by a person lawfully using a PCB or PCBs within the corporate limits of the City;
- (5) That the substance being stored contain not more than 500 parts per million, on a dry weight basis, of the PCB or PCBs including any by-product, intermediate or impurity manufactured at any point in the process;
- (6) That the PCB or PCBs be stored in a solid steel container completely enclosed in reinforced concrete and that the storage site be secured against acts of trespass, theft and vandalism;
- (7) That the solid steel container in which the PCB or PCBs are being stored is emptied at least once every six months, and that the contents thereof be safely removed and disposed of at a hazardous substance disposal site;
- (8) That the solid steel container in which the PCB or PCBs are being stored be inspected to determine its continued safe use at least once every year and that the City Manager be given written notice of any such inspection at least ten days in advance thereof;
- (9) That upon the abandonment or discontinuance of use of any such solid steel container in which the PCB or PCBs have been or are being stored, the contents thereof, if any, together with the solid steel container and reinforced concrete enclosure be safely removed and disposed of at a hazardous substance disposal site.

(Ord. 85-642. Passed 11-19-85.)

1741.08 INSPECTIONS.

The Fire Chief or his designated representative, any law enforcement officer or building, housing or zoning inspector shall have the authority to inspect all structures and premises as often as may be necessary for the purpose of ascertaining or causing to be corrected, any condition which may be a violation of this chapter, or otherwise enforcing any of the provisions of this chapter.

(Ord. 83-309. Passed 6-28-83.)

1741.09 RIGHT OF ENTRY.

Whenever necessary for the purpose of enforcing the provisions of this chapter, or whenever the Fire Chief or his designated representative, any law enforcement officer or any building, housing or zoning inspector has reasonable cause to believe that there exists in any structure or upon any premises, any condition which constitutes a violation of this chapter, such officials may enter the structure or premises at all reasonable times to inspect the same, or to perform any duty imposed upon any of such respective officials by law; provided, that if such structure or premises are occupied, he shall first present proper credentials and request entry. If such entry is refused, the official seeking entry shall have recourse to every remedy provided by law to secure entry.

(Ord. 83-309. Passed 6-28-83.)

1741.10 INJUNCTIVE RELIEF.

Violation of the provisions of Sections 1741.02 and 1741.03 shall constitute a public nuisance. The Director of Law shall have the authority to commence any action in a court of competent jurisdiction to enjoin the actions of any person who violates any of the provisions of Sections 1741.02 and 1741.03.

(Ord. 83-309. Passed 6-28-83.)

1741.99 PENALTY.

The following criminal penalties apply to this chapter:

- (a) Whoever violates Section 1741.02(a) shall be guilty of a first degree misdemeanor.
- (b) Whoever violates Section 1741.02(b) shall be guilty of a first degree misdemeanor.

- (c) Whoever violates Section 1741.02(c) shall be guilty of a second degree misdemeanor.
 - (d) Whoever violates Section 1741.03(a) shall be guilty of a first degree misdemeanor.
 - (e) Whoever violates Section 1741.03(b) shall be guilty of a first degree misdemeanor.
 - (f) Whoever violates Section 1741.03(c) shall be guilty of a second degree misdemeanor.
 - (g) Whoever violates Section 1741.03(d)(1) shall be guilty of a first degree misdemeanor. If any violation of Section 1741.03(d)(1) is a continuing one, each day of such violation shall constitute a separate offense.
 - (h) Whoever violates Section 1741.03(d)(2) shall be guilty of a second degree misdemeanor. If any violation of Section 1741.03(d)(2) is a continuing one, each day of such violation shall constitute a separate offense.
 - (i) Whoever violates Section 1741.03(e)(1) shall be guilty of a first degree misdemeanor.
 - (j) Whoever violates Section 1741.03(e)(2) shall be guilty of a second degree misdemeanor.
 - (k) Whoever violates Section 1741.04 shall be guilty of a first degree misdemeanor.
 - (l) Whoever violates Section 1741.05 shall be guilty of a first degree misdemeanor.
 - (m) Any individual director, officer or agent of a corporation who knowingly and willfully authorizes, orders or performs any of the acts constituting a violation of any of the provisions of Sections 1741.02, 1741.03, 1741.04 or 1741.05 shall be subject to the penalties under this section without regard to any penalty to which that corporation may be subject for violation of Sections 1741.02, 1741.03, 1741.04 or 1741.05.
- (Ord. 83-309. Passed 6-28-83.)

CHAPTER 1743

Swimming Pools

1743.01 State law adopted.

1743.02 Inspection fees.

CROSS REFERENCES

Swimming pools - see OAC Ch. 3701-31; 4101:2-4-23

1743.01 STATE LAW ADOPTED.

The provisions of Ohio R.C. Chapter 3749, Swimming Pools and Ohio Administrative Code Sections 3701-31-01 through 3701-31-10, Public Swimming Pool, Spa and Special Use Pool Rules, are hereby adopted and incorporated herein by reference.
(Ord. 88-171. Passed 4-5-88.)

1743.02 INSPECTION FEES.

The Board of Health hereby establishes an annual licensing and inspection fee for each public swimming pool, public spa or special use pool licensed and inspected pursuant to this chapter as follows:

Indoor pool	\$ 287.00
Seasonal pool	156.00
Spa with pool	90.00 plus applicable pool fees.
Single spa without pool	287.00
Each additional spa	60.00

The City Treasurer shall transmit twenty-five dollars (\$25.00) of each fee collected pursuant to this section to the Treasurer of the State.
(Ord. 90-570. Passed 10-23-90.)

CHAPTER 1745

Child Day Care Operations

1745.01 Inspections.

1745.02 Inspection fees.

CROSS REFERENCES

Child day care - see Ohio R.C. 5104; OAC Ch. 5101:2-12 to 5101:2-16

1745.01 INSPECTIONS.

The Board of Health May perform health and sanitation inspections of premises located within the City which are being used or are to be used as child day care facilities. Health and sanitation inspections of such child day care facilities may be requested by entities seeking such inspection to comply with child care food program regulations promulgated by the United States Department of Agriculture.
(Ord. 88-400. Passed 6-28-88.)

1745.02 INSPECTION FEES.

Each entity requesting a health and sanitation inspection of a child day care facility shall pay to the City an inspection fee of twenty-five dollars (\$25.00) for each inspection to be performed by the Board of Health.
(Ord. 88-400. Passed 6-28-88.)