ORDINANCE NO. 2024-11

TO AMEND THE CODIFIED ORDINANCES TO REMOVE GENDER-SPECIFIC TERMINONLOGY

WHEREAS, amending the Codified Ordinances to remove gender-specific terminology and replace those terms with more accurate terminology makes the City's laws more accurate, precise, and reflective; and,

WHEREAS, the City understands that language shapes perceptions, attitudes, and behaviors, influencing societal norms and values; and,

WHEREAS, the City has deemed it unlawful to discriminate against anyone based on race, color, religion, sex, national origin, age, familial status, military status, disability, pregnancy, sexual orientation, gender identity, or gender expression as defined in sections 511.01, 511.05, and 509.07 of the Codified Ordinances; and,

WHEREAS, embracing gender-neutral language aligns with best practices in creating and maintaining a welcoming and supportive environment for all members of society;

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

SECTION 1: That Section 135.01 of the Codified Ordinances is hereby amended in its entirety to read as follows:

135.01 INVESTMENT OF SURPLUS FUNDS.

Whenever there are moneys in the Treasury of the City which will not be required to be used for a period of six months or more, the Director of Finance may, in lieu of depositing such funds in a bank or banks, invest such funds in certificates of deposit of Ohio financial institutions, provided that such institutions hypothecate securities in an amount at least equal to such investments to secure such investments, or the Director of Finance may invest such funds in investments authorized in Ohio R.C. 731.56. Not more than twenty percent (20%) of the value (computed at the time the investment is made) of investments made pursuant to this section shall mature or be redeemable within ten years from the date of purchase and the balance of all investments shall mature or be redeemable within five years from the date of purchase.

The value of investments shall be computed once each year as follows:

(a) As to investments the bid and asked prices of which are published on a regular basis in The Wall Street Journal (or, if not there, then in the New York Times): the average of the bid and asked prices for such investments so published on or most recently prior to the date of determination;

(b) As to investments the bid and asked prices of which are not published on a regular basis in The Wall Street Journal or The New York Times: the average bid price at the date of

determination for such investments by any two nationally recognized government securities dealers (selected by the Director of Finance in their absolute discretion) at the time making a market in such investments or the bid price published by a nationally recognized pricing service, including Bloomberg Financial Services;

(c) As to certificates of deposit: the face amount thereof, plus accrued interest; and

(d) As to any investment not specified above: the market value thereof established by an independent investment banking firm acceptable to the Director of Finance.

If more than one of the above provisions applies at any time to any particular investment, the value thereof at that time shall be determined in accordance with the provision establishing the lowest value for such investment.

Ohio R.C. 731.56 and 731.59 shall not apply to the City, except as specifically incorporated in this section.

All securities belonging to the City or to any fund thereof, other than the sinking fund, may be placed in the custody of any member of the Federal Reserve Banking System. Such securities, if not kept in the custody of a member of the Federal Reserve Banking System, shall be in the custody of the Director of Finance, and shall be kept by them in a safe deposit box or vault of the municipal depository. Such safe deposit box or vault shall be opened only upon a warrant or order of the Director of Finance or a person duly authorized as the Acting Director of Finance in the presence of one or more of the following: the Director of Finance, Director of Law or City Manager, or persons authorized as Acting Directors of Finance or Law or Acting City Manager. A report of what is placed in, removed from or other official business conducted shall on the day of the opening of the box or vault, be signed by the officer witnessing such opening and the Director of Finance and such report shall be retained by the Director of Finance.

Except as modified in this section, Ohio R.C. Chapter 135 shall apply to the City.

SECTION 2: That Section 139.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

139.02 RESERVE POLICE FORCE.

(a) There is hereby created within the Department of Public Safety a Reserve Police Force. Certified members of the Reserve Police Force shall be appointed by the City Manager.

(b) Reserve police officers shall serve as long as the City Manager may direct, or until a resignation submitted by such members is accepted by the City Manager.

(c) Members so appointed may not be under twenty-one years of age at the time of their appointment.

(d) The Chief of Police shall be the commanding officer of the Reserve Police Force and, subject to the approval of the City Manager, shall have control of the assignment, training, stationing and work of such Force. The Reserve Police Force will have all police powers, but shall perform only such police duties as assigned by the Chief of Police and shall act only when

in the prescribed uniform. The Chief of Police shall prescribe the time and place such uniform shall be worn. Reserve officers shall obey the chain of command of the Division of Police and shall take orders from all regularly appointed members thereof.

(e) The Chief of Police shall, with the approval of the City Manager, prescribe the rules and regulations for the conduct and control of the Reserve Police Force. All services performed by auxiliary police officers shall be on a voluntary basis.

SECTION 3: That Section 139.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

139.04 APPOINTMENT AND TENURE OF CHIEF OF POLICE.

The Chief of Police shall be an employee in the unclassified service of the City. Appointment shall be made according to merit and fitness without the necessity of competitive examination because competitive examination is not practicable.

The Chief of Police shall be appointed by the City Manager subject to confirmation by the affirmative vote of two-thirds of the members elected to Council. The Chief of Police shall serve at the pleasure of the City Manager and may be removed by the City Manager subject to such removal being confirmed by the affirmative vote of two-thirds of the members elected to Council.

SECTION 4: That Section 141.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

141.02 APPOINTMENT OF CHIEF, OFFICERS.

The Fire Chief shall be appointed by the City Manager subject to confirmation by Council. The other officers and volunteer firefighters shall be selected by the Fire Chief and City Manager.

SECTION 5: That Section 141.03 of the Codified Ordinances is hereby amended in its entirety to read as follows:

141.03 DUTIES OF CHIEF.

The Fire Chief shall be responsible for the organization, training, maintenance and efficient operation of the Fire Division. The Fire Chief shall cause complete records to be kept of fire calls, losses sustained and attendance of firefighters at all fires and drills and make such reports to State and City officials as may be required. The Fire Chief shall enforce such rules and regulations as may be adopted for the conduct and operation of the Fire Division. The Fire Chief shall also have such authority and perform such duties as designated in the Ohio Revised Code.

SECTION 6: That Section 141.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

141.04 POLICE POWERS IN EMERGENCY.

All officers and volunteer firefighters shall have and may exercise police powers during an emergency and may cause the arrest and detention of any person tampering with fire equipment or interfering in any way with the suppression of fires.

SECTION 7: That Section 157.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

157.04 DESTRUCTION OF ORIGINAL MUNICIPAL PUBLIC RECORDS.

(a) Municipal records defined in this chapter as original public records, and which are microfilmed in compliance with this chapter, may be destroyed as directed by the City Records Commission with the advice and consent of the Director of Law, unless otherwise required by federal or State law.

(b) Any original Municipal public record, the subject matter of which is in litigation, may not be destroyed until such litigation is final.

(c) Original Municipal public records which are not microfilmed in compliance with this chapter or which are determined worthless by the Commission may be destroyed as directed by the Commission, provided that notice of proposed destruction or disposition of those original Municipal public records shall first be given to the Ohio Historical Society Archivist, and if such records are, in their opinion, needed for the State Library, the records shall be transferred thereto.

SECTION 8: That Section 159.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

159.04 DETERMINATION OF ELIGIBILITY FOR REDUCED RATE LOANS; PROCEDURES.

(a) An eligible lending institution that desires to receive a linked deposit shall accept and review applications for reduced rate loans from eligible small businesses. The minimum amount of a reduced rate loan shall be ten thousand dollars ($10,000), and the maximum amount shall be one hundred thousand dollars ($100,000). The lending institution shall apply all usual lending standards to determine the creditworthiness of each small business.

(b) An eligible small business shall certify on its loan application that the reduced rate loan will be used exclusively to create the applicable number of new jobs or preserve existing jobs and employment opportunities as calculated below:

Amount of Loan	Full-time Jobs (or Equivalent)
$25,000 or greater requested	One new job must be created for each $25,000
Less than $25,000	Job(s) must be retained

Whoever knowingly makes a false statement concerning such application is guilty of the offense of falsification under Ohio R.C. 2921.13.

(c) In considering which eligible small business should receive reduced rate loans, the eligible lending institution shall give priority to the number of jobs to be created or preserved by the receipt of such loan, and such other factors as the eligible lending institution considers appropriate to determine the relative financial need of the eligible small business.

(d) The eligible financial institution shall forward a linked deposit loan application to the Linked Deposit Review Board, which shall consist of the City Manager (or their designee), the Director of Finance, and the Council representative to the Westerville Industry and Commerce Corporation in the form and manner as prescribed by the Review Board. This application shall include such information as required by the Director of Finance, including the amount of the loan requested and the number of jobs to be created or preserved by the eligible small business. The institution shall certify that the applicant is an eligible small business and shall certify the present borrowing rate applicable to the specific eligible business.

SECTION 9: That Section 181.01 of the Codified Ordinances is hereby amended in its entirety to read as follows:

181.01 FAILURE TO APPEAR UPON PERSONAL RECOGNIZANCE.

No person, having been released upon their own recognizance, shall fail to appear in the Mayor's Court as required.

SECTION 10: That Section 191.01 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.01 DEFINITIONS.

As used in this chapter, the following words shall have the meanings ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning. The singular shall include the plural and the masculine gender shall include the feminine and the neuter genders.

(a) "Association" means a partnership, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.

(b) "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, association, corporation or any other entity.

(c) "Corporation" means a corporation or joint stock association organized under the laws of the United States, State of Ohio, or any other state, territory or foreign country or dependency.

(d) "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency or any other entity whether or not organized for profit, that employs one or more persons on a salary, wage, commission or other compensation basis.

(e) "Employee" means one who works for wages, salary, commissions or other type of compensation in the service of an employer.

(f) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.

(g) "Gross receipts" means the total income from any source whatsoever.

(h) "Net profits" means the net gain from the operation of a business, profession, enterprise or other activity, whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit, 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 without deduction of taxes imposed by this chapter, Federal, State or other taxes based on income; and in the case of an association, without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this chapter.

(i) "Nonresident individual" means an individual who is not domiciled in the City and whose usual place of abode is outside the City.

(j) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City.

(k) "Person" means every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, person as applied to any unincorporated entity means the parties or members thereof, and as applied to corporations, the officers thereof.

(l) "Place of business" means any bonafide office other than a mere statutory office, factory, warehouse or other place which is occupied and used by the taxpayer in carrying on any business activity individually or through any one or more of their regular employees regularly in attendance.

(m) "Resident individual" means any individual who is domiciled in the City or whose usual place of abode is in the City.

(n) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City.

(o) "Taxable income" means wages, salaries, commissions and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter.

(p) "Taxable year" means the calendar year or the fiscal year on 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 required to be made.

(q) "Taxpayer" means any person required to file a return or pay a tax pursuant to this chapter.

(r) Wages means “Qualifying wages”, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with section 718.03(A) of the Ohio Revised Code.

(s) “Banking day” means that part of any day on which a bank is open to the public for carrying on substantially all of its banking functions.

(t) “Pass-through entity” means a partnership, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

SECTION 11: That the subsection 191.02 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.02 IMPOSITION OF TAX.

To provide for the purposes of general municipal operations, maintenance, new equipment and capital improvements of the City, there is hereby levied a tax at the rate of one half percent per year upon the following:

(a) All salaries, wages, commissions and other compensation earned on and after November 1, 1971, by residents of the City.

(b) All salaries, wages, commissions and other compensation earned or received on and after November 1, 1971, by nonresidents of the City for work done or services performed or rendered in the City.

(c) (1) On the net profits earned on and after November 1, 1971, of all unincorporated businesses, pass-through entities, professions or other activities conducted by residents of the City.

(2) On the net profits earned on and after November 1, 1971, of all unincorporated businesses, pass-through entities, professions or other activities conducted in the City by nonresidents.

(3) For the purposes of subparagraphs (1) and (2) hereof, an association shall not be taxable as an entity, but any member thereof who is a resident of the City shall be taxed individually on

their entire share, whether distributed or not, of the annual net profits of the association, and any nonresident member thereof shall be taxed individually only on that portion of their share, whether distributed or not of the annual net profits of the association and is derived from work done, services performed or rendered, and business or other activities conducted in the City.

(d) On the net profits on and after November 1, 1971, of all corporations, estates, trust and limited partnerships, derived from work done or services performed or rendered, ordinary gains from the operation of and/or the complete or partial sale or disposition of the assets of a business, profession, or enterprise or other activity (whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit) and business or other activities conducted in the City, whether or not such corporations, estates, trusts and limited partnerships have their principal or other place of business located in the City.

(e) Payments made to current and former employees by an employer as accrued benefits and/or vacation wages are taxable. Payments made to any current or former employee by an employer under a wage continuation plan during periods of disability or sickness, are taxable.

SECTION 12: That Section 191.03 (Earned Income Tax Effective Beginning January 1, 2016) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.03 DEFINITIONS.

(a) 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 LVM of the Ohio Revised Code, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in R.C. Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in R.C. Title LVII.

(b) For purposes of this section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(c) As used in this chapter:

(1) "Adjusted federal taxable income," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division (c)(23)E. 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 percent (5%) of intangible income deducted under division (c)(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. 1. Except as provided in division (c)(1)D.2. 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;

2. Division (c)(1)D.1. 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 R.C. § 4313.02;

H. Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted Federal taxable income.

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 Section 191.06(c)(5)C.2. 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 Section 191.06(c)(5)C.2. of this chapter.

1. If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (c)(46)B. of this section, is not a publicly traded partnership that has made the election described in division (c)(23)E. 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.

2. Nothing in division (c)(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:

1. 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;

2. A full or partial denial of a refund request issued under Section 191.09(f)(2)B. of this chapter;

3. A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 191.06(b)(2)B. of this chapter; or

4. A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 191.06(b)(2)C. of this chapter.

5. For purposes of division (c)(2)A.1., 2., 3., and 4. 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 191.18 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 191.09(f)(2)C. of this chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (c)(2)A. of this section.

(3) "Audit" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.

(4) "Board of Review" has same meaning as "Local Board of Tax Review".

(5) "Calendar quarter" means the three-month period ending on the last day of March, June, September, or December.

(6) "Casino operator" and "casino facility" have the same meanings as in R.C. § 3772.01.

(7) "Certified mail," "express mail," "United States mail," "postal service," and similar terms include any delivery service authorized pursuant to R.C. § 5703.056.

(8) "Compensation" means any form of remuneration paid to an employee for personal services.

(9) “Disregarded entity” means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(10) “Domicile” means the true, fixed, and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.

(11) “Exempt income” means all of the following:

A. The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;

B. Intangible income as defined in division (c)(15) herein;

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. “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 R.C. § 3501.28 or § 3501.36 to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars ($1,000.00) for the taxable year. Such compensation in excess of one thousand dollars ($1,000.00) for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation;

F. Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;

G. Alimony and child support received;

H. Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;

I. Income of a public utility when that public utility is subject to the tax levied under R.C. § 5727.24 or § 5727.30. This section does not apply for purposes of R.C. Chapter 5745;

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 (c)(34) of this section;

M. Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States Air Force that is used for the housing of members of the United States Air Force and is a center for Air Force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile;

N. An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code;

O. All of the municipal taxable income earned by individuals under eighteen years of age;

P. 1. Except as provided in divisions (c)(11)P.2., 3., and 4. of this section, qualifying wages described in Section 191.05(b)(2)A. or (b)(5) of this chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.

2. The exemption provided in division (c)(11)P.1. 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.

3. The exemption provided in division (c)(11)P.1. of this section does not apply to qualifying wages that an employer elects to withhold under Section 191.05(b)(4)B. of this chapter.

4. The exemption provided in division (c)(11)P.1. of this section does not apply to qualifying wages if both of the following conditions apply:

a. For qualifying wages described in Section 191.05(b)(2)A. 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 Section 191.05(b)(5) 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 (c)(11)P.4.a. of this section on the basis of the employee not performing services in that municipal corporation.

Q. 1. Except as provided in division (c)(11)Q.2. or 3. of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.

2. The exemption provided in division (c)(11)Q.1. of this section does not apply under either of the following circumstances:

a. The individual's base of operation is located in the Municipality;

b. The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (c)(11)Q.2.b. of this section, “professional athlete,” “professional entertainer,” and “public figure” have the same meanings as in Section 191.05(b).

3. Compensation to which division (c)(11)Q. of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

4. For purposes of division (c)(11)Q. of this section, “base of operation” means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

R. Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to R.C. § 709.023 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. Earnings of mentally handicapped and developmentally disabled employees earning less than minimum hourly wage while employed at government-sponsored sheltered workshops;

T. For an individual, the gain from the sale of rental real estate property. Any related loss from the sale of rental real estate property shall not be taken against any source of income of the individual;

U. Any item of income that is exempt income of a pass through entity 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;

V. 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 (c)(11) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(12) “Form 2106" means Internal Revenue Service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.

(13) “Generic form” means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

(14) “Income” means the following:

A. 1. 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 (c)(23)E. of this section.

2. For the purposes of division (c)(14)A.1. 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 (c)(14)A.4. 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.

3. Division (c)(14)A.2. 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 (c)(11)N.

4. Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.

B. In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

C. For taxpayers that are not individuals, net profit of the taxpayer;

D. For both resident and non-resident individuals, “other compensation” shall include, but not be limited to:

1. Tips, bonuses, or gifts of any type, and including compensation received by domestic servants, casual employees and other types of employees. These payments are normally reported on a form 1099 MISC.

2. If the income appears as part of Medicare wages on a W-2 form and is not shown to be an exception in accordance with Section 191.03(c)(11) of this section, it shall be considered other compensation and is therefore taxable to the individual. This includes, but is not limited to:

a. Payments made by an employer to an employee during periods of absence from work are taxable when paid and at the tax rate in effect at the time of payment, regardless of the fact that such payments may be labeled as sick leave or sick pay, sick pay paid by the employer to the employee, severance pay, supplemental unemployment benefits described in section 3402(o)(2) of the Internal Revenue Code, vacation pay, terminal pay, supplemental unemployment pay, etc.

b. Tips, bonuses, fees, gifts in lieu of pay, gratuities.

c. Strike pay; grievance pay.

d. Employer paid premiums for group term life insurance to the extent taxable for federal income tax purposes.

e. Car allowance, personal use of employer-provided vehicle.

f. Incentive payments, no matter how described, including, but not limited to, payments to induce early retirement.

g. Contributions by an employee or on behalf of an employee, from gross wages, into an employee or third party trust or pension plan as permitted by any provision of the Internal Revenue Code that may be excludable from gross wages for federal income tax purposes such as 401K, 403(b), and 457 plans.

h. Nonqualified deferred compensation plans or programs described in section 3121(v)(2)(C) of the Internal Revenue Code.

3. Trust payments not made pursuant to employee's retirement.

4. Where compensation is paid or received in property, its fair market value at the time of receipt shall be subject to the tax and to withholding.

a. Board, lodging, or similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.

b. Restricted stock awards that vest over a period of time are taxable at their fair market value at the time they become vested and included in Medicare wages, as shown on the employee's IRS form W-2.

E. 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 191.08(a) of this chapter.

(15) “Intangible income” means income of any of the following types; income yield, interest, capital gains (including but not limited to gains reported on IRS form 4797), 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 R.C. Chapter 5701, and patents, copyrights, trademarks, trade names, investments in

real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. “Intangible income” does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

(16) “Internal Revenue Code” means the “Internal Revenue Code of 1986,” 100 Sta. 2085, 26 U.S.C.A. 1, as amended.

(17) “Limited liability company” means a limited liability company formed under R.C. Chapter 1705 or under the laws of another state.

(18) “Local Board of Tax Review” and “Board of Tax Review” means the entity created under Section 191.18 of this chapter.

(19) “Municipal corporation” means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under R.C. §§ 715.691, 715.70, 715.71, or 715.74.

(20) A. “Municipal taxable income” means the following:

1. For a person other than an individual, income, apportioned or situsedto the Municipality under Section 191.06(b) of this chapter, as applicable and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.

2. For an individual who is a resident of the Municipality, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (c)(20)B. of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

3. For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situsedto the Municipality under Section 191.06(b) of this chapter, then reduced as provided in division (c)(20)B. of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

B. In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (c)(20)A.2. or 3. of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(21) “Municipality” means the City of Westerville, Ohio.

(22) “Net operating loss” means a loss incurred by a person in the operation of a trade or business. “Net operating loss” does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(23) A. “Net profit” for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (c)(23)C. of this section.

B. “Net profit” for a person other than an individual means adjusted Federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (c)(23)C. of this section.

C. 1. The amount of such operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

2. No person shall use the deduction allowed by division (c)(23)C. of this section to offset qualifying wages.

3. a. For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (c)(23)C. of this section.

b. For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by (c)(23)C. of this section without regard to the limitation of division (c)(23)C.3.a., of this section.

4. Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to (c)(23)C. of this section.

5. Nothing in division (c)(23)C.3.a. of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (c)(23)C.3.a. of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (c)(1) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (c)(23)C.3.a. of this section shall apply to the amount carried forward.

D. For the purposes of this chapter, and notwithstanding division (c)(23)A. of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

E. 1. 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.

2. For the purposes of this chapter, and not withstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (c)(23)E. 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.

3. 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 (c)(23)E.4. of this section.

4. 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 (c)(23)E.3. 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.

5. 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 (c)(23)E. of this section applies to all municipal corporations in which an individual owner of the partnership resides.

6. The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(24) “Nonresident” means an individual that is not a resident of the Municipality.

(25) “Ohio Business Gateway” means the online computer network system, created under R.C. § 125.30, 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 or 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 if its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.

(32) A. "Pre-2017 net operating loss carryforward" means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.

B. For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(33) "Qualifying wages" means wages, as defined in section 3121(a), as may hereinafter be amended, of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:

A. Deduct the following amounts:

1. 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.

2. 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.

3. Any amount included in wages that is exempt income.

B. Add the following amounts:

1. Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.

2. 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 (c)(33)B.2. of this section applies only to those amounts constituting ordinary income.

3. 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 (c)(33)B.3. of this section applies only to employee contributions and employee deferrals.

4. Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.

5. 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.

6. 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 (c)(33)B. of this section or R.C. § 718.03, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

7. To the extent not otherwise previously taxed, any amount paid by an employer to an employee as a lump sum cash compensation for an employee's accrued sick or vacation days.

(34) “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 percent (50%) 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 percent (50%) 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 (c)(34)D. of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent (50%) 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 (c)(34)A. to C. of this section have been met.

(35) "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 percent (20%)" shall be substituted for "five percent (5%)" wherever "five percent (5%)" appears in section 1563(e) of the Internal Revenue Code.

(36) "Resident" means an individual who is domiciled in the Municipality as determined under Section 191.04(b) of this chapter.

(37) "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.

(38) "Schedule C" means Internal Revenue Service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(39) "Schedule E" means Internal Revenue Service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(40) "Schedule F" means Internal Revenue Service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.

(41) "Single member limited liability company" means a limited liability company that has one direct member.

(42) "Small employer" means any employer that had total revenue of less than five hundred thousand dollars ($500,000.00) 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.

(43) "Tax Administrator" means the Director of Finance or their delegate, or the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, Tax Administrator does not include the State Tax Commissioner, Tax Administrator also includes the following:

A. A municipal corporation acting as the agent of another municipal corporation;

B. A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;

C. The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.

(44) "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.

(45) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(46) A. "Taxpayer" means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (c)(46)B.1. of this section, a disregarded entity.

B. 1. 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 R.C. § 718.01(L) 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.

2. For purposes of division (c)(46)B.1.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 ($400,000.00).

(47) "Taxpayers' rights and responsibilities" means the rights provided to taxpayers in R.C.§§ 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011 , and 5717.03 and

any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with R.C. Chapter 718 and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(48) "Video lottery terminal" has the same meaning as in R.C. § 3770.21.

(49) "Video lottery terminal sales agent" means a lottery sales agent licensed under R.C. Chapter 3770 to conduct video lottery terminals on behalf of the state pursuant to R.C. § 3770.21.

(50) "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.

(51) "Tax Commissioner" means the tax commissioner appointed under R.C. § 121.03.

SECTION 13: That Section 191.03 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.03 ALLOCATION OF NET PROFITS.

(a) This section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Ohio Revised Code. Net profit from a business or profession conducted both within and without the boundaries of Westerville "The City" shall be considered as having a taxable situs in the City for purposes of City income taxation in the same proportion as the average ratio of the following:

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

As used in the preceding paragraph, 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 persons employed in the business or profession for services performed in the City, to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed;

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

(4) Adding together the percentages determined in accordance with subsections (a)(1)(2) and (3) hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer and dividing the total so obtained by the number of percentages used in deriving such total.

(b) In the event that the foregoing allocation formula does not produce an equitable result under the formula provided for herein, the Finance Director or their delegate, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.

(c) As used in this chapter, "sales made in the City" means:

(1) All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.

(2) All sales of tangible personal property which is delivered within the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.

(3) All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

SECTION 14: That Section 191.05 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer who engages in business, or whose salaries, wages, commissions, rents 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 April 15 of each year with the Department of Finance, Income Tax Division on a form furnished by or obtained from the Income Tax Division, setting forth the aggregate amount of salaries, wages, commissions, rents and other compensation earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the Finance Director may require. However, when the return is made for a fiscal year or other period different from the calendar year, the return shall be made on or before the last day of the fourth month after the close of such fiscal year or other period.

(b) Commencing with taxable years beginning subsequent to December 31, 1994 the net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing

entity) may be used to offset the profits of another for purposes of arriving at overall net profits. These same provisions shall apply to joint returns filed by husband and wife.

A nonresident's income is only subject to the Westerville City income tax to the extent it was earned within Westerville.

(c) If a net operating loss has been sustained in any taxable year such losses may not be carried forward or backward to any other taxable year.

(d) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit. Operations of any affiliated corporation may not be taken into consideration in computing net profits or the Business Allocation Percentage Formula of another.

(e) A taxpayer who pays their business expenses from their commissions or other compensation, without reimbursement from their employer, may deduct from their gross commissions or other compensation business expenses allowed by the Internal Revenue Service for Federal Income Tax purposes, but only to the extent that such expenses are incurred in earning commissions or other compensation subject to the tax imposed by this section.

(f) The taxpayer making a return shall, at the time of the filing thereof, pay to the City the amount of taxes shown as due thereon; however where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 191.07 or where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 191.08, 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 the return.

(g) A taxpayer who has overpaid their income tax in any taxable year may request a refund provided there is no other tax liability and provided, further, that no amount of less than one dollar and one cent ($1.01) will be refunded or collected.

(h) The Finance Director or their delegate shall have the authority to extend the time for filing of the annual return upon the request of the taxpayer for a period not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. The Finance Director or their delegate may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due.

(k) Extensions.

(1) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a City income tax return by filing a copy of the taxpayer’s federal extension request with the Finance Director or their delegate. Any taxpayer not required to file a federal income tax return may request an extension for filing a City income tax return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the City tax return 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.

(2) The Tax Administrator may deny a taxpayer’s request for extension if the taxpayer:

A. Fails to timely file the request; or

B. Fails to file a copy of the federal extension request (if applicable); or

C. Owes the City any delinquent income tax, penalty, interest or other charge for the late payment or nonpayment of income tax; or

D. Has failed to file any required income tax return, report, or other related document for a prior tax period.

(3) The granting of an extension for filing a City tax return does not extend the due date as provided in this section for payment of the tax; hence, penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 191.13. Any extension by the Tax Administrator shall be granted upon the condition that declaration filing and payment requirements have been fulfilled.

SECTION 15: That Section 191.06 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.06 AMENDED RETURN AND REFUNDS FOR OVERPAYMENT.

Where an amended return must 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 Section 191.05(e) such amended return shall be on a form obtainable on request from the Income Tax Division. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

Within three months from the final determination of any Federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City tax based upon such final determination of Federal tax liability, and pay any additional tax shown due thereon or make a claim for refund of any overpayment.

Within thirty days of receiving a tax refund from another municipality for which credit has been claimed on a taxpayer's City return, as permitted by Section 191.16, such taxpayer shall make and file an amended City return and pay any additional tax shown thereon.

No refund shall be allowed unless a written request is presented to the Finance Director or their delegate within three years of the date the taxes were due.

SECTION 16: That Section 191.07 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.07 COLLECTION AT SOURCE.

(a) Each employer within or doing business within the City, shall deduct at the time of payment of such salaries, wages, commissions or other compensation, the tax levied under this

chapter. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(b) Employers shall pay to the City all income taxes withheld or required to be deducted and withheld on either a monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule.

(1) Semi-monthly payments of the taxes withheld are to be made by an employer if (i) the total taxes deducted in the prior calendar year were $12,000 or more, or (ii) the amount of taxes deducted for any month in the preceding quarter exceeded $1,000. Such payments shall be paid to the City within three banking days after the fifteenth and last day of each month.

(2) Monthly payments of taxes withheld shall be made by an employer if the taxes withheld in the prior calendar year were more than one thousand one hundred ninety-nine dollars ($1,199) or if the taxes withheld during any month of the preceding quarter exceeded one hundred dollars ($100).

Such payments shall be paid to the City within fifteen days after the close of each calendar month.

(3) All employers not required to make monthly or semi-monthly payments of taxes withheld under this section, shall make quarterly payments no later than the last day of the month following the end of each quarter.

(4) Effective July 1, 2005, every agent (third party) representing an employer filing monthly or semi-monthly as prescribed by the City, shall make payment by the electronic funds transfer (EFT) methods prescribed by the City, unless exemption from this requirement is given by the Finance Director or their delegate.

(c) Each employer who maintains a place of business in the City and other branches, must also withhold the tax from employees residing in the City but working at another branch of the employer, even though the payroll records and place of payment are outside the City.

(d) Every employer doing business within the City on a temporary basis shall pay to the City all income taxes withheld or required to be deducted and withheld on a monthly basis, regardless of the amount of taxes involved. Such payment shall be paid to the City within fifteen days after the close of each calendar month. An employer is "doing business within the City on a temporary basis" when the employer maintains a place of business in the City or does business within the City for a period which the employer does not expect to exceed one year.

(e) The employer shall make and file a return on a form furnished by the Income Tax Division, showing the amount of tax deducted by the employer from the salaries, wages, commissions or other compensation of any employee and paid by the employer to the City.

(f) Each employer on or before February 28, unless written request for thirty days' extension is made to and granted by the Finance Director following any calendar year in which such deductions have been made, or should have been made by any employer shall file with the Finance Director or their delegate an information return (Westerville Withholding Statement of Wages Paid and Westerville Income Tax Withheld), for each employee from whom income tax has been or should have been withheld showing the name and address of the employee, the total

amount of salaries, wages, commissions and other compensation paid to the employee during the year, and the amount of City income tax withheld from each employee. In addition, each Form (W-2) shall show the employer's name, address, and City account number. An adding machine tape or list of amount of tax withheld and taxable wages as shown on the W-2's shall be attached with the number of W-2's shown. Any return not so filed shall be subject to a late filing penalty of five dollars ($5.00) per day for each and every day they remain in violation to a maximum of three hundred dollars ($300.00). In addition to the late filing penalty, any return which remains un-filed more than two months after its due date shall be subject to the penalties provided under Section 191.14.

(g) Any person, including corporations, partnerships, employers, estates and trusts, who files 250 or more information returns of form W-2 for any calendar year, must file these returns using magnetic media or such other process as determined acceptable to the Finance Director. All requirements apply separately to both original and corrected forms.

(h) In addition to the above wage reporting requirements, any person paying money to an individual or independent contractor shall report such payment. The information should be reported on Federal Form 1099 and filed yearly with the Tax Administrator on or before February 28th. Any return not so filed shall be subject to a late filing penalty of five dollars ($5.00) per day for each and every day they remain in violation to a maximum of three hundred dollars ($300.00). In addition to the late filing penalty, any return which remains un-filed more than two months after its due date shall be subject to the penalties provided under Section 191.14.

(i) Every employer or officer of a corporation is deemed to be a trustee for this City in collecting and holding the tax required under this chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds.

(j) The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation does not discharge an officer's or employee's liability for a failure of the corporation to file returns or pay tax due prior to dissolution.

SECTION 17: That Section 191.08 (Earned Income Tax Effective Beginning January 1, 2016) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.08 CREDIT FOR TAX PAID.

(a) Credit for Tax Paid to Another Municipality.

(1) Resident Individual.

A. An individual taxpayer who is a resident of the Municipality and earns qualifying wages for work done or services performed or rendered in any municipal corporation, shall be allowed a credit in the amount of municipal income tax paid by or on behalf of that individual if it is demonstrated that a municipal income tax has been so paid. Such credit shall be allowed only to the extent of the tax assessed by this chapter.

B. An individual taxpayer who is a resident of the Municipality with income from an ownership interest in one or more pass-through entities, activities of a sole proprietor, or rental activities, after the deduction of distributable losses from other pass-through entities or business activities not utilized as a net operating loss carry-forward in any municipal taxing jurisdiction after January 1, 2018, shall be allowed a non-refundable credit for the amount so paid by the individual or on their behalf in such other municipal corporation only to the extent of the tax assessed by this chapter.

C. The credit for tax paid by a resident individual for salaries or wages earned in a non-resident municipal corporation is limited to the tax that is paid after all allowable 2106 expenses have been deducted and shall not exceed the tax established by this chapter.

D. No credit shall be given to a resident individual for any school district income tax.

(2) Non-resident individual.

A. Every individual taxpayer who is a not a resident of the Municipality, who earned qualifying wages for work done or services performed or rendered in the Municipality, shall be allowed a credit for the amount so paid if it is demonstrated that a municipal income tax has been paid by or on behalf of that individual. Such credit shall be applied only to the extent of the tax assessed by this chapter.

B. An individual taxpayer who is not a resident of the Municipality with ownership interet in one or more pass-through entities taxed at the entity level shall not report said income or losses on a non-resident individual annual return and shall not be allowed any credit for taxes paid on their behalf by the pass-through entity to any municipal corporation.

C. No credit shall be given to a non-resident individual for any school district income tax.

(b) Refundable Credit for Qualifying Loss.

(1) As used in this section:

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

B. 1. Except as provided in division (b)(1)B.1. 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.

2. 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 (b)(1)B.1. of this section computed without regard to division (b)(1)B.2. 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.

3. 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.

C. "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.

(2) A. Except as provided in division (b)(4) 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.

B. 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.

C. 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.

D. 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.

(3) A. 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.

B. 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.

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

A. The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

B. The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

(c) Credit for Person Working in Joint Economic Development District or Zone. A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under R.C. § 715.691 or a joint economic development district created under section R.C. §§ 715.70, 715.71, or 715.72 to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to Section 191.08 (a) of this chapter.

(d) Credit for Tax Beyond Statute for Obtaining Refund.

(1) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 191.09(f) of this chapter.

(2) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 191.09(f), the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(3) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 191.09(f) of this chapter.

(4) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 191.08(a) of this chapter regarding any limitation on credit shall prevail.

SECTION 18: That Section 191.09 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.09 DUTIES OF THE FINANCE DIRECTOR.

(a) It shall be the duty of the Finance Director to collect and receive the tax imposed by this chapter in the manner prescribed by this chapter, and it shall also be their duty to keep an accurate record showing the payment received by them from each taxpayer and the date of the payment.

(b) The Finance Director or their delegate is hereby charged with the administration and enforcement of the provisions of this chapter and they are hereby authorized to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns and payments.

In any case where a taxpayer has failed to file a return or failed to pay the tax due on a return or has filed a return which does not show the proper amount of tax due, the Finance Director or their delegate may determine the amount of tax appearing to be due the City from the taxpayer based on any information in their possession and shall send to such taxpayer a written statement showing the amount of tax so determined together with interest and penalties thereon, if any.

(c) The Finance Director or their delegate is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments when the taxpayer has proved to the Finance Director that, due to certain hardship conditions they are unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by them under this chapter.

SECTION 19: That Section 191.10 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.10 INVESTIGATIVE POWERS OF THE FINANCE DIRECTOR.

(a) The Finance Director or their delegate or any authorized employee is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer or of any taxpayer or person subject to, or who the Finance Director or their delegate believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if any return was made to ascertain the tax due under this chapter, and every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Finance Director or their delegate, or their duly authorized agent or employee, the means, facilities and opportunity for making such examinations and investigations as are hereby authorized.

The Finance Director or their delegate is hereby authorized to order any person presumed to have knowledge of the facts to appear before them and may examine such person, under oath, concerning any income which was or would have been returned for taxation of any transaction tending to effect such income, and for this purpose may compel the production of books, papers, records and Federal income tax returns and the attendance of all persons before them, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(b) The Finance Director or their delegate or any authorized employee is hereby authorized to institute procedures to determine the associations, businesses, corporations, persons, employers and employees subject to the provisions of this chapter, and in connection therewith, to require that all persons, as defined in this chapter shall provide in writing to the Finance Director such information as the Director deems necessary to provide for the enforcement of this chapter. The

refusal to provide information requested by the Finance Director, shall be deemed a violation of this chapter, punishable as provided in Section 191.99.

SECTION 20: That Section 191.11 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.11 TAX INFORMATION CONFIDENTIAL.

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 proper judicial order or except as hereinafter provided. The Finance Director or their delegate may furnish the Internal Revenue Service, Treasury Department of the United States, the Tax Commissioner of Ohio and the duly authorized income tax administrator of any other city or state with copies of the returns filed. The Finance Director or their delegate is also authorized to enter into agreements for the exchange of any information with any of the foregoing Federal, State or City officials. No person shall divulge such information.

SECTION 21: That Section 191.12 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.12 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. The Finance Director or their delegate is authorized, in addition to their other duties, to institute civil lawsuits to collect delinquent taxes due and owing the City by virtue of the provisions of this chapter. The Finance Director or their delegate is authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of State statutes of limitations.

SECTION 22: That Section 191.13 (Earned Income Tax Effective Beginning January 1, 2016) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.

(a) 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:

(1) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this

section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;

(2) Appoint agents and prescribe their powers and duties;

(3) 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;

(4) 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;

(5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 191.06(b) of this chapter;

(7) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized or 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;

(8) Destroy any or all returns or other tax documents in the manner authorized by law;

(9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 191.05(a) of this chapter;

(10) In any case where a taxpayer has failed to file a return or failed to pay the tax due on a return or has filed a return which does not show the proper amount of the tax due, the Finance Director or their delegate may determine the amount of tax appearing to be due the City from the taxpayer based on any information in their possession and shall send to such taxpayer a notice of assessment in accordance with Section 191.17 of this chapter.

(b) Authority of Tax Administrator; Compromise of Claim and Payment over Time.

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

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

A. Compromise a claim; or

B. 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.

(3) 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.

(4) 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.

(5) A. 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.

B. The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges, or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.

(6) 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.

(c) Authority of Tax Administrator; Right to Examine.

(1) 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.

(2) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a

period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.

(3) 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.

(4) 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.

(d) Authority of Tax Administrator; Requiring Identifying Information.

(1) 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.

(2) A. 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 191.10 of this chapter, in addition to any applicable penalty described in Section 191.99 of this chapter.

B. 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 (d)(1) 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 191.10 of this chapter.

C. The penalties provided for under divisions (d)(2)A. and B. 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 191.99 of this chapter for a violation of 191.15 of this chapter and any other penalties that may be imposed by the Tax Administrator by law.

SECTION 23: That Section 191.13 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.13 INTEREST AND PENALTIES.

All taxes imposed by this chapter and remaining unpaid after they become due shall bear interest, in addition to the amount of unpaid tax, at the rate of twelve percent (12%) per year, and the taxpayers upon whom such taxes are imposed by this chapter shall be liable, in addition thereto, to a penalty of ten percent (10%) of the amount of unpaid tax.

Any taxpayer or employer shall have twenty (20) days after assessment of a proposed penalty and/or interest charge to file a written protest with the Finance Director or their delegate showing cause why such penalty and/or interest should not be imposed.

A penalty shall not be assessed on an additional tax assessment made by the Finance Director or their delegate when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Finance Director; further, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, provided an amended return is filed and the additional tax is paid within three months after final determination of the Federal tax liability.

SECTION 24: That Section 191.14 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.14 VIOLATIONS.

(a) Any person subject to the provisions of this chapter who shall fail, neglect or refuse to make any return or declaration, or any employer who shall fail, neglect or refuse to deduct and withhold the taxes or pay the taxes imposed by this chapter or any taxpayer who shall fail, neglect or refuse to pay the tax, interest and penalties imposed by this chapter, or any person who shall refuse to permit the Finance Director or their delegate to examine the books, records and papers of a taxpayer, or any person who shall knowingly make an incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid the payment of the whole or any part of the tax under this chapter shall be deemed guilty of a fourth degree misdemeanor for a first offense and a second-degree misdemeanor for a second or subsequent offense. The failure of an employer or taxpayer to receive or procure a return or declaration form, shall not excuse them from making a return or declaration or paying the tax levied under this chapter.

(b) When a corporation or any organization other than a natural person is convicted of an offense pursuant to this chapter, it shall be fined not more than One Thousand Dollars ($1,000.00) for the first offense and shall be fined not more than Five Thousand Dollars ($5,000.00) for a second or subsequent offense.

(c) An officer, agent or employee of a corporation or other organization may be prosecuted for an offense committed by such corporation or other organization if they act 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, they engage 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 they have direct responsibility.

(2) They have primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

(d) When a person is convicted of an offense under any of the conditions of Subsection (c) (1) or (2), they are subject to the same penalty as if they had acted on their own behalf.

SECTION 25: That Section 191.16 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.16 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

Every individual taxpayer who resides in the City but who received net profits, salaries, wages, commissions or other compensation for work done or service performed or rendered outside the City, if it is made to appear that they have paid a municipal income tax, an income tax levied by a joint economic development zone board of directors, or excise tax based on income, on such net profits, salaries, wages, commissions or other compensation in another municipality or joint economic development zone, shall be allowed a credit for the amount so paid by them or on their behalf in such other municipality or joint economic development zone, this credit to be applied to the extent of one-hundred percent (100%) of the tax levied by this chapter, by reason of such net profits, salaries, wages, commissions or other compensation earned in such other municipality or joint economic development zone where such tax is paid.

SECTION 26: That Section 191.19 (Earned Income Tax Effective Beginning January 1, 2016) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.19 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:

1. Three years after the tax was due or the return was filed, whichever is later; or

2. 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 191.18 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 (25%) 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 191.096 of this chapter.

(d) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 191.18 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 191.096 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.

(f) 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. The Director of Finance or their delegate is authorized, in addition to their other duties, to institute civil lawsuits to collect

delinquent taxes due and owing the City by virtue of the provisions of this chapter. In accordance with Section 191.10 of this chapter, the Director of Finance or their delegate is authorized to assess costs of collection (including reasonable post-judgment attorney's fees) and is further authorized to waive penalties and interest and compromise tax liability and the right to accept waiver of state statutes of limitations.

SECTION 27: That Section 191.21 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.21 MANDATORY REGISTRATION.

(a) Each new resident of the City shall register with the Director of Finance of the City to become subject to the Westerville City income tax within thirty days of residence in the City. Any person who violates this subsection (a) shall be subject to a fine of five dollars ($5.00) a day for each and every day they remain in violation, up to a maximum of fifty dollars ($50.00).

(b) All employers, contractors or subcontractors who do work in the City shall register with the Director of Finance and shall present them with a list of all employees, subcontractors, contractors or others who may do work for them whose profits, wages or earnings are not presently subject to withholding of the Westerville City income tax. Any person who violates this sub-section (b) shall be subject to a fine of five dollars ($5.00) a day for each and every day they remain in violation, up to a maximum of three hundred dollars ($300.00).

(c) On October 1, 1975, and on every year thereafter, all landlords who rent property in Westerville must submit an up-to-date list of their tenants to the Director of Finance of the City. This list is not required if the tenants are responsible for their own utility payments. Any person who violates this sub-section (c) shall be subject to a fine of five dollars ($5.00) a day for each and every day they remain in violation, up to a maximum of seventy-five dollars ($75.00).

SECTION 28: That Section 191.22 (Earned Income Tax Effective Beginning January 1, 2016) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.22 MANDATORY REGISTRATION.

(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 imitations contained in Section 191.19.

(b) All employers, contractors or subcontractors who do work in the City shall register with the Director of Finance and shall present them a list of all employees, subcontractors, contractors, or others who may do work for them whose profits, wages, or earnings are not presently subject to withholding of the Westerville City income tax.

SECTION 29: That Section 191.23 (Earned Income Tax Effective Through December 31, 2015) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.23 ESTABLISHMENT OF BOARD OF REVIEW.

(a) A Board of Review, consisting of three members and one alternate, who shall be resident individuals appointed by the City Council, is hereby created. The alternate member will replace a member who disqualifies themself based upon a conflict of interest or who can not attend. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and keep a record of its transactions. Any hearing of the Board may be conducted privately and the provisions of Section 191.11 hereof 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.

(b) Any person dissatisfied with any ruling or decision of the Tax Administrator, which is made under the authority conferred by this chapter, may appeal there from to the Board within 30 days from the announcement of such ruling or decision by the Tax Administrator and the Board shall, on hearing, have jurisdiction to affirm, reverse, or modify any ruling or decision or any part thereof. Such hearing shall be scheduled within 45 days from the date of appeal. The Board's ruling must be made within 90 days from the date of the hearing and shall be in writing and filed with the Tax Administrator. The concurrence of two members is required to reverse or modify any ruling or decision of the Tax Administrator.

SECTION 30: That Section 191.99 (Earned Income Tax Effective Beginning January 1, 2016) of the Codified Ordinances is hereby amended in its entirety to read as follows:

191.99 VIOLATIONS; PENALTY.

(a) Except as provided in division (b) of this section, whoever violates Section 191.15 of this chapter, Section 191.14(a) of this chapter, or Section 191.05(a) 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 ($1,000.00) 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) (1) Except as provided in division (b)(2) of this section, whoever recklessly violates Section 191.29(a) shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for a term of up to six months, or both.

(2) Each instance of access or disclosure in violation of Section 191.29(a) constitutes a separate offense.

(3) These specific penalties shall not be construed to prevent the municipality from prosecuting any and all other offenses that may apply.

(c) 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 ($5,000.00) 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.

(d) Each instance of access or disclosure in violation of Section 191.14(a) of this chapter or division (c) above constitutes a separate offense.

(e) Whoever violates any provision of this chapter, for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the fourth degree on a first offense; on a second and each subsequent offense of any section of this chapter, 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) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine their books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or

(5) Fail to appear before the Tax Administrator and to produce their 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

(6) 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 their employers' income or net profits, such person's employer's income or net profits; or

(7) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or

(8) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to their 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

(g) An officer, agent, or employee of a corporation or other organization may be prosecuted for an offense committed by such corporation or other organization if they act 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, they engage 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 they have direct responsibility; and/or

(2) They have a primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

(h) When a person is convicted of an offense under any of the conditions of division (f)(1) or (2), they are subject to the same penalty as if they had acted on their own behalf.

SECTION 31: That Section 195.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

195.04 REFUND OF ERRONEOUS PAYMENTS.

The Director of Finance shall refund to vendors the amount of taxes paid erroneously or paid on any erroneous assessment where the vendor has not reimbursed themself from the transient guest. When such erroneous payment or assessment was not paid to a vendor but was paid by the transient guest directly to the Director or their agent, they shall refund such amount to the transient guest. Application shall be filed with the Director, on the form prescribed by the Director, within ninety days from the date it is ascertained that the assessment or payment was erroneous. However, in any event such application for refund must be filed with the Director within four years from the date of erroneous payment of the tax. On filing such application the Director shall determine the amount of refund due. The Director shall make such payment from the fund or funds to which the original tax was paid.

SECTION 32: That Section 195.06 of the Codified Ordinances is hereby amended in its entirety to read as follows:

195.06 RETURNS REQUIRED.

(a) Each vendor shall, on or before the twentieth day of each month, make and file a return for the preceding month, on forms prescribed by the Director of Finance, showing the receipts from furnishing lodging, the amount of tax due from the vendor to the City for the period covered by the return 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. Returns shall be filed by mailing the same to the Director, together with payment of the amount of tax shown to be due thereon.

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

(c) The Director shall stamp or otherwise mark on all returns the date received and shall also show thereon by stamp or otherwise the amount of payment received with the return. Any vendor who fails to file a return under this chapter shall for each day they so fail, forfeit and pay into the City Treasury the sum of one hundred dollars ($100.00).

(d) The Director, if he deems it necessary in order to insure the payment of the tax imposed by this chapter, may require returns and payments to be made for other than monthly periods.

SECTION 33: That Section 195.07 of the Codified Ordinances is hereby amended in its entirety to read as follows:

195.07 LIABILITY; ASSESSMENT AND PETITION FOR REASSESSMENT; PENALTIES.

(a) If any vendor collects the tax imposed by or pursuant to this chapter and fails to remit the same to the City as prescribed, they shall be personally liable for any amount collected which they failed to remit. The Director of Finance may make an assessment against such vendor based upon any information in the Director's possession.

(b) If any vendor fails to collect the tax or any transient guest fails to pay the tax imposed by or pursuant to this chapter on any transaction subject to the tax, such vendor or transient guest shall be personally liable for the amount of the tax applicable to the transaction. The Director may make an assessment against either the vendor or transient guest, as the facts may require, based upon any information in their possession.

SECTION 34: That Section 195.10 of the Codified Ordinances is hereby amended in its entirety to read as follows:

195.10 VENDOR TO COLLECT TAX; PROHIBITION AGAINST REBATES.

No vendor shall fail to collect the full and exact tax as required by this chapter. No vendor shall refund, remit or rebate to a transient guest, either directly or indirectly, any of the tax levied pursuant to this chapter, or make in any form of advertising, verbal or otherwise, any statements which might imply that they are absorbing the tax or paying the tax for the transient guest by an adjustment of prices, or furnishing lodging at a price including the tax, or rebating the tax in any other manner.

SECTION 35: That Section 303.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

303.02 TRAFFIC DIRECTION IN EMERGENCIES.

(a) Police officers may 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. Firefighters, or Emergency Squad personnel, when at the scene of a fire or traffic emergency, 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, Firefighter, or member of the Emergency Squad issued pursuant to this section.

(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.

SECTION 36: That Section 303.03 of the Codified Ordinances is hereby amended in its entirety to read as follows:

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 their 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.

SECTION 37: That Section 303.08 of the Codified Ordinances is hereby amended in its entirety to read as follows:

303.08 IMPOUNDING OF VEHICLES; REDEMPTION.

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

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

(b) When any vehicle or "abandoned junk motor vehicle" as defined in Ohio R. C. 4513.63 is left on private property for more than forty-eight consecutive 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 consecutive hours or longer, without notification to the Police Chief of the reasons for leaving such vehicle in such place, or upon any property in violation of Section 303.10. Prior to disposal of an "abandoned junk motor vehicle" as defined in Ohio R. C. 4513. 63, it shall be photographed by a law enforcement officer.

(c) When any vehicle has been stolen or operated without the consent of the owner.

(d) When any vehicle displays illegal license plates or fails to display the current lawfully required license plates.

(e) When any vehicle has been used in or connected with the commission of a felony.

(f) When any vehicle has been damaged or wrecked so as to be inoperative or violates equipment provisions of this Traffic Code whereby its continued operation would constitute a condition hazardous to life, limb or property.

(g) When any vehicle is left unattended due to the removal of an ill, injured or arrested operator.

(h) When any vehicle has been operated by any person who has failed to stop in case of an accident or collision.

(i) When any vehicle has been operated by any person who is driving without a lawful license or while their license has been suspended or revoked.

(j) When any vehicle is parked on or in front of a public or private driveway so as to prohibit vehicular ingress and egress to such property, without the consent of the person having the right to the possession of the property.

(k) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required.

(l) When any vehicle is parked on public or private property in violation of Section 351.15.

(m) When any vehicle is parked on any street or highway in violation of Section 351.13.

(n) When any vehicle is parked on public or private property in violation of Section 351.16.

(o) When any vehicle is operated in violation of Section 339.13.

The Police Division shall forthwith notify the registered vehicle owner of the fact of such removal and impounding, reasons therefor and the place of storage. Any person desiring to redeem an impounded vehicle shall appear at the Police Division to furnish satisfactory evidence of identity and ownership or right to possession. Prior to issuance of a release form the claimant, owner or operator shall either pay the amount due for any fines for violations on account of which such vehicle was impounded or, as the court may require, post a bond in an amount set by the court, to appear to answer to such violations.

The pound operator shall release such vehicle upon the receipt of the release form and payment of all towage and storage charges.

SECTION 38: That Section 303.10 of the Codified Ordinances is hereby amended in its entirety to read as follows:

303.10 STORAGE OF JUNK VEHICLES.

(a) No person shall store, place or allow to remain, motor vehicles in an inoperative condition or motor vehicles unfit for further use, within the corporate limits.

The provisions of this section shall not apply to inoperable vehicles or motor vehicles unfit for further use when the same are inside of a completely enclosed structure.

(b) For the purpose of this section:

(1) "Motor vehicle in an inoperative condition" means any style or type of motor-driven vehicle used or designed to be used for the conveyance of persons or property which is unable to move under its own power due to defective or missing parts, and which has remained in such condition for a period of not less than ten consecutive days.

(2) "Motor vehicle unfit for further use" means any style or type of motor-driven vehicle used or designed to be used for the conveyance of persons or property, which is in a dangerous condition, has defective or missing parts, or is in such a condition generally as to be unfit for further use as a conveyance.

(c) In the event of a violation of subsection (a) hereof, the City Manager shall cause notice to be given to the owner, occupant or person having charge of the premises upon which the violation occurs, to cease such violation. Such notice shall be in writing and shall be served upon the owner, occupant or person having charge of the premises either personally or at their usual place of residence, or by registered or certified mail addressed to such person's last known place of residence.

(d) No person served with such notice shall fail to cause such violation to cease within ten days of the date upon which the notice was issued. A separate offense shall be deemed committed each day during or on which a violation occurs or continues beyond such ten-day period. No additional notice of violation is required to be given.

(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.

SECTION 39: That Section 305.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

305.02 AUTHORITY AND CONSIDERATIONS FOR PLACEMENT OF DEVICES.

The City Manager is hereby authorized to place and maintain traffic control devices upon any street or highway under their jurisdiction as are necessary to regulate, warn or guide traffic, and such other traffic control devices as they 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:

SECTION 40: That Section 313.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

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 their jurisdiction. Before the Director either installs or removes a stop sign under this paragraph, they 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.

SECTION 41: That Section 335.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

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 under Ohio R.C. Chapter 4507 or a valid commercial driver's license issued under Ohio R.C. Chapter 4506.

(b) No person shall receive a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, unless and until they surrender to the Registrar all valid licenses issued to them by another jurisdiction recognized by the State of Ohio. No person shall be permitted to have in their possession more than one valid license at any time.

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

SECTION 42: That Section 351.15 of the Codified Ordinances is hereby amended in its entirety to read as follows:

351.15 PARKING ON PROPERTY OTHER THAN STREETS.

(a) The parking of vehicles on public or private property, excluding dedicated streets and ways set out for public travel and heretofore regulated, shall be prohibited without the consent of the owner of private property or the proper governmental agencies in charge of public property.

(b) No vehicle shall be parked on public property in violation of rules and regulations set out by the governmental agencies controlling the public property.

(c) No vehicle shall be parked on any private property in violation of any regulations set down by the owner of the private property.

(d) Except in single-family or two-family residential districts established under the City Zoning Ordinance, the provisions of subsections (a) through (c) hereof, shall not be applicable unless the private or public property is posted in a conspicuous manner setting forth the prohibition of parking or the conditions and regulations under which parking is permitted.

(e) Subject to the requirements of this section, an owner of private property or their authorized agent may remove, or cause to be removed, vehicles parked upon their property in violation of the posted parking regulations.

(f) An owner of private property may create a private tow-away zone by posting a sign thereon, no smaller than eighteen inches by twenty-four inches and visible from all entrances to the private property, which contains at least the following information:

(1) A designation that the area is a "PRIVATE TOW-AWAY ZONE, UNAUTHORIZED VEHICLES WILL BE TOWED AWAY"; and

(2) The telephone number or numbers of the person or persons from whom the vehicle can be recovered; and

(3) A statement that "VEHICLE MAY BE RECOVERED AT ANY TIME DURING THE DAY OR NIGHT UPON PROOF OF OWNERSHIP AND PAYING OF TOWING CHARGE

IN THE AMOUNT OF $ (see subsection (h) hereof) and storage charge in the amount of $ (see subsection (h) hereof) PER 24 HOUR PERIOD."

(g) By parking on properly posted private property without the consent of the owner of the property, the owner and operator of a vehicle shall be deemed to have consented to the removal and storage and the payment of the costs of removing and storage in an amount not to exceed the rates established by the City Manager under the provisions of subsection (h) hereof.

(h) The City Manager shall promulgate and publish a set of rules and regulations to implement this section as they deem proper, including the establishment of reasonable maximum rates for the removal and storage of any vehicle removed from private property. The rates established pursuant to this section shall be posted as provided in subsection (f)(3) hereof.

(i) The removal of vehicles under this section shall be only performed by tow trucks and tow truck operators duly licensed.

(j) No person shall remove or cause to be removed any vehicle from private property unless in conformance with this section with respect to the removing, or causing to be removed, motor vehicles from private property. Whoever violates this section shall be guilty of a minor misdemeanor on the first offense, and for each subsequent offense shall be deemed guilty of a first degree misdemeanor.

SECTION 43: That Section 371.06 of the Codified Ordinances is hereby amended in its entirety to read as follows:

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) Except as provided in Section 749.07, no person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.

(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 their 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 their vehicle while the tailgate is unlatched.

SECTION 44: That Section 373.11 of the Codified Ordinances is hereby amended in its entirety to read as follows:

373.11 IMPOUNDING.

(a) Any person under eighteen years of age who in riding or operating a bicycle violates the provisions of this chapter or of State law pertaining to the operation of a bicycle shall be subject to the impoundment of such bicycle by the Division of Police and shall be required to have their parent or guardian appear at the Division to claim such bicycle.

(b) Impounding of bicycles pursuant to the provisions of this section shall be in addition to the penalty provided in any section.

SECTION 45: That Section 501.06 of the Codified Ordinances is hereby amended in its entirety to read as follows:

501.06 LIMITATION OF CRIMINAL PROSECUTION.

(a) (1) Except as provided in subsection (a)(2), (a)(3), or (a)(4) of this section or as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

A. For a felony, six years;

B. For a misdemeanor other than a minor misdemeanor, two years;

C. For a minor misdemeanor, six months.

(2) There is no period of limitation for the prosecution of a violation of Ohio R.C. 2903.01 or Ohio R.C. 2903.02.

(3) Except as otherwise provided in subsections (b) to (h) of this section, a prosecution of any of the following offenses shall be barred unless it is commenced within 20 years after the offense is committed:

A. A violation of Ohio R.C. 2903.03, 2903.04, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, or 2917.02, a violation of Ohio R.C. 2903.11 or 2903.12 if the victim is a peace officer, a violation of Ohio R.C. 2903.13 that is a felony, or a violation of former Ohio R.C. 2907.12.

B. A conspiracy to commit, attempt to commit, or complicity in committing a violation set forth in subsection (a)(3)A. of this section.

(4) Except as otherwise provided in divisions (d) to (l) of this section, a prosecution of a violation of R.C. § 2907.02 or 2907.03 or a conspiracy to commit, attempt to commit, or complicity in committing a violation of either section shall be barred unless it is commenced within 25 years after the offense is committed.

(b) (1) Except as otherwise provided in subsection (b)(2) of this section, if the period of limitation provided in subsection (a)(1) or (a)(3) 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 their legal representative who is not themself party to the offense.

(2) If the period of limitation provided in division (a)(1) or (a)(3) of this section has expired, prosecution for a violation of Ohio R.C. 2913.49 shall be commenced within five years

after discovery of the offense either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.

(c) (1) If the period of limitation provided in subsection (a)(1) or (a)(3) of 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. The phrase "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, 102.03(F) or (H), 2921.02(A), 2921.43(A) or (B), or 3517.13(F) or (G), that is directly related to an offense involving misconduct in office of a public servant, or a violation of any municipal ordinance substantially equivalent to those Ohio Revised Code sections listed in this subsection (c)(2)A.

B. "Public servant" has the same meaning as in Ohio R.C. 2921.01.

(d) (1) If a DNA record made in connection with the criminal investigation of the commission of a violation of R.C. § 2907.02 or 2907.03 is determined to match another DNA record that is of an identifiable person and if the time of the determination is later than 25 years

after the offense is committed, prosecution of that person for a violation of the section may be commenced within five years after the determination is complete.

(2) If a DNA record made in connection with the criminal investigation of the commission of a violation of R.C. § 2907.02 or 2907.03 is determined to match another DNA record that is of an identifiable person and if the time of the determination is within 25 years after the offense is committed, prosecution of that person for a violation of the section may be commenced within the longer of 25 years after the offense is committed or five years after the determination is complete.

(3) As used in this division, "DNA record" has the same meaning as in R.C. § 109.573.

(e) 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.

(f) 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.

(g) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.

(h) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused absented themself from this Municipality or concealed their identity or whereabouts is prima-facie evidence of their purpose to avoid prosecution.

(i) 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.

(j) The period of limitation for a violation of this Part 6 or Title XXIX of the Ohio Revised 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 18 years of age or of a child with a developmental disability or physical impairment under 21 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.

(k) As used in this section, “peace officer” has the same meaning as in Ohio R.C. 2935.01.

(l) The amendments to divisions (a) and (d) of this section apply to a violation of R.C. § 2907.02 or 2907.03 committed on and after July 16, 2015 and apply to a violation of either of those sections committed prior to July 16, 2015 if prosecution for that violation was not barred under this section as it existed on July 15, 2015.

(m) 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 Municipal income tax ordinance.

SECTION 46: That Section 501.10 of the Codified Ordinances is hereby amended in its entirety to read as follows:

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 their complicity, moral turpitude or self-interest, but the admitted or claimed complicity of a witness may affect their credibility and make their 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 their complicity, under circumstances manifesting a complete and voluntary renunciation of their 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 they were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.

SECTION 47: That Section 501.12 of the Codified Ordinances is hereby amended in its entirety to read as follows:

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 they act 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, they engage 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 they have direct responsibility;

(2) They have 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, they are subject to the same penalty as if they had acted on their own behalf.

SECTION 48: That Section 501.13 of the Codified Ordinances is hereby amended in its entirety to read as follows:

501.13 FAILURE TO APPEAR ON RECOGNIZANCE.

(a) No person, having been released on their own recognizance, shall fail to appear as required by such recognizance.

(b) If the release was in connection with a charge of the commission of a misdemeanor or for appearance as a witness, failure to appear is a misdemeanor of the first degree.

(c) This section does not apply to misdemeanors and related ordinance offenses arising under Chapters 4501, 4503, 4505, 4509, 4511, 4513, 4517, 4549, and 5577 of the Revised Code, except that this section does apply to violations of Sections 4511.19, 4549.02, and 4549.021 (4549.02.1) of the Ohio Revised Code and ordinance offenses related to Sections 4511.19, 4549.02 and 4549.021 (4549.02.1) of the Ohio Revised Code.

SECTION 49: That Section 503.09 of the Codified Ordinances is hereby amended in its entirety to read as follows:

503.09 INTERFERENCE WITH CUSTODY.

(a) No person, knowing they are without privilege to do so or being reckless in that regard, shall entice, take, keep or harbor any of the following persons from their parent, guardian or custodian:

(1) A child under the age of eighteen, or a mentally or physically handicapped child under the age of twenty-one;

(2) A person committed by law to an institution for delinquent, unruly, neglected, abused or dependent children;

(3) A person committed by law to an institution for the mentally ill or an institution for persons with intellectual disabilities.

(b) No person shall aid, abet, induce, cause or encourage a child or a ward of the juvenile court who has been committed to the custody of any person, department, or public or private institution to leave the custody of that person, department, or institution without legal consent.

(c) It is an affirmative defense to a charge of enticing or taking under subsection (a)(1) hereof that the actor reasonably believed that their conduct was necessary to preserve the child's health or safety. It is an affirmative defense to a charge of keeping or harboring under subsection (a) hereof, that the actor in good faith gave notice to law enforcement or judicial authorities within a reasonable time after the child or committed person came under their shelter, protection or influence.

(d) (1) Whoever violates this section is guilty of interference with custody.

(2) Except as otherwise provided in this subsection, a violation of subsection (a)(1) of this section is a misdemeanor of the first degree. If the child who is the subject of a violation of subsection (a)(1) of this section is removed from the State, if the offender previously has been convicted of an offense under this section, or if the child who is the subject of a violation of subsection (a)(1) of this section suffers physical harm as a result of the violation, a violation of subsection (a)(1) of this section is a felony and shall be prosecuted under appropriate State law.

(3) A violation of subsection (a)(2) or (3) of this section is a misdemeanor of the third degree.

(4) A violation of subsection (b) of this section is a misdemeanor of the first degree. Each day of violation of subsection (b) of this section is a separate offense.

SECTION 50: That Section 507.13 of the Codified Ordinances is hereby amended in its entirety to read as follows:

507.13 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 they are 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 they are eighteen years of age or over or married;

(2) Exhibit any identification or document purporting to show that they are 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.

SECTION 51: That Section 507.17 of the Codified Ordinances is hereby amended in its entirety to read as follows:

507.17 REPORTING SUSPECTED CHILD PORNOGRAPHY.

(a) No commercial film or photographic print processor acting within the scope of employment or professional who obtains knowledge of any film, photography, movie film, videotape, negative or slide depicting a child engaged in sexual activity, bestiality, or masturbation of themselves or another; depicting a child as a victim of sadomasochism; or depicting erotic juvenile nudity, shall knowingly fail to do both of the following:

(1) Immediately report that knowledge or observation; the name of the person who presented the film, photograph, movie film, videotape, negative or slide for processing; and any available address or telephone number of that person to a City police officer.

(2) Provide a copy of the film, photograph, movie film, videotape, negative or slide that is the subject of the report made pursuant to subsection (a)(1) hereof to the police officer who investigates the report.

(b) No person, or employee of any person, acting as an agent of a commercial film or photographic print processor who obtains knowledge that any film, photograph, movie film, videotape, negative or slide depicts a child engaged in sexual activity, bestiality or masturbation of the child or another; depicts a child as the victim of sadomasochism; or depicts erotic juvenile nudity shall knowingly fail to do both of the following:

(1) Immediately report that knowledge or observation; the name of the person who presented the film, photograph, movie film, videotape, negative or slide for processing; and any available address or telephone number of that person to a City police officer.

(2) Provide a copy of the film, photograph, movie film, videotape, negative or slide that is the subject of the report made pursuant to subsection (b)(1) hereof to the police officer who investigates the report, if it is available to the person.

(c) (1) Any report made pursuant to this section is confidential and shall be used or disseminated only as necessary for any court proceedings held as a result of the report or as otherwise ordered by a court.

(2) No person shall knowingly use or disseminate any report made pursuant to this section or divulge the name of the person who made the report, except as necessary for any court proceedings held as a result of the report, or as otherwise ordered by a court.

(d) Any person who, in good faith, makes a report pursuant to this section or otherwise participates in any court proceeding that arises out of the making of a report pursuant to this section, is immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of the making of the report or participating in court proceedings. Any person who makes a report pursuant to this section or participates in any court proceeding that arises out of any report made pursuant to this section, is rebuttably presumed to be acting in good faith.

(e) Any City police officer who receives a report pursuant to subsections (a) or (b) hereof shall notify the County Children's Services Board of the County Department of Human Services that exercises the Children's Services function of the report.

(f) As used in this section:

(1) "Commercial film or photographic print processor" means a person, or the employee of a person, who for a fee does any of the following:

A. Develops exposed photographic film into movies, negatives, slides or prints;

B. Makes photographic prints from negatives or slides;

C. Makes copies of videotapes.

(2) "Erotic juvenile nudity" means a display, description or representation of a child's genitals, rectal area or pubic area or a display, description or representation of a female child's developed or developing breast, which display, description or representation is lewd and appeals to prurient interest.

(3) "Sexual activity" has the same meaning as in Ohio R.C. 2907.01.

(4) For purposes of this section, a person acts as an agent of a commercial film or photographic print processor if they are not an employee of the commercial film or photographic print processor and if they do any of the following:

A. Collects film, photographs, movie film, videotapes, negatives or slides at their place of business for delivery to the commercial film or photographic print processor.

B. Permits customers of a commercial film or photographic print processor to deposit on premises that they own, leases or otherwise has under their control: film, photographs, movie film, videotapes, negatives or slides for pick-up or delivery.

C. Otherwise assists in the delivery of film, photographs, movie film, videotapes, negatives or slides to or from a commercial film or photographic print processor.

(g) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

SECTION 52: That Section 509.08 of the Codified Ordinances is hereby amended in its entirety to read as follows:

509.08 AGGRAVATED TRESPASS.

(a) 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 the other person.

(b) Whoever violates this section is guilty of aggravated trespass, a misdemeanor of the first degree.

SECTION 53: That Section 513.14 of the Codified Ordinances is hereby amended in its entirety to read as follows:

513.14 PERSONATING AN OFFICER.

(a) No person, with purpose to defraud or knowing that they are facilitating a fraud, or with purpose to induce another to purchase property or services, shall personate a law enforcement officer, or an inspector, investigator or agent of any governmental agency.

(b) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree.

SECTION 54: That Section 515.12 of the Codified Ordinances is hereby amended in its entirety to read as follows:

515.12 BINGO OPERATOR PROHIBITIONS.

(a) No person shall be a bingo game operator unless they are eighteen 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.

SECTION 55: That Section 515.15 of the Codified Ordinances is hereby amended in its entirety to read as follows:

515.15 POSSESSION OF NUMBERS SLIPS.

(a) No person shall own, possess, have on or about their person, in their custody, or under their control a ticket, order or device for or representing a number of shares or an interest in a scheme of chance known as policy, numbers game or clearing house, or by words or terms of similar import, located in or to be drawn, paid or carried on within or without the Municipality.

(b) Whoever violates this section is guilty of possession of numbers slips, a minor misdemeanor.

SECTION 56: That Section 517.10 of the Codified Ordinances is hereby amended in its entirety to read as follows:

517.10 CURFEW.

(a) No minor under the age of fourteen years shall loiter, idle, wander, play or be in or upon a motor vehicle in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places, public buildings, places of amusement or entertainment, or vacant lots or other unsupervised places between 9:00 p.m. and sunrise of the following day. However, the provisions of this subsection shall not apply to a minor when accompanied by their parent, guardian or other adult person having the care and custody of such minor, or where a minor is upon an emergency errand or legitimate business, directed by their parent, guardian or adult person having the care and custody of the minor.

(b) No minor under the age of eighteen years shall loiter, idle, wander, play or be in or upon a motor vehicle in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds, public places and public buildings, places of amusement or entertainment, or vacant lots or other unsupervised places between 11:00 p.m. and sunrise of the following day. However, the provisions of this subsection shall not apply to a minor when accompanied by their parent, guardian or other adult person having the care and custody of such minor, or where such minor is upon an emergency errand or legitimate business directed by their parent, guardian or other adult person having the care or custody of such minor.

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

SECTION 57: That Section 521.01 of the Codified Ordinances is hereby amended in its entirety to read as follows:

521.01 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 including without limitation legislators, judges and law enforcement officers. The term 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."

(1) Any of the following:

A. Any public official;

B. Any person performing ad hoc a governmental function, including without limitation a juror, member of a temporary commission, master, arbitrator, advisor or consultant;

C. A candidate for public office, whether or not they are elected or appointed to the office for which they are a candidate. A person is a candidate for purposes of this subsection if they have been nominated according to law for election or appointment to public office, or if they have filed a petition or petitions as required by law to have their name placed on the ballot in a primary, general or special election, or if he campaigns as a write-in candidate in any primary, general or special election.

(2) The term 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 they direct, 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", "political party" and "political contributing entity" have the same meanings as in Ohio R.C. 3517.01.

(i) "Provider agreement" and "medical assistance program" have the same meanings as in Ohio R.C. 2913.40.

SECTION 58: That Section 521.03 of the Codified Ordinances is hereby amended in its entirety to read as follows:

521.03 COMPOUNDING A CRIME.

(a) No person shall knowingly demand, accept or agree to accept anything of value in consideration of abandoning or agreeing to abandon a pending criminal prosecution.

(b) It is an affirmative defense to a charge under this section when both of the following apply:

(1) The pending prosecution involved is for violation of Sections 513.03, 513.07 or 513.08(b)(2) or Ohio R.C. 2913.02, 2913.11, 2913.21(B)(2) or 2913.47, of which the actor under this section was the victim.

(2) The thing of value demanded, accepted or agreed to be accepted, in consideration of abandoning or agreeing to abandon the prosecution, did not exceed an amount that the actor reasonably believed due them as restitution for the loss caused by the offense.

(c) When a prosecuting witness abandons or agrees to abandon a prosecution under subsection (b) hereof, the abandonment or agreement in no way binds the State or Municipality to abandoning the prosecution.

(d) Whoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree.

SECTION 59: That Section 521.08 of the Codified Ordinances is hereby amended in its entirety to read as follows:

521.08 REGISTRATION OF FELONS.

(a) No resident of the City who has been convicted in any court of any state or in any Federal court of a crime which is a felony under the laws of such state or of the United States or which, if committed in the State of Ohio, would have been a felony under the laws of this State and who is currently on parole or probation for such a crime shall knowingly fail to report as required in subsection (b) hereof.

(b) Every person described in subsection (a) hereof shall report to the Division of Police, Department of Public Safety, within one week after taking up residency in the City, and on a written form provided by the Police Division, state on such form, which shall be signed by such person, the true name of such person and every other name or alias by which such person is or has been known, a full and complete physical description themself, the name of each crime described in subsection (a) hereof of which they have been convicted, together with the name of the place where such crime was committed, the name under which they were convicted and the year of the conviction therefor, the address of their residence in the City and the date of their most recent release from incarceration for the commission of a crime described in subsection (a) hereof.

(c) At the time of furnishing the information required by this section, such person shall be photographed and fingerprinted by the Division of Police and such photograph and fingerprints shall be made a part of the records of the Division of Police, Department of Public Safety.

(d) No person described in subsection (a) hereof upon changing their place of residence in the City, shall knowingly fail, within thirty-one days after so changing their residence, to notify the Division of Police, Department of Public Safety, in a written statement on a form provided by the Division of Police and signed by such person, of such change of address and the new address of their residence in the City.

(e) Five years after the most recent release from incarceration for a crime described in subsection (a) hereof of any person described in subsection (a) or, in the event no incarceration was imposed, five years from the date of the last conviction, the Division of Police, Department of Public Safety, shall remove from its files and destroy all reports, records, photographs and fingerprints of such person taken or received pursuant to this section.

(f) All reports, records, photographs and fingerprints taken pursuant to this section shall be the private records of the Division of Police, Department of Public Safety, open to inspection only by City or police officers, or persons having official duties to perform in connection therewith. No person having access to such records shall disclose to any other person other than in the regular discharge of their duties, any information contained therein.

(g) Nothing in this section shall be deemed or construed to apply to any person who has received a pardon for each such crime of which they were convicted.

(h) Whoever knowingly violates this section is guilty of failure to register as a felon, a minor misdemeanor.

SECTION 60: That Section 523.07 of the Codified Ordinances is hereby amended in its entirety to read as follows:

523.07 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall:

(1) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing them to be authorized to

acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;

(2) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of subsection (a)(1) hereof is a misdemeanor of the second degree. Violation of subsection (a)(2) hereof is a misdemeanor of the fourth degree. (ORC 2923.20)

SECTION 61: That Section 523.09 of the Codified Ordinances is hereby amended in its entirety to read as follows:

523.09 DISCHARGING WEAPONS.

(a) No person shall discharge, or cause to be discharged, any firearm or airgun or other instrument used to explode any cartridge or thing filled with any explosive substance or material.

(b) No person shall discharge, or cause to be discharged, any arrow or other projectile capable of inflicting death or serious physical harm to persons or property, from any device or instrument including, but not limited to, a zip-gun, slingshot, crossbow, compound bow or any type of bow commonly used for hunting purposes. This subsection shall not apply to supervised commercial archery ranges or State accredited schools offering instruction in the use of such weapons.

(c) This section shall not be construed to include toy bow and arrow sets, toy pistols, toy canes, toy guns or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, and toy pistol paper caps which contain less than twenty hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times.

(d) This section shall not apply to a law enforcement officer in the lawful performance of their duties; or when the offender discharges the weapon when acting in self-defense of themselves or another person which is justified under State law, which the offender must show by a preponderance of the evidence.

(e) Whoever violates this section is guilty of discharging weapons, a misdemeanor of the third degree.

(f) Strict liability is intended to be imposed for violation of this section, except as stated in subsection (d) hereof.

SECTION 62: That Section 525.01 of the Codified Ordinances is hereby amended in its entirety to read as follows:

525.01 DEFINITIONS.

(a) “Business” means a sole proprietorship, partnership, association, joint venture, corporation, or any limited liability form of any of the foregoing, or any other entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, financial, counseling or other professional or consumer services are provided.

(b) “Employee” means a person who is employed by an employer, or who contracts with an employer or who contracts with a third person to perform services for an employer, or who otherwise performs services for an employer in consideration for direct or indirect monetary wages or profit, or any person who volunteers their services to such employer for no monetary compensation.

(c) “Employer” means an individual person, business, partnership, association, corporation, including a municipal corporation, trust, or any non-profit entity that accepts the provision of services from one or more employees.

(d) “Enclosed Area” means all space closed in by a roof or other overhead covering of any kind and walls or other side coverings of any kind on at least three sides with appropriate openings for ingress and egress.

(e) “Place of employment” means an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including but not limited to, private offices, work areas, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, employee gymnasiums, auditoriums, libraries, storage rooms, file rooms, mailrooms, employee medical facilities, rooms or areas containing photocopying or other office equipment used in common by employees, elevators, stairways, hallways, factories, warehouses, garages, taxies, limousines, and laboratories. An enclosed area as described herein is a “Place of Employment” without regard to time of day or actual presence of employees. “Place of employment” only includes private residences, whether single or multifamily, if used as a child care, adult day care, or health care facility, or if a person uses a private residence in any way otherwise qualifying that person as an employer with respect to the use of that private residence; provided, however, that private residences are exempt from this chapter to the extent that the person providing the services is providing housecleaning, home maintenance or personal care services in the private residence.

(f) “Proprietor” means the owner, manager, operator, liquor permit holder, or other person in charge or control of a public place or place of employment.

(g) “Public place” means an enclosed area to which the public is invited or in which the public is permitted and includes service lines. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.

(h) “Service line” means an indoor line in which one or more persons are waiting for or receiving service of any kind, whether or not the service involves the exchange of money.

(i) “Smoking” means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant, or other smoking equipment in any manner or in any form, and also includes the use of electronic cigarettes. “Smoking” does not include the burning or carrying of incense in a religious ceremony.

(j) "Smoking materials" means any cigar, cigarette, electronic cigarette, pipe, weed, plant or other smoking equipment in any form.

(k) "Work area" means any room, desk, station or other area normally occupied by an employee while carrying out their primary work function.

(l) "Outdoor patio" means an outdoor area, open to the air at all times, that is either: enclosed by a roof or other overhead covering and not more than two walls or other side coverings; or has no roof or other overhead covering at all regardless of the number of walls or other side coverings and physically separated from any enclosed area.

(m) "Private Club" means a club as that term is defined in R.C. 4301.01(B)(13) and that is organized as not for profit.

(n) "Public park" means any City-owned park or recreational lands open to the public, including, but not limited to, playgrounds, restrooms, shelter houses, pavilions, outdoor pools, outdoor patios, athletic fields, pedestrian and bike paths/trails, wooded areas, parking lots, entertainment and performance areas, bleachers, public bridges, and sitting/standing areas. Public park also includes the entire parcel or parcels of land upon which such facilities are located.

(o) "Electronic cigarette" means any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo, vape pen, e-hookah or electronic pipe.

SECTION 63: That Section 525.08 of the Codified Ordinances is hereby amended in its entirety to read as follows:

525.08 ENFORCEMENT.

This chapter shall be enforced by the Franklin County Board of Health and its designees, the Westerville Police Division, and the Westerville City Manager and their designees all of whom shall have concurrent jurisdiction to enforce all provisions of this chapter.

SECTION 64: That Section 527.12 of the Codified Ordinances is hereby amended in its entirety to read as follows:

527.12 POSSESSION, MANUFACTURE AND DELIVERY OF DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter. "Drug paraphernalia" includes but is not limited to any of the following equipment, products or materials that are used by the offender, intended by the offender for use, or designed by the offender for use, in any of the following manners:

(1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived.

(2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance.

(3) Any object, instrument or device for manufacturing, compounding, converting, producing, processing or preparing methamphetamine.

(4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance.

(5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance.

(6) A scale or balance for weighing or measuring a controlled substance.

(7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance.

(8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana.

(9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance.

(10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance.

(11) A container or device for storing or concealing a controlled substance.

(12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body.

(13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

(b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:

(1) Any statement by the owner or by anyone in control of the equipment, product or material, concerning its use.

(2) The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or R.C. Chapter 2925.

(3) The proximity of the equipment, product or material to any controlled substance.

(4) The existence of any residue of a controlled substance on the equipment, product or material.

(5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom they know intends to use the equipment, product or material to facilitate a violation of any provision of this chapter or R.C. Chapter 2925. A finding that the owner or anyone in control of the equipment, product or material is not guilty of a violation of any other provision of this chapter or R.C. Chapter 2925 does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia.

(6) Any oral or written instruction provided with the equipment, product or material concerning its use.

(7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use.

(8) National or local advertising concerning the use of the equipment, product or material.

(9) The manner and circumstances in which the equipment, product or material is displayed for sale.

(10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise.

(11) The existence and scope of legitimate uses of the equipment, product or material in the community.

(12) Expert testimony concerning the use of the equipment, product or material.

(c) (1) Subject to division (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.

(2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if they know or reasonably should know that the equipment, product or material will be used as drug paraphernalia.

(3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this state, if they know that the purpose of the advertisement is to promote the illegal sale in this municipality or in this state of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.

(d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731 and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by R.C. § 3719.172.

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

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

(f) (1) Whoever violates division (c)(1) of this section is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.

(2) Except as provided in division (f)(3) of this section, whoever violates division (c)(2) of this section is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.

(3) Whoever violates division (c)(2) of this section by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.

(4) Whoever violates division (c)(3) of this section is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

(R.C. § 2925.14(A) - (F))

(g) *Illegal use or possession of marihuana drug paraphernalia*.

(1) As used in this division (g), "drug paraphernalia" has the same meaning as in division (a) of this section.

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

(3) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marihuana.

(4) This division (g) does not apply to any person identified in division (d)(1) of this section, and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by R.C. § 3719.172.

(5) Division (e) of this section applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(6) Whoever violates division (g)(3) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.

(R.C. § 2925.141(A) - (F))

SECTION 65: That Section 527.14 of the Codified Ordinances is hereby amended in its entirety to read as follows:

527.14 LABORATORY REPORT AS EVIDENCE; REQUIREMENTS; VIOLATION.

(a) In any criminal prosecution for a violation of this chapter, a laboratory report from the bureau of criminal identification and investigation, a laboratory operated by another law enforcement agency, or a laboratory established by or under the authority of an institution of higher education that has its main campus in this State and that is accredited by the association of American universities or the north central association of colleges and secondary schools, primarily for the purpose of providing scientific services to law enforcement agencies and signed by the person performing the analysis, stating that the substance which is the basis of the alleged offense has been weighed and analyzed and stating the findings as to the content, weight and identity of the substances and that it contains any amount of a controlled substance and the number and description of unit dosages, is prima-facie evidence of the content, identity and weight or the existence and number of unit dosages of the substance.

Attached to that report shall be a copy of a notarized statement by the signer of the report giving the name of the signer and stating that they are an employee of the laboratory issuing the report and that performing the analysis is a part of their regular duties, and giving an outline of their education, training, and experience for performing an analysis of materials included under this section. The signer shall attest that scientifically accepted tests were performed with due caution, and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory.

(b) The prosecuting attorney shall serve a copy of the report on the attorney of record for the accused, or on the accused if they have no attorney, prior to any proceeding in which the report is to be used against the accused other than at an arraignment or preliminary hearing where the report may be used without having been previously served upon the accused.

(c) The report shall not be prima-facie evidence of the contents, identity, and weight or the existence and number of unit dosages of the substance if the accused or their attorney demands the testimony of the person signing the report, by serving the demand upon the prosecuting attorney within seven days from the accused or their attorney's receipt of the report. The time may be extended by the court in the interest of justice.

(d) Any report issued for use under this section shall contain notice of the right of the accused to demand, and the manner in which the accused shall demand the testimony of the person signing the report.

(e) Any person who is accused of a violation under this chapter is entitled, upon request made to the prosecuting attorney, to have a portion of the substance that is the basis of the alleged violation preserved for the benefit of independent analysis performed by a laboratory analyst employed by the accused person, or, if they are indigent, by a qualified laboratory analyst appointed by the court. Such portion shall be a representative sample of the entire substance that is the basis of the alleged violation and shall be of sufficient size, in the opinion of the court, to permit the accused's analyst to make a thorough scientific analysis concerning the identity of the substance. The prosecuting attorney shall provide the accused's analyst with the sample portion at least fourteen days prior to trial, unless the trial is to be held in a court not of record or unless

the accused person is charged with a minor misdemeanor, in which case the prosecuting attorney shall provide the accused's analyst with the sample portion at least three days prior to trial. If the prosecuting attorney determines that such a sample portion cannot be preserved and given to the accused's analyst, the prosecuting attorney shall so inform the accused person, or their attorney. In such a circumstance, the accused person is entitled, upon written request made to the prosecuting attorney, to have their privately employed or court appointed analyst present at an analysis of the substance that is the basis of the alleged violation, and, upon further written request, to receive copies of all recorded scientific data that result from the analysis and that can be used by an analyst in arriving at conclusions, findings or opinions concerning the identity of the substance subject to the analysis.

(f) In addition to the rights provided under subsection (e) hereof, any person who is accused of a violation of this chapter that involves a bulk amount of a controlled substance, or any multiple thereof, or is accused of a violation of Section 527.03, other than a minor misdemeanor violation, that involves marihuana, is entitled, upon written request made to the prosecuting attorney, to have a laboratory analyst of their choice, or, if the accused is indigent, a qualified laboratory analyst appointed by the court, present at a measurement or weighing of the substance that is the basis of the alleged violation. Also, the accused person is entitled, upon further written request, to receive copies of all recorded scientific data that result from the measurement or weighing and that can be used by an analyst in arriving at conclusions, findings or opinions concerning the weight, volume or number of unit doses of the substance subject to the measurement or weighing.

SECTION 66: That Section 529.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

529.02 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 them 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 them under Ohio R.C. 3737.82.

SECTION 67: That Section 529.08 of the Codified Ordinances is hereby amended in its entirety to read as follows:

529.08 LITTERING AND DEPOSIT OF GARBAGE, RUBBISH, JUNK, ETC.

(a) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any public property, on private property not owned by them, or in or on waters of the State, or Municipality, unless one of the following applies:

(b) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any public property or on any private property not owned by them, unless one of the following applies:

(1) The litter was generated or located on the property on which the litter receptacle is located.

(2) The person is directed to do so by a public official as part of a litter collection drive.

(3) The person is directed to do so by a person whom they reasonably believes to have the privilege to use the litter receptacle.

(c) (1) As used in subsection (b)(1) hereof, "public property" includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee but does not include any private property to which the public otherwise does not have a right of access.

(2) As used in subsection (b)(4) hereof, "casual passerby" means a person who does not have depositing litter in a litter receptacle as their primary reason for traveling to or by the property on which the litter receptacle is located.

(d) As used in this section:

(1) "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.

(2) "Deposit" means to throw, drop, discard or place.

(3) "Litter receptacle" means a dumpster, trash can, trash bin, garbage can or similar container in which litter is deposited for removal.

(ORC 3767.32)

(e) No person shall cause or allow litter 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.

(f) This section may be enforced by any sheriff, deputy sheriff, police officer of a municipal corporation, police constable or officer of a township, or township or joint police district, wildlife officer designated under Ohio R.C. 1531.13, natural resources officer appointed under Ohio R.C. 1501.24, forest-fire investigator appointed under Ohio R.C. 1503.09, conservancy district police officer, inspector of nuisances of a county, or any other law enforcement officer within the law enforcement officer’s jurisdiction.

(g) Whoever violates any provision of subsections (a) to (d) hereof, is guilty of a misdemeanor of the third degree. The sentencing court may, in addition to or in lieu of the

penalty provided in this subsection require a person who violates subsections (a) to (d) hereof to remove litter from any public or private property, or in or on any waters.

(ORC 3767.99(C))

(h) Whoever violates subsection (e) hereof is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree for each subsequent offense.

SECTION 68: That Section 529.10 of the Codified Ordinances is hereby amended in its entirety to read as follows:

529.10 WATER POLLUTION.

(a) No person shall put the carcass of any dead animal, or the offal of any animal, or the contents of any privy vault or septic tank, or sewage or industrial waste, or any filthy or contaminating substance, into the waterways of the City, including any ditch, stream, river, lake, pond or other watercourse including any public or private storm water system or at any point of such waterways up to twenty miles from the corporate boundaries of the City. No owner, lessee, occupant or person in possession of any land situated within 165 feet of either side of such waterways, within the above limits, shall knowingly permit any of such substances to remain on such land or neglect or refuse to remove the same within twenty-four hours after knowledge of the existence and location of such substances or after notice thereof in writing from the Director of Public Service or their duly authorized representative.

(b) No person shall place or dispose of in any manner any garbage, waste, including yard waste, or peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, parts of automobiles, wagons, furniture, glass, oil, animal carcasses, animal feces or anything else of an unsightly or unsanitary nature in any ditch, stream, river, lake, pond or other watercourse, except those waters which do not combine or effect the junction which with natural surface or underground waters, or upon the bank thereof where the same is liable to be washed into the water either by ordinary flow or annual floods.

(c) The Director of Public Service or their duly authorized representative may enter at reasonable times upon any private or public property in the City to inspect and investigate conditions relating to water pollution and the construction, maintenance and operation of the public water system and may take samples for analysis.

(d) Whoever violates subsection (a) or (b) of this section shall be guilty of water pollution, a minor misdemeanor. If entry or inspection authorized by subsection (c) of this section is refused, hindered or thwarted, the Director of Public Services or their duly authorized representative may by affidavit apply to any judge of a court of record for an appropriate inspection warrant necessary to achieve the purposes of such section which are within the court's territorial jurisdiction.

SECTION 69: That Section 529.13 of the Codified Ordinances is hereby amended in its entirety to read as follows:

529.13 CLEANING GUTTERS.

(a) It shall be the duty of the owner, lessee, tenant, occupier or agent of any of the foregoing, or other category of person having charge or care of any lot or part thereof in the City, whenever the gutter in front of the same is obstructed, to clean the same in such manner that water will flow off freely along the full front of such lot or part of a lot by removing the filth and other matter. No person shall neglect or refuse to clean out the gutter in front of a lot or part of a lot owned, leased, occupied, or otherwise being under their charge or care, within twenty-four hours after being notified by the Director of Public Service.

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

SECTION 70: That Section 529.14 of the Codified Ordinances is hereby amended in its entirety to read as follows:

529.14 NOTICE TO CLEAN GUTTER.

When determined through investigation by the Director of Public Service or their agent, that a violation of Section 529.13(a) exists, the Director of Public Service shall provide, on a form established by them, notice in writing to correct the violation. A copy of the written notice shall be given to the owner, lessee, tenant, occupier or agent of any of the foregoing, or other category of person having charge or care of any lot or part thereof, by delivering a copy of the notice to one of the foregoing. If there is failure of compliance after the foregoing notice is given, the Director of Public Service shall cause the gutter in violation to be cleaned so as to be in conformity with the provisions of Section 529.13. This remedy is in addition to the penalty provided in Section 529.13(b).

SECTION 71: That Section 531.01 of the Codified Ordinances is hereby amended in its entirety to read as follows:

531.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person, being the owner or having charge of any animal or fowl excepting homing pigeons bearing official bands, shall fail to prevent such animal or fowl from running at large on any property not their own.

(b) No person, being the owner, keeper, harborer or having charge of any dog, shall permit such dog to enter upon any property other than that of such person unless such dog is securely leashed by a leash not to exceed six feet in length, with the following exceptions.

(1) In an off-leash area in a City dog park;

(2) On private property other than that of the owner, harborer or keeper or person having charge of such dog, with permission of the property owner;

(3) On public property.

In the case of the aforementioned exceptions, the owner, keeper, harborer or person having charge of such dog shall have such dog under "direct control". When any dog is found on property not that of its owner, keeper, harborer or person having charge, and is not securely leashed or under "direct control", such dog shall be subject to impoundment.

(c) "Direct Control" means that the dog is within sight and hearing and will respond instantly to the minimum obedience commands of "come" and "sit" or "stay". It shall be prima-facie evidence that a dog is not under the required control if such dog chases, injures or kills any person or domestic animal or damages or commits any nuisance upon property other than its owner, keeper or harborer. "Come", the command, shall mean that the dog shall leave position at which they are located and return to the handler when such command is given by the handler. "Sit", the command, shall mean that the dog shall cease movement in any forward, backward or sideways direction and shall assume a sitting position when such command is given by the handler. "Stay", the command, shall mean that the dog shall cease movement in any forward, backward or sideways direction and shall remain in the spot in which such command was heeded until they are released by the handler.

(d) Whoever violates this section is guilty of a minor misdemeanor. If the animal causes physical harm to any person or property, the offender is guilty of a misdemeanor of the fourth degree. If the offender previously has been convicted of a fourth-degree misdemeanor violation of this section, then the offender is guilty of a misdemeanor of the first degree.

SECTION 72: That Section 531.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

531.02 BARKING OR HOWLING DOGS.

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

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

SECTION 73: That Section 531.07 of the Codified Ordinances is hereby amended in its entirety to read as follows:

531.07 POISONING ANIMALS.

(a) No person shall knowingly 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 knowingly 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 their own lands or the lands of another.

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

SECTION 74: That Section 531.14 of the Codified Ordinances is hereby amended in its entirety to read as follows:

531.14 REPORT OF ESCAPE OF EXOTIC OR DANGEROUS ANIMAL.

(a) The owner or keeper of any member of a species of the animal kingdom that escapes from their custody or control and that is not indigenous to this State or presents a risk of serious physical harm to persons or property, or both, shall, within one hour after they discover or reasonably should have discovered the escape, report it to:

(1) A law enforcement officer of the Municipality and the sheriff of the county where the escape occurred; and

(2) The Clerk of the Municipal Legislative Authority.

(b) If the office of the Clerk of the Legislative Authority is closed to the public at the time a report is required by subsection (a) hereof, then it is sufficient compliance with subsection (a) hereof if the owner or keeper makes the report within one hour after the office is next open to the public.

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

SECTION 75: That Section 531.15 of the Codified Ordinances is hereby amended in its entirety to read as follows:

531.15 WILD, DANGEROUS, UNDOMESTICATED ANIMALS.

(a) No person shall harbor, maintain or keep a wild, dangerous or undomesticated animal within the City. This provision shall not apply for any animals harbored, maintained or kept for educational or scientific purposes in state accredited schools or certified laboratories.

(b) A "wild, dangerous or undomesticated animal" means an animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm and which:

(1) Is a poisonous or venomous animal; or

(2) Is an animal which, by reason of its size, strength or appetite, if unrestrained and free in the City, could cause peril to children, adults, pets or domesticated animals, buildings, landscaping or personal property; or

(3) Is an animal which makes noises with sufficient frequency and volume as to constitute a nuisance to persons in the vicinity of such animal; or

(4) Is an animal which emits such offensive odors as to constitute a nuisance to persons in the vicinity of such animal; or

(5) Is, by way of illustration and without limitation, one of the following: an ape; chimpanzee (Pan), gibbon (Hylobate), gorilla (Gorilla), orangutan (Pongo), siamang (Symphalangus), baboon, (Papoi or Mandrillus); bear (Ursidae), bison (Bison), boar (Suidae), cheetah (Acinonyx Jubatus), crocodilian (Crocodilia), coyote (Canis Latrans), deer (Cervidae-includes all members of the deer family; for example, white-tailed deer, elk, antelope and moose), elephant (Elephas or Loxondonta), gamecocks and other fighting birds, hippopotamus (Hippopotamidae), hyena (Hyaenidae), jaguar (Panthera Onca), leopard (Panthera Pardus), lion (Panthera Leo), lynx (Lynx), ostrich (Struthio) piranha fish (Characidae), puma (Felis Concolor - also known as cougar, mountain lion and panther), rhinoceros (Rhinocero Tidae), snow leopard (Panthera Uncia) and tiger (Panthera Tigris); or

(6) Is an animal which is identified by either state or federal agencies as a member of an endangered species.

(c) If any part of subsection (b) hereof, or the application thereof to any person shall be held to be invalid, such invalidity shall not affect the validity or application of the remaining subsections of subsection (b) which shall be given effect without the invalid provision or application and, to that end, the subsections of this section are declared to be severable.

(d) In the event that a police officer or other law enforcement agent has probable cause to believe that a wild, dangerous or undomesticated animal is being harbored or cared for in violation of this section, the law enforcement agent may petition a court of competent jurisdiction to order the seizure and impoundment of the wild, dangerous or undomesticated animal pending trial. In the event that a law enforcement agent has probable cause to believe that a wild, dangerous or undomesticated animal is being harbored or housed in violation of subsection (a) hereof, the law enforcement agent may seize and impound the wild, dangerous or undomesticated animal pending trial.

(e) Whoever violates this section is guilty of a minor misdemeanor on a first offense and a fourth-degree misdemeanor for each subsequent offense. In the event that the animal creates a risk of or causes physical harm to persons or property, the person shall be guilty of a fourth-degree misdemeanor on a first and any subsequent offense. Each day during which such violation continues shall constitute a separate offense. In addition, any wild, dangerous or undomesticated animal which unprovoked, attacks a human being or another domestic animal may be ordered destroyed when, in the Court's judgment, such wild, dangerous or undomesticated animal represents a continuing threat of serious harm to human beings or domestic animals. In addition, any person found guilty of violating the provisions of this section shall pay all expenses, including shelter, food, veterinary expenses necessitated by the seizure of any wild, dangerous or undomesticated animal for the protection of the public and such other expenses as may be required for the destruction of any such wild, dangerous or undomesticated animal.

(f) In addition to any other remedies provided by law, in the event of any violation of this section or any imminent threat thereof, the City may, by its legal counsel, prosecute a suit in the Common Pleas Court of Franklin County, to obtain a temporary restraining order and/or preliminary or permanent injunction to prevent or terminate such violation or violations.

SECTION 76: That Section 533.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

533.02 OFFENSES INVOLVING UNDERAGE PERSONS.

(a) Except as otherwise provided in this chapter, no person shall sell beer or intoxicating liquor to a person under the age of twenty-one years, or buy beer or intoxicating liquor for, or furnish beer or intoxicating liquor to, a person under the age of twenty-one years, unless given by a physician in the regular line of the physician's practice or given for established religious purposes, or unless the person under twenty-one years of age is accompanied and supervised by a parent, spouse who is not under the age of twenty-one years, or legal guardian.

(b) Except as otherwise provided in this chapter, no person under the age of twenty-one years shall purchase, order, pay for, share the cost of, or attempt to purchase beer or intoxicating liquor.

(c) Except as otherwise provided in this chapter, no person under the age of twenty-one years shall, while in any public or private place, consume, possess, or knowingly be under the influence of any beer or intoxicating liquor.

(d) Except as otherwise provided in this chapter, 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.

(e) Except as otherwise provided in this chapter, no person under the age of twenty-one years shall knowingly show or give false information concerning their name, age or other identification for the purpose of purchasing or with the intent to obtain beer or intoxicating liquor in any place where beer or intoxicating liquor is sold under a permit issued by the Department of Liquor Control or sold by the Department of Liquor Control.

(f) No person being the parent or legal guardian of a person under the age of twenty-one years shall knowingly permit such person under the age of twenty-one years to violate any provision of this chapter, except as otherwise provided in this section.

(g) No person being the owner or occupant of any property located within the City shall knowingly allow any person under the age of twenty-one years to remain on such property while such person under the age of twenty-one years is consuming or in the possession of intoxicating liquor or beer unless it is given by a parent, spouse who is not under the age of twenty-one years, or legal guardian, and that parent, spouse, or legal guardian is present at the time of possession or consumption.

(h) No person being the occupant of any property located within the City shall allow any person under the age of twenty-one years to remain on such property while such person under the age of twenty-one years is consuming or in the possession of intoxicating liquor or beer unless it is given by a parent, spouse who is not under the age of twenty-one years, or legal guardian, and that parent, spouse, or legal guardian is present at the time of possession or consumption.

(i) No person shall engage or permit engagement of accommodations at a hotel, motel, inn, campground or other hostelry under circumstances in which that person knows or has reason to

know that intoxicating liquor or beer or drugs of abuse will be consumed by any person under the age of twenty-one years on the premises of such accommodations. It shall be a complete defense to violations of this subsection involving alcohol that the person engaging or permitting the engagement of accommodations is the parent, spouse who is not under the age of twenty-one years, or legal guardian to all such persons under the age of twenty-one years. Notice of the provisions of this subsection and the penalties attendant to violation of this subsection shall be conspicuously posted in at least one location on the premises of all hotels, motels, inns, campgrounds and other hostelries in the City.

(j) No person under the age of twenty-one years shall engage accommodations at a hotel, motel, inn, campground or other hostelry under circumstances in which that person knows or has reason to know that intoxicating liquor or beer or drugs of abuse will be consumed by any person under the age of twenty-one years on the premises of such accommodations, unless the person engaging the accommodations acts with the express lawful consent of the parent or legal guardian of all such persons under the age of twenty-one years.

(k) (1) Whoever violates any provision of this section is guilty of a misdemeanor of the first degree.

(2) A. Whoever violates subsection (e) 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 their 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 which has been altered, the offender 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 their 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 which 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 division (A)(7) of Ohio R.C. 4510.02.

C. On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or their 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 which 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 shall 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 division (A)(6) of Ohio R.C. 4510.02, and the court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one years.

SECTION 77: That Section 533.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

533.04 OPEN CONTAINER; POSSESSION.

(a) No person shall have in their possession an opened container of beer or intoxicating liquor in any public place.

(b) No person under the age of twenty-one years of age shall have in their possession or under their control any unopened container of beer or intoxicating liquor in any public place or motor vehicle.

(c) It is an affirmative defense to subsection (b) hereof that the person possessed the beer or intoxicating liquor while under the supervision and control of their parent, legal guardian or a physician in the regular line of their practice.

SECTION 78: That Section 741.01 of the Codified Ordinances is hereby amended in its entirety to read as follows:

741.01 DEFINITIONS.

Whenever used in this chapter, the following words shall be as herein defined unless a different meaning clearly appears from the context:

(a) "Canvassing" or "canvasser" or "solicitation" or "solicitor" includes any person who calls at residences or places of business without the invitation or previous consent of the owner(s) or occupant(s) of such premises for the purpose of any one or more of the following activities:

(1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description whatever, for either present or future delivery; or

(2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or

(3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication; or

(4) Seeking to obtain contributions or to sell any goods, articles or services of any kind for the support or benefit of any charitable, religious or nonprofit association, organization, corporation or project; or

(5) Seeking to obtain from an occupant of any residence an indication of such occupant's belief in regard to any social, political or religious matter; or

(6) Seeking to influence the personal belief of the occupant of any residence in regard to any social, political or religious matter; or

(7) Taking of a poll or census of any person, firm or corporation other than a governmental body or agency thereof.

(b) "Canvasser for charitable or religious purposes" means any person who calls at residences or places of business without the invitation or previous consent of the owner(s) or occupant(s) of such premises for the purpose of soliciting or receiving contributions or pledges for charitable or religious purposes, or to offer or attempt to sell, or request a donation for, any advertisement, advertising space, book, card, chance, coupon, device, magazine, merchandise, ticket, token, flag, souvenir, foodstuff, service or any other article or thing in connection with which any appeal is made for any charitable or religious purpose, or when or where in connection with any such sale, donation or contribution, any statement is made that the whole or any part of the proceeds of any such sale will go to or be donated to any charitable or religious purpose.

(c) "Charitable" includes the words patriotic, philanthropic, social service, welfare, eleemosynary, benevolent, educational, civic, fraternal, veterans, medical and social research, either actual or purported.

(d) "Contribution" includes the words gift, food, clothing, money, property or donations of any kind, including those made under the guise of a loan of money or property.

(e) "Door-to-door salesperson in Interstate Commerce" means a person who travels from door-to-door calling on private residences or places of business in the City for the purpose of taking orders for future delivery of goods or services to be furnished, supplied or delivered from sources outside the State and which is not done in connection with any appeal for any charitable or religious purpose.

(f) "Door-to-door salesperson in Intrastate Commerce" means a person who travels from door-to-door calling on private residences or places of business in the City for the purpose of taking orders for future delivery of goods or services to be furnished, supplied or delivered from sources within the State and which is not done in connection with any appeal for any charitable or religious purpose.

(g) "Peddler" means any person who sells or offers for sale and immediate delivery, goods or merchandise or services of any kind or description other than from a fixed and established place of business, including those who sell from vehicles on the public streets or from goods carried from door-to-door.

(h) "Person" means any individual, firm, partnership, corporation, company, association, joint stock company, religious sect, religious denomination, society, organization or league, or any combination of them, and includes any trustee, member, receiver, assignee, agent or other representative thereof.

(i) "Place of Business" means every separate location occupied by an individual, firm, company or business entity at which one carries on their**,** or its business, employment, occupation, profession or commercial activity.

(j) "Religious" and "religion" as used herein shall not include the word charitable, but shall be given their commonly accepted definitions.

(k) "Religious organization" means any church, body of communicants or group that is not organized or operated for profit that gathers in common membership for regular worship and religious observances.

(l) "Residence" means every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

SECTION 79: That Section 741.05 of the Codified Ordinances is hereby amended in its entirety to read as follows:

741.05 REQUIREMENTS FOR CANVASSERS SOLICITING AT RESIDENCES IN INTERSTATE COMMERCE FOR CHARITABLE OR RELIGIOUS PURPOSES.

(a) Registration Required. No person shall act as a canvasser or a canvasser for charitable or religious purposes or as a door-to-door salesperson in interstate commerce at any residence without the invitation or previous consent of the owners or occupants without first having registered with the City Clerk. No fee shall be required. However, the City Clerk shall issue a registration certificate to each applicant and such certificate shall be carried on the person of the registrant at all times when engaged in such canvassing, solicitation or sales and shown on request of any police officer or any person of whom a request for contribution or offer to sell is made. Such registration shall not be used or represented in any way as an endorsement by the City. Each canvasser or solicitor shall provide a written receipt and, if applicable, a statement attesting to the organization's exempt status under Section 501 of the Federal Internal Revenue Code if requested to do so by the person making a contribution or purchase. Such receipt shall show the name of the organization, amount of the contribution and the date and shall be signed by the solicitor.

An organization which desires to place a number of canvassers or solicitors for charitable or religious purposes at residences in the City simultaneously may make a group application to cover all of them, even if such application is for more than one fund raising event during the period for which the certificate is valid; however, separate registration certificates shall be issued to each canvasser or solicitor or, in lieu thereof, a separate information card shall be issued to each canvasser or solicitor by the registered organization. Such information card shall include, at a minimum, the name of the registered organization; a description of the purpose of the solicitation; the period for which the registration was issued and the name of the canvasser or solicitor.

(c) One Year Limitation. In no case shall any registration certificate for door-to-door salespersons in interstate commerce at residences be valid for more than a one year period. All certificates of registration shall state the expiration date thereof.

(d) Exceptions. The provisions of this section shall not apply to solicitations conducted only among the members of the entity or organization conducting the canvassing or to those in the form of collections or contributions at the regular assemblies, meetings or services of any such established charitable or religious organization.

(b) Registration Application: Contents. Application for a certificate of registration shall be made upon a form provided by the City Manager. Each application shall contain, among other information, the name, address and the phone number of the person completing the application; the name, address and telephone number of the company or organization for which they purport to act; the name of an officer or other official of such company or organization; the nature of the

charitable or religious purpose to which the contributions, donations or sale proceeds will be applied in the case of canvassers for charitable or religious purposes; the nature of the goods or services for which they will take orders in the case of door- to-door salespersons in interstate commerce; the compensation, if any, which they or other canvassers are to receive for their services at residences within the City; a written commitment that such person(s) shall comply with Chapter 191 of the Codified Ordinances; and such other information as the City Manager may require.

(e) Registration Revocation.

(1) Any registration issued hereunder shall be revoked by the City Manager if the holder thereof is convicted of a violation of any of the provisions of this chapter, or has made a false material statement in the application.

(2) Immediately upon such revocation, written notice thereof shall be given by the City Manager to the holder of the registration in person or by certified U.S. mail addressed to their residence address as set forth in the application. Immediately upon the giving of such notice the license shall become null and void.

(f) Fraudulent Solicitations Prohibited.

(1) No person, canvasser or solicitor shall make or perpetrate any misstatement, deception or fraud in connection with any solicitation of any contribution for any charitable purpose.

(2) No person having entered into an agreement to conduct any solicitation on behalf of any person for any charitable purpose shall fail to remit or pay to the party entitled thereto the proceeds of such solicitation in accordance with the true terms of the agreement.

SECTION 80: That Section 741.06 of the Codified Ordinances is hereby amended in its entirety to read as follows:

741.06 REQUIREMENTS FOR CANVASSERS ENGAGED IN INTRASTATE COMMERCE AT RESIDENCES.

(a) License Required: Fee.

(1) No person shall act as a canvasser, peddler or as a door-to-door salesperson in intrastate commerce, calling at residences without the invitation or previous consent of the owner(s) or occupant(s) without first having secured from the City Clerk a license therefor. The fee for each license shall be as follows:

A. For one day: $ 1.00

B. For one week: 5.00

C. For one year: 15.00

(2) All fees collected shall be paid into the General Revenue Fund.

(3) The City Clerk shall issue a license upon the applicant's submission of an application and payment of the proper fee.

(b) License Application: Contents. Application for a license as a door-to-door salesperson in intrastate commerce or as a peddler shall be made upon a form provided by the City Manager. Each application shall contain among other information, the name, address and telephone number of the applicant; the name, address and telephone number of their employer, if any; the nature of the goods or services for which they will take orders or to be offered for sale; the proposed method of operation in the City; a written commitment that such person(s) shall comply with Chapter 191 of the Codified Ordinances; and such other information as the City Manager may require. A separate license shall be required for each individual salesperson or peddler even though there may be a single employer. Such license shall not be used or represented in any way as an endorsement by the City. No person who has been convicted of a misdemeanor involving moral turpitude or a felony shall be issued a license as a door-to-door salesperson in intrastate commerce or as a peddler. Each applicant shall submit to fingerprinting for identification purposes.

(c) Exceptions. No license shall be required of a farmer or producer who is selling the product of their own farm, or of a bona-fide representative of a charitable, church or religious organization who is selling exclusively books or tracts published by a religious group or other goods or merchandise sold in connection with an appeal to charitable or religious purposes, such latter class of sales being governed by the registration requirements of Section 741.05.

(d) Duties of Licensee. No door-to-door salesperson's or peddler's license shall be transferable nor shall it be used by any person other than the licensee. Such license must be exhibited on request to any law enforcement officer or to any prospective customer.

(e) Investigation: License Revocation.

(1) Upon a written complaint being filed with the Police Division that any canvasser, door-to-door salesperson in intrastate commerce or any peddler is suffering from a communicable disease; or has made themselves obnoxious to the public by the use of indecent, profane or insulting language; or the unsanitary condition of their person or clothing; or that has made or perpetrated any misstatement, deception or fraud in connection with any solicitation, an investigation shall be made, and if such complaint is found to be true, the license of such canvasser, door- to-door salesperson or peddler shall be revoked by the City Manager.

(2) Any license issued hereunder shall be revoked by the City Manager if the holder thereof is convicted of a violation of any of the provisions of this chapter, or has made a false material statement in the application.

(3) Immediately upon such revocation, written notice thereof shall be given by the City Manager to the holder of the license in person or by certified U.S. mail addressed to their residence address as set forth in the application. Immediately upon the giving of such notice the license shall become null and void.

SECTION 81: That Section 741.07 of the Codified Ordinances is hereby amended in its entirety to read as follows:

741.07 STREET VENDORS AND PEDDLERS.

(a) License Required: Effective Period: Revocation. No vendor or peddler shall sell or offer for sale any ice cream, frozen dessert, soft drink, candy, sandwich, nuts, novelty confection or similar foodstuff, on public rights-of-way within the City without first obtaining a license from the City prior to engaging in such selling or offering for sale, such license to be issued by the City Manager. Any license issued hereunder shall be valid for a period of one year from the date of issue. Such license may be revoked for failure of the licensee or their agents or employees to comply with the terms of this chapter.

(b) Conditions of License: Fee. The license provided in this Section 741.07 shall be issued by the City Manager upon payment of a fee of twenty-five dollars ($25.00) and upon compliance with the following conditions:

(1) License application: contents. Application for a license shall be made on a form provided by the City Manager. Each application shall contain, among other things, the name, address and the telephone number of the applicant completing the application; the name, address and telephone number of their employer, if any, for which they purport to act; the name of an officer of such employer; the nature of the goods or services for which they will be offering for sale; the proposed method of operation in the City; a written commitment that such person(s) shall comply with Chapter 191 of the Codified Ordinances; and such other information as the City Manager may require. Such license shall not be used or represented in any way as an endorsement by the City. No person who has been convicted of a misdemeanor involving moral turpitude or a felony shall be issued a license.

(2) The applicant shall submit to the City evidence of insurance providing coverage for property damage and bodily injury occasioned by the licensee, their agents or employees, the limits of such coverage to be not less than one million dollars ($1,000,000) combined single limit coverage (property damage and bodily injury).

(4) The applicant shall furnish a schedule of items to be sold or offered for sale and, where necessary, a schedule of refrigerator compartments, cooling devices or iceboxes required to safely maintain the foodstuffs to be sold or offered for sale. The City Manager or their agent may require such compartments, devices or boxes to be subjected to an examination to determine their ability to hold temperature at the required level. Such examination may be made prior to the issuance of a license and/or at any time during the license year. In the event that the City Manager or their agent determines that such compartments, devices or boxes are not adequate to maintain temperature at the required level, an application for a license may be rejected or any existing license may be revoked.

(5) Each operator shall provide evidence that a valid food handler's permit has been issued by the Franklin or Delaware County Department of Health to the operator and their agents and employees.

(c) Hours of Sale. Vendors, peddlers or their agents or employees, subject to the provisions of this Section 741.07 shall operate only from 9:00 a.m. to 4:00 p.m. and 6:30 p.m. to 9:00 p.m.

(d) Lights on Vehicles. Every vehicle used by a vendor or peddler subject to the terms of this section shall be equipped with marker lights and flashing signal devices as follows: two red

lights six inches in diameter directed to the rear and two yellow or amber lights four inches in diameter directed to the front and so operated as to emit a flashing light when the vehicle is stopped or moving at less than twenty miles per hour. Marker lights shall be situated on the rear and on the cab of the vehicle and shall be constantly lighted.

(e) Stopping Vehicle for Sales.

(1) Vendors, peddlers or their agents or employees shall transact business only when the vehicle is stopped at the curbing or, if there is no curbing, when the vehicle is stopped at the right edge of the paved part of the right-of-way.

(2) Vendors, peddlers or their agents or employees shall not transact business when the vehicle is in a marked parking space in the public right-of-way, unless the marked parking space is specifically designated by the City for such purpose.

(f) Street Vendors Serving Fairs and Festivals.

(1) In order to provide for the health and safety of persons attending a fair or festival authorized by the City, the City Manager shall designate those streets, highways and public rights-of-way adjacent to, or in the area of a fair or festival which shall not be used for the purpose of the sale of foodstuffs pursuant to a license issued under the terms of this chapter or for the purpose of the sale of goods, merchandise or property of any kind.

(2) No license issued pursuant to Section 741.07, shall authorize or permit or be valid for the purpose of the sale of foodstuffs from the streets, highways or rights-of-way so designated by the City Manager during the hours of operation of any such fair or festival.

(3) Any person, firm, corporation, group or agency which has secured a permit under Section 311.02 of the Codified Ordinances for the purpose of sponsoring a fair or festival may authorize the sale of foodstuffs within the public rights-of-way subject to such permit, provided that such public rights-of-way are not open to vehicular traffic and provided that the vendor shall have complied with all applicable health regulations. Such vendor shall not be required to secure a permit authorized by this Section 741.07.

(g) License Revocation.

(1) Any license issued hereunder shall be revoked by the City Manager if the holder thereof is convicted of a violation of any of the provisions of this chapter, or has made a false material statement in the license application.

(2) Immediately upon such revocation, written notice thereof shall be given by the City Manager to the holder of the license in person or by certified U.S. mail addressed to their residence address as set forth in the license. Immediately upon the giving of such notice the license shall become null and void.

(3) The holder of a revoked license may seek immediate judicial review by direct appeal to the Franklin County Court of Common Pleas.

SECTION 82: That Section 741.08 of the Codified Ordinances is hereby amended in its entirety to read as follows:

741.08 PERMIT TO SOLICIT CHARITABLE CONTRIBUTIONS IN THE ROADWAY.

(a) The City Manager or their designee may shall issue a permit to solicit contributions on a street, highway or roadway from the driver or occupant of a vehicle when all of the requirements of subsection (b) hereof have been met.

(b) Charitable organizations may apply for and obtain a permit to solicit contributions in the street, highway or roadway but not on a freeway as provided in Ohio R.C. 4511.051 when a permit is issued by the City Manager or their designee as follows:

(1) The City Manager or their designee shall prescribe a form and receive applications to solicit contributions on a street, highway or roadway.

(2) An application may be made only by a charitable 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 502(c)(3) of the Internal Revenue Code as amended. The Internal Revenue Service ruling or determination shall be attached to the application prescribed by the City Manager and/or the City Manager's designee.

(3) An application to solicit in the street, highway or roadway shall state the date and times for which the permit is sought. A permit under this section shall not be issued to a charitable organization for more than one day each calendar year between the hours of 8:00 a.m. and 5:00 p.m. on such date.

(4) The application to solicit in the street, highway or roadway shall specify the locations and shall be approved for not more than three (3) intersections during any time for which the permit is sought. The application shall list the names and addresses of all agents authorized to solicit on behalf of the organization.

(5) The application shall be accompanied by a paid up liability insurance policy or certificate of insurance in the amount of not less than one million dollars ($1,000,000) that insures the charitable organization for any and all claims that may arise as a result of soliciting contributions in the street, highway or roadway and which insurance policy contains a clause that names the City and its officers, agents or employees as an additional insured under such policy.

(6) The application shall be accompanied by a signed waiver of liability from each person soliciting on behalf of the organization for any and all claims that may arise as a result of soliciting contributions in the street, highway or roadway.

(7) Prior to the issuance of a permit, the City Manager and/or the City Manager's designee shall verify that the proposed solicitation in the street, highway or roadway at the specified locations on the date stated in the permit does not conflict with a previously issued parade permit or scheduled public event. No more than one permit shall be issued for the use of any intersection during any calendar day, nor shall more than one charitable organization be permitted to solicit on the same calendar day.

(8) The Chief of the Division of Police shall be provided a copy of the application, permit and names of the members of an organization issued a permit to solicit under this section. All agents soliciting contributions pursuant to a permit issued under this section shall possess a copy of such permit with them at all times during the period of such solicitation.

(9) All agents soliciting contributions pursuant to the permit shall wear light colored clothing and/or safety vests and shall prominently display an organization identification.

(10) The City Manager and/or the City Manager's designee shall have the authority to revoke the permit to solicit contributions, and the City Manager, their designee or the Police Chief may order any and all of the agents to cease all activity, if conditions become hazardous and/or inclement, in their sole discretion, or if the agents fail to comply with the requirements of this section. The holder of a revoked permit may seek immediate judicial review by direct appeal to the Franklin County Court of Common Pleas.

SECTION 83: That Section 757.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

757.04 CONTENTS OF APPLICATION.

The application for a license by an owner shall be made in writing upon blanks provided by the City Manager and when filled in and signed shall contain the information as is required by this chapter. All applications for a license shall have the approval of Council before they are issued by the City Manager. No license shall be granted to any person unless they are twenty-one years of age or older, an American citizen, a bona fide resident of the City, in good health, having good eyesight and no bodily or mental infirmities which render them unfit for the safe operation of a public vehicle, and not addicted to the use of intoxicating liquors or drugs. The City Manager may require such other and further information from the licensee as may be deemed necessary for the proper regulation of the operation of a taxicab or automobile for hire.

SECTION 84: That Section 763.01 of the Codified Ordinances is hereby amended in its entirety to read as follows:

763.01 DEFINITIONS.

For purposes of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

(a) Adult Arcade. **"**Adult Arcade" shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing "specified sexual activities" or "specified anatomical areas."

(b) Adult Bookstore, Adult Novelty Store, Adult Video Store. “Adult Bookstores,” "Adult Novelty Store" or “Adult Video Store" means a commercial establishment which has as a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

(1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas";

(2) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

(3) An establishment may have other principal business purposes that do not involve the offering for sale, rental, or viewing of materials exhibiting or describing "specified sexual activities" or "specified anatomical areas," and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which exhibit or describe "specified anatomical areas" or "specified sexual activities."

(c) Adult Cabaret. "Adult cabaret" means a nightclub, bar, juice bar, restaurant bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) persons who appear in a state of nudity or a state of semi-nudity: (b) live performances which are characterized by "specified sexual activities" or the exposure of “specified anatomical areas,” or (c) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas." The reference above to appearing in a “state of nudity” is not intended and should not be construed or interpreted to allow persons to appear in a state of nudity in an adult cabaret.

(d) Adult Motel. "Adult motel" means a motel, hotel, or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition 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 or television, or (b) offers a sleeping room for rent for a period of time less than ten (10) hours; or (c) allows a tenant or occupant to sub-rent the sleeping room for a time period of less than ten (10) hours.

(e) Adult Motion Picture Theater. "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of

"specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration. A commercial establishments that otherwise meets the criteria described herein, but whose films, motion pictures, video cassettes, slides, or similar photographic reproductions contain serious artistic, literary or political value, is not an “adult motion picture theater” for purposes of this Chapter.

(f) Adult Theater. "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in state of nudity or a state of semi-nudity or live performances which are characterized by their emphasis upon "specified sexual activities" or “specified anatomical areas.” The reference above to appearing in a “state of nudity” is not intended and should not be construed or interpreted to allow persons to appear in a state of nudity in an adult theater. A commercial establishment that otherwise meets the criteria described herein, but whose performances contain serious artistic, literary or political value, is not an “adult theater” for purposes of this Chapter.

(g) Controlling Interest. "Controlling interest" means the power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty percent or more of any class of voting securities of a business during the year in which a violation of Chapter 2907 of the Ohio Revised Code occurred. The ownership, control, or power to vote twenty percent or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the business.

(h) Distinguished or Characterized by an Emphasis Upon. **“**Distinguished or Characterized by an Emphasis Upon” means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or description of ”specified sexual activities” or ”specified anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description of the enumerated sexual activities.

(i) Employ, Employee*,* and Employment. *″*Employ,” “employee” and/or “employment*″* describe and pertain to any individual who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the individual is denominated an employee, independent contractor, agent, or otherwise. Employee does not include (a) an individual who participates directly in decisions relating to the management of a sexually oriented business, or (b) an individual exclusively on the licensed premises for repair or maintenance of the premises, for the delivery of goods to the premises, or who does not have contact with the customers or patrons in the licensed premises.

(j) Enforcement officer. “Enforcement officer” shall mean the Chief of Police and/or their designees, or such other person as from time to time may be designated by the City Council.

(k) Established or Establishment. “Established” or “establishment” shall mean and include 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 sexually oriented business;

(3) The addition of any sexually oriented business to any other existing sexually oriented business; or

(4) The relocation of any sexually oriented business.

(l) License. “License” shall mean a sexually oriented business license, a sexually oriented business operator’s license, and/or a sexually oriented business employee’s license.

(m) Licensee. “Licensee” shall mean a person who has been issued a sexually oriented business license, a sexually oriented business operator’s license, or a sexually oriented business employee’s license.

(n) Nudity, Nude or State of Nudity. “Nudity,” “nude” or a “state of nudity” shall mean:

(1) The appearance of the cleft of the buttocks, anus, male genitals, female genitals, or areola of the female breast; or

(2) A state of dress which fails to opaquely cover the cleft of the buttocks, anus, male genitals, female genitals, or areola of the female breast; or;

(3) The showing of the covered male genitals in a discernibly turgid state.

(o) Operate or Cause to be Operated or Operator. “Operate” or “cause to be operated” shall mean to cause to function or to put or keep in operation. "Operator" means any person who participates directly in decisions relating to the management of a sexually oriented business. A person may be an operator of, or found to be operating or causing to be operated, a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.

(p) Person. **“**Person” shall mean an individual, proprietorship, partnership, corporation, association, or other legal entity.

(q) Regularly Features or Regularly Shown. **“**Regularly features” or “regularly shown” means, with respect to an Adult Theater or Adult Cabaret, a consistent course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the regular business of the Adult Theater or Adult Cabaret.

(r) Semi-nude or State of Semi-nudity. “Semi-nude” or a “state of semi-nudity” shall mean a state of dress in which opaque clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(s) Semi-Nude Model Studio. "Semi-Nude Model Studio" means any place where a person, who regularly appears in a state of nudity or a state of semi-nudity is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. The reference above to appearing in a “state of nudity” is not intended and should not be construed or interpreted to allow persons to appear in a state of nudity in a semi-nude modeling studio.

A modeling class or studio is not a semi-nude modeling studio and is not subject to the provisions of this Chapter if it is operated:

(1) By a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) In a structure:

A. Which has no sign visible from the exterior of the structure and no other advertising that indicates that a person appearing in a state of nudity or semi-nudity is available for viewing; and

B. Where, in order to participate in a class a student must enroll at least three days in advance of the class; and

C. Where no more than one nude or semi-nude model is on the premises at any one time.

(t) Sexual encounter establishment. "Sexual encounter establishment" means a business or commercial establishment, that as one of its principal business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or when one or more of the persons appears in a state of nudity or in a state of semi-nudity. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

(u) Sexually Oriented Business. “Sexually Oriented Business” shall mean an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, or adult entertainment out-call service in the form of semi-nude dancing or exhibition, adult motion picture theater, adult theater, semi-nude model studio, or sexual encounter establishment.

(v) Specified Anatomical Areas. “Specified Anatomical Areas” shall mean:

(1) The human genitals in a state of sexual arousal;

(2) The appearance of the cleft of the buttocks, anus, male or female genitals, or areola of the female breast; or

(3) A state of dress which fails to opaquely cover the cleft of the buttocks, anus, male or female genitals, or areola of the female breast.

(w) Specified Sexual Activity. **“** Specified Sexual Activity” shall have the same meaning as “sexual activity,” as defined in Ohio Revised Code Section 2907.01(C).

(x) Transfer of Ownership or Control. **“**Transfer of ownership or control” of a sexually oriented business 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 business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(y) Viewing Room. **"**Viewing Room" shall mean the room, booth, or area where a patron of a sexually oriented business would ordinarily be positioned while watching a film, video cassette, or other video reproduction.

SECTION 85: That Section 763.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

763.04 ISSUANCE OF LICENSE.

(a) The Enforcement Officer shall approve or issue a written notice of intent to deny the issuance of a license to an applicant for a sexually oriented business license, a sexually oriented business operator's license, or a sexually oriented business employee's license within twenty (20) days after receipt of a completed application. The Enforcement Officer shall approve the issuance of the applicable license unless one or more of the following is found to be true:

(1) An applicant or an applicant's duly authorized agent is less than eighteen (18) years of age;

(2) An applicant or the applicant's duly authorized agent is delinquent in the payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to a sexually oriented business.

(3) An applicant has failed to provide information as required by Section 763.03 for issuance of the license or has falsely answered a question or request for information on the application form.

(4) An applicant; a business entity for which the applicant had, at the time of an offense leading to a criminal conviction described herein, a management responsibility or a controlling interest; or a business entity which is a "related member" of the applicant (as "related member" is defined in Ohio Revised Code Section 5733.042, without regard to division (B) of that section), has been convicted of or plead guilty (including an "Alford" plea or plea of *no lo contendre)* to a violation of a provision of this Chapter, other than an offense of operating a sexually oriented business without a sexually oriented business license, sexually oriented business operator's license, or sexually oriented business employee's license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

(5) The license application fee required by Section 763.05 has not been paid.

(6) An applicant has falsely answered a question or request for information on the application form.

(7) An applicant; a business entity for which the applicant had, at the time of an offense leading to a criminal conviction described herein, a management responsibility or a controlling

interest; or a business entity which is a “related member” of the applicant (as “related member” is defined in Ohio Revised Code Section 5733.042, without regard to division (B) of that section), has been convicted of or plead guilty (including an "Alford" plea or plea of *no lo contendre)* to any offense in violation of Chapter 2907 of the Ohio Revised Code and committed in the state of Ohio or any offense committed outside of Ohio which if committed in Ohio would constitute an offense in violation of Chapter 2907 for which:

A. Less than two (2) years have elapsed since the date of conviction or plea of guilty (including an "Alford" plea or plea of *no lo contendre*), or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the specified criminal acts which are sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations; or

B. Less than five (5) years have elapsed since the date of conviction or plea of guilty (including an "Alford" plea, or plea of *no lo contendre*), or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; for the specified criminal acts which are sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually oriented business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations; or

C. Less than (5) years have elapsed since the latest date of conviction, or plea of guilty (including an "Alford" plea, or plea of *no lo contendre*), or the date of release from confinement, whichever is the later date, if the convictions are of two or more misdemeanor offenses for specified criminal acts which are sexual crimes against children, sexual abuse, rape, or crimes connected with another sexually oriented business, including but not limited to, distribution of obscenity or materials harmful to minors, prostitution, pandering, or tax violations; for two or more offenses occurring within any twenty-four month period.

(b) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

(c) An applicant ineligible for a license due to Paragraph (A)(4) or (A)(7) of this Section may qualify for the applicable sexually oriented business license, sexually oriented business operator’s license, or sexually oriented business employee’s license, only when the time period required by the applicable paragraph has elapsed.

(d) The applicable license, if granted, shall state on its face the name of the individual or other person to whom it is granted, the number of the license issued to that applicant, the expiration date, and the address of the sexually oriented business. A sexually oriented business operator’s license and sexually oriented business employee’s license shall contain a photograph of the licensee. If the operator is other than an individual, the duly authorized agent thereof. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time. A sexually oriented business operator, or the duly authorized agent thereof, and/or a sexually oriented business employee, shall keep the operator’s and/or employee’s license on their person or on the premises where the licensee is then working or performing and shall produce such license for inspection upon lawful request by a law enforcement officer or other authorized city official.

SECTION 86: That Section 763.10 of the Codified Ordinances is hereby amended in its entirety to read as follows:

763.10 HEARING; APPEAL; TEMPORARY LICENSE.

(a) Hearing. If the Enforcement Officer determines that facts exist for denial, suspension, or revocation of a license under this Chapter, the City Clerk shall notify the applicant or licensee (the "Respondent") in writing of the intent to deny, suspend or revoke the license, including the grounds therefor, by personal delivery, or by certified mail, return receipt requested. The notification shall be directed to the address designated by the applicant or licensee in the application on file with the City. Within five (5) working days of receipt of such notice, the Respondent must provide to the Enforcement Officer in writing a response that shall include a statement of reasons why the license should not be denied, suspended, or revoked. Within ten (10) working days of the receipt of such written response, the City Manager shall conduct a hearing at which Respondent shall have the opportunity to appear and be heard in person, or by Respondent's attorney, in opposition to the notice of intent to deny, suspend or revoke, and do any and all of the following: (i) present Respondent's position, arguments and contentions; (ii) offer and examine witnesses and present evidence; (iii) cross-examine witnesses, including but not limited to the Enforcement Officer and/or their designees, purporting to refute Respondent's position, arguments and contentions; (iv) offer evidence to refute evidence and testimony offered in opposition to Respondent's position, arguments and contentions; and (v) proffer any such evidence into the record, if the admission is denied by the City Manager. All testimony shall be given under oath. The City Manager shall have the power to subpoena witnesses or evidence and shall make such power available to the Respondent. The City Manager shall have a complete record of the adjudication kept, including any evidence admitted or proffered. The City Manager shall notify the Respondent in writing, by personal delivery, or by certified mail, return receipt requested, of the hearing date within three (3) days of the receipt of Respondent's written response. If a response is not received from the Respondent by the City Manager in the time stated or, if after the hearing the City Manager finds that grounds as specified in this Chapter exist for denial, suspension, or revocation of the license, then such action shall become final and the City Clerk shall send notice of such to the Respondent, by written decision describing the basis for the denial, suspension or revocation, within five (5) working days of the hearing. Such notice shall be sent by personal delivery, or by certified mail, return receipt requested. Such notice shall include a statement advising the Respondent of the right to appeal such decision to a court of competent jurisdiction. If the City Manager finds that no grounds exist for denial, suspension, or revocation of a license then the Enforcement Officer shall withdraw the intent to deny, suspend, or revoke the license and shall so notify the Respondent in writing by personal delivery, or by certified mail, return receipt requested, of such action and issue the applicable license.

(b) Appeal; Issue of Temporary License. When a decision to deny, suspend or revoke a license becomes final, the Respondent whose application for a license has been denied, or whose license has been suspended or revoked, shall have the right to appeal such action to a court of competent jurisdiction pursuant to Ohio Revised Code Chapter 2506. Upon the filing of an appeal of a denial of an application for a sexually oriented business license, sexually oriented business operator's license, or sexually oriented business employee's license by the Respondent,

the Enforcement Officer shall, within two (2) business days of notification thereof, issue a temporary sexually oriented business license, sexually oriented business operator's license, or sexually oriented business employee's license, to the applicant. Such temporary license shall be effective pending the entry of a final judgment on the appeal by a court of competent jurisdiction.

(c) Application of Ordinance To Temporary License Holder. Holders of a temporary sexually oriented business license, sexually oriented business operator's license, or sexually oriented business employee's license, shall be subject to the provisions of this Chapter.

(d) Stay of Suspension or Revocation. A suspension or revocation shall be stayed until the earlier of the following: (i) the Respondent fails to respond in writing to the notice of intent to suspend or revoke the license issued by the Enforcement Officer within the time period proscribed in Subsection (a), above, or (ii) the entry of a final judgment by a court of competent jurisdiction on appeal of a suspension or revocation.

SECTION 87: That Section 763.11 of the Codified Ordinances is hereby amended in its entirety to read as follows:

763.11 TRANSFER OF LICENSE PROHIBITED.

A licensee shall not transfer their license to another, nor shall the holder of a sexually oriented business operator's license or a sexually oriented business employee's license operate or be employed by a sexually oriented business under the authority of a license at any place other than the address designated in the most recent application.

SECTION 88: That Section 901.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

901.02 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 otherwise defined in this Chapter. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

(a) "Abandoned" means any facilities, structures, or equipment in the Right-of-Way that are unused for a period of 365 days without the operator otherwise notifying the City and receiving the City's approval.

(b) "Antenna" means communications equipment that transmits or receives radio frequency signals in the provision of wireless service.

(c) "Applicant" means any Person applying for a Permit hereunder.

(d) "Approved" means approval by the City pursuant to this Chapter or any regulations adopted hereunder.

(e) "Best Efforts" means the best reasonable efforts under the circumstances, taking into consideration, among other appropriate matters, all applicable laws, regulations, safety, expedition, engineering and operational available technology and human resources and cost.

(f) "Cable operator," "cable service," and "franchise" have the same meanings as in the "Cable Communications Policy Act of 1984," 98 Stat. 2779, 47 U.S.C.A. 522.

(g) "City" means the City of Westerville, Ohio, or, as appropriate in the case of specific provisions of this Chapter, any board, authority, agency, commission, department of, or any other entity of or acting on behalf of, the City of Westerville, 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 or their designee.

(i) "Collocation" or "collocate" means to install, mount, maintain, modify, operate, or replace wireless facilities on a wireless support structure.

(j) "Council" means the Council of the City of Westerville.

(k) "Decorative pole" means a pole, arch, or structure other than a street light pole placed in the Right-of-Way specifically designed and placed for aesthetic purposes and on which no appurtenances or attachments have been placed except for any of the following: (1) Electric lighting; (2) Specially designed informational or directional signage; (3) Temporary holiday or special event attachments.

(l) "Design Guidelines" means detailed guidelines and specifications promulgated by the City in accordance with R.C. Chapter 4939 for the design and installation of Small Cell Facilities and Wireless Support Structures in the Right-of-Way.

(m) "Emergency" means a reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.

(n) "FCC" means the Federal Communications Commission, or any successor thereto.

(o) "Force majeure" means a strike, acts of God, acts of public enemies, orders of any kind of the government of the United States of America or the State of Ohio or any of their departments, agencies, or political subdivisions, riots, epidemics, landslides, lightning, earthquakes, fires, tornadoes, storms, floods, civil disturbances, explosions, 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.

(p) "Historic district" means a building, property, or site, or group of buildings, properties, or sites that are either of the following: (1) Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the Federal agency to list properties and determine their

eligibility for the National Register, in accordance with section VI.D.1.a.i-v of the nationwide programmatic agreement codified at 47 C.F.R. part 1, Appendix C; (2) A registered historic district as defined in R.C. § 149.311.

(q) "Law" means any local, State and/or Federal legislative, judicial or administrative order, certificate, decision, statute, constitution, ordinance, resolution, regulation, rule, tariff or other requirement in effect either at the time of execution of this Chapter or at any time during the location of, and/or while a Person's Facilities are located in the public Right-of-Way.

(r) "Micro wireless facility" means a small cell facility that is not more than twenty-four inches in length, fifteen inches in width, and twelve inches in height and that does not have an exterior antenna more than eleven inches in length suspended on cable strung between wireless support structures.

(s) "Municipal electric utility" has the same meaning as in R.C. § 4928.01.

(t) "Occupy or use" means, with respect to a Right-of-Way, to place a tangible thing in a Right-of-Way for any purpose, including, but not limited to, constructing, repairing, positioning, maintaining, or operating lines, poles, pipes, conduits, ducts, equipment, or other structures, appurtenances, or facilities necessary for the delivery of public utility services or any services provided by a cable operator.

(u) (1) "Operator" means a wireless service provider, cable operator, or a video service provider that operates a small cell facility and provides wireless service. For the purpose of this chapter, "operator" includes a wireless service provider, cable operator, or a video service provider that provides information services as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20), and services that are fixed in nature or use unlicensed spectrum.

(2) For purposes of submitting a request for City consent under this Chapter, "operator" also includes any person that, at the time of filing the request, provides the City the person's written authorization to perform the specific work for which consent has been requested on behalf of an operator.

(v) "Permit" means the non-exclusive grant of authority to use or occupy all or a portion of City's Rights-of-Way granted pursuant to this Chapter.

(w) "Permittee" means any person issued a Permit pursuant to this Chapter to use or occupy all or a portion of the Rights-of-Way in accordance with the provisions of this Chapter and said Permit.

(x) "Person" means any natural person or corporate entity, business association or other business entity including, but not limited to, a firm, a partnership, a joint venture, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity, whether for profit or not-for-profit.

(y) "Public Property" means any real property, other than a Right-of-Way, except for the last sentence of the definition of the term "Right-of-Way" of this Chapter, owned by the City.

(z) "Public utility" means a wireless service provider as defined in division (A)(20) of R.C. § 4927.01 or any company described in R.C. § 4905.03 except in divisions (B) and (I) of that section, which company also is a public utility as defined in R.C. § 4905.02 and regulated by the PUCO; and includes any electric supplier as defined in R.C. § 4933.81.

(aa) "PUCO" mans the Public Utilities Commission of Ohio as defined in R.C. § 4901.02.

(bb) "Regulation" means any rule adopted by and pursuant to the authority of this Chapter.

(cc) "Right-of-Way" or "Rights-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 which shall, within its proper use, entitle a Permittee or Franchisee, in accordance with the terms hereof and of any Permit, to the use thereof for the purpose of installing or operating any facilities as may be ordinarily necessary and pertinent to the provisions of utility, cable television, communications or other services as set forth in any Franchise or Permit. "Right-of-Way" shall also include Public Property, but only to the extent the use or occupation thereof is specifically granted in a Permit or by regulation. "Right-of-Way" excludes a private easement.

(dd) "Right-of-way Work Permit" means a permit granted by the City Manager that must be obtained in order to perform any work in, on, above, within, over, below, under, or through any part of the Right-of-Way, including, but not limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, or installing, as well as the act of opening and cutting into the surface of any paved or improved surface that is part of the Right-of-Way.

(ee) "Small Cell Facility" means a wireless facility that meets both of the following requirements:

(1) Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six cubic feet in volume.

(2) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

(ff) "Substantial change" means the same as defined by the FCC in 47 C.F.R. § 1.40001 (b)(7), as may be amended, and as applicable to facilities in the public Right-of-Way, which defines that term as a collocation or modification that:

(1) Increases the overall height more than ten percent (10%) or ten feet (whichever is greater);

(2) Increases the width more than six feet from the edge of the wireless support structure;

(3) Involves the placement of any new enclosures on the ground when there are no existing ground-mounted enclosures;

(4) Involves the placement of any new ground-mounted enclosures that are ten percent (10%) larger in height or volume than any existing ground-mounted enclosures;

(5) Involves excavation or deployment of equipment outside the area in proximity to the installation and other wireless communications equipment already deployed on the ground;

(6) Would defeat the existing concealment elements of the wireless support structure as determined by the City Manager; or

(7) Violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, enclosures or excavation that is inconsistent with the thresholds for a substantial change.

Note: For clarity, the definition in this Chapter includes only the definition of a substantial change as it applies to installations in the public Right-of-Way. The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted wireless support structure without regard to any increases in size due to wireless facilities not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012.

(gg) "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(hh) (1) "Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network as defined in R.C. § 4939.01(S), including all of the following:

A. Equipment associated with wireless communications;

B. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

(2) The term includes small cell facilities.

(3) The term does not include any of the following:

A. The structure or improvements on, under, or within which the equipment is collocated;

B. Coaxial or fiber-optic cable that is between wireless support structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

(ii) "Wireless service" means any services using licensed or unlicensed wireless spectrum, whether at a fixed location or mobile, provided to the public using wireless facilities.

(jj) "Wireless service provider" means a person who provides wireless service as defined in division (A)(19) of R.C. § 4927.01.

(kk) "Wireless support structure" means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen-foot or taller sign pole, or utility pole capable of supporting wireless small cell facilities. As used in this chapter, "wireless support structure" excludes all of the following:

(1) A utility pole or other facility owned or operated by a municipal electric utility;

(2) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses.

(ll) "Wireline backhaul facility" is a facility used for the transport of communications service or any other electronic communications by coaxial, fiber-optic cable, or any other wire.

SECTION 89: That Section 901.08 of the Codified Ordinances is hereby amended in its entirety to read as follows:

901.08 PERMIT FEES.

(a) Telecommunication and Utility Permittees pay an annual fee determined by the following:

(1) Permittees utilizing equal to or greater than thirty linear miles of Right-of-Way shall pay a fee of three thousand dollars ($3,000) per year.

(2) Permittees utilizing less than thirty linear miles of Right-of-Way shall pay a fee of one thousand dollars ($1,000) per year.

Such fee shall be paid in advance for each year prior to January 31. Partial year permits shall be prorated.

(b) Special Permittees shall pay an annual fee of ten cents ($0.10) per linear foot of Right-of-Way used or occupied. Such fee shall be paid in advance for each year prior to January 31 of such year. Partial year permits shall be prorated.

(c) In addition to the annual fees set forth in division (a) and (b) of this section, Permittees shall reimburse the City for the cost of inspection of the erection, installation, maintenance and/or restoration authorized by the Right-of-Way Work Permit. Such reimbursement is payable upon receipt of an invoice from the City.

(d) Recovery of Additional Costs Incurred in Processing Application. The City is authorized to charge the Applicant to recover additional, reasonable costs that are actually and directly incurred for an analysis, evaluation, or response to an application under this Chapter if the actual and direct costs of review exceed the application fee, and are reasonably related to a unique request of the application/applicant. Additional costs may include unforeseen City staff review costs and the costs of Independent Consultants in accordance with Section 901.21 hired to assist with review of the application. No Permits shall issue until and unless the applicant pays the application fee and any such additional costs as are authorized to be recovered under this division.

(e) As additional compensation for the use of the Right-of-Way, the City Manager, in their sole discretion, may require Permittees to release the City from any obligation to pay compensation to the Permittee for the cost of relocation of utilities located in private easements in conjunction with road improvement projects.

(f) The City Manager may determine that a Permittee is exempt by law from such Permit fees, or has already provided other compensation to the City sufficient to justify waiving a payment of some or all of the Permit Fees outlined herein.

SECTION 90: That Section 901.10 of the Codified Ordinances is hereby amended in its entirety to read as follows:

901.10 RIGHT-OF-WAY WORK PERMITS.

(a) All Permittees shall obtain a Right-of-Way Work Permit from the City Manager prior to beginning the erection, installation or maintenance, including tree trimming, of any lines or equipment. Prior City approval shall not be required for Emergency repairs, or routine maintenance repairs or operations which do not require excavation in the Right-of-Way, blockage of any street or alley, or material disruption to any landscaping or structures and/or irrigation systems. The Permittee and/or its subcontractors shall leave Rights-of-Way where such work is done in as good condition or repair as they were before such work was commenced and to the reasonable satisfaction of the City. Such Right-of-Way Work Permit shall be issued in writing and is subject to conditions that may be attached by the City Manager including, but not limited to, requirements concerning traffic control, safety, scheduling, notification of adjoining property owners, and restoration with seed, sod or specific plant materials as directed by the City. The Permittee and/or its subcontractors shall endeavor to complete, in a timely manner, repairs to the Right-of-Way. All workmanship and materials used by the Permittee and/or its subcontractors to perform work within the Right-of-Way and to complete restoration, including repair the streets and roadways shall be subject to the inspection and approval of the City Manager or their authorized agent and shall be warranted for a period of one year from the date of completion for any failure due to workmanship or quality of materials.

(b) All Applicants for Right-of-Way Work Permits shall file a written application and pay the fee as set forth in Section 901.04(d) with the City Manager, except in the case of emergency as determined by the City Manager. The applicant shall file such written application prior to working in or on the Right-of-Way so as to provide the City with a reasonable and sufficient amount of time to review such Right-of-Way Work Permit application. In addition to such other information this Chapter shall require, this application shall contain or indicate to the extent applicable:

(1) The Right-of-Way affected;

(2) A description of any facilities to be installed, constructed or maintained;

(3) Whether or not any street will be opened or otherwise need to be restricted, blocked or closed;

(4) An estimate of the amount of time needed to complete such work;

(5) A description and timetable of any remedial measures planned to close any street opening or repair any damage done to facilitate such work;

(6) A statement verifying that other affected or potentially affected Permittees have been notified; and

(7) A statement that any consumers of any utility, cable television, communications or other service which will be adversely affected by such work have been or will be notified in conformance with applicable rules and regulations of the Public Utilities Commission of Ohio.

(c) An Applicant for a Right-of-Way Work Permit shall not begin working in or on the Right-of-Way until forty-eight hours after the issuance of a Right-of-Way Work Permit.

(d) Permittee shall furnish City "as built" drawings not later than 120 days after construction has been completed. Drawings shall show ownership of conduits, ducts, poles and cables used for the telecommunications or utility system. Drawings shall be drawn to a scale of no smaller than one inch equals 100 feet using the standard format adopted by the City. Permittee shall provide one set of blue or black line "as built" drawings to the City Manager. State plane coordinates shall be shown for benchmarks, curb lines, and structures. Drawings shall show horizontal dimensions from the curb line and elevations.

(e) Permittees may, under emergency or other exigent circumstances, work in the Right-of-Way so long as the Permittee uses Best Efforts to file with the City the application required by Section 901.04.

SECTION 91: That Section 901.15 of the Codified Ordinances is hereby amended in its entirety to read as follows:

901.15 REMEDIES AND REVOCATION OF PERMIT.

(a) Nothing in this Chapter shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter. In addition to any rights set out elsewhere in this Chapter, the City reserves the right to seek termination of a Permit pursuant to the provisions hereof, and all rights and privileges pertaining thereto, in the event that any of the following are found to have occurred:

(1) A violation of any material provision of the Permit;

(2) The Permittee becomes insolvent, or is adjudged a bankrupt;

(3) An unauthorized sale, assignment or transfer of Permittee's Permit or a substantial interest therein;

(4) Misrepresentation by or on behalf of a Permittee in any application to the City;

(5) Abandonment of telecommunications or utility facilities in the Rights-of-Way;

(6) Failure to relocate or remove facilities as required in this Chapter; or

(7) Failure to pay taxes, compensation, fees or costs when and as due the City.

(b) Upon failure of the Permittee to comply with the material terms of the Permit, the City may by ordinance terminate the Permit in accordance with the procedures set forth in this section. Upon termination, all rights of the Permittee shall immediately be divested without a further act upon the part of the City. At City's option and to the extent permitted or in the manner required by applicable State law, City shall either accept title to Permittee's facilities in accordance with Section 901.12, or City shall require or seek to require, as the case may be, Permittee to remove its facilities from the Rights-of-Way. If City requires removal, the Permittee shall forthwith remove its structures or property from the Rights-of-Way and restore it to such condition as the City may require. The cost thereof shall be a lien upon all facilities and property of the Permittee. Such lien shall not attach to property of Permittee located on the poles of other utilities until removal of such property from the pole or poles.

(c) Procedures for Termination.

(1) Upon written recommendation by the Director of upon its own motion, the City Council shall give written notice to the Permittee of the existence of a material violation or failure to comply with the Permit. Permittee shall have a period of sixty days after receipt of such notice from the City in which to cease such violation and comply with the terms and provisions hereof. In the event Permittee fails to cease such violation or to otherwise comply with the terms hereof, then Permittee's Permit is subject to termination under the following provisions; provided, however, if the Permittee commences work or other efforts satisfactory to the City to cure such violations within thirty days after receipt of written notice and shall thereafter prosecute such curative work with reasonable diligence until such curative work is completed, then such violations shall cease to exist, and the Permit will not be terminated. If the curative work is not completed within ninety days of commencement of such work, Permittee shall report to City with respect to the progress made on such curative work and the anticipated completion date.

(2) Termination shall be declared only by a written decision of the City Council after an appropriate public proceeding whereby the Permittee is afforded the full opportunity to be heard and to respond to any such notice of violation or failure to comply. The Permittee shall be provided at least ten days prior written notice of any public hearing concerning the termination of the Permit and, in addition, ten days' notice by publication shall be given of the date, time and place of any public hearing to interested members of the public, which notice shall be paid for by the Permittee.

(3) The City Council, after full public hearing, and upon finding a material violation or failure to comply, may in its discretion terminate the Permit, or impose a lesser penalty than termination of the Permit, or excuse the violation or failure to comply upon a showing by the Permittee of mitigating circumstances or upon a showing of good cause of said violation or failure to comply as may be determined by the City Council.

(d) Receivership. The City shall have the right to terminate the Permit 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 120 days or unless:

(1) Within 120 days after their election or appointment, such receiver or trustee shall have fully complied with all the provisions of the Permit and remedied all defaults thereunder; and

(2) Such receiver or trustee, within said 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 the Permit.

SECTION 92: That Section 907.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

907.04 PROHIBITED TREES AND SHRUBS.

The following trees shall not be planted on Treelawns:

Acer saccharinum (Silver maple)

Acer negundo (Boxelder)

Aesculus hippocastanum (Common Horse chestnut) unless seedless cultivars

Ailanthus altissima(Tree of Heaven)

Betula (all Birch)

Catalpa (all Catalpa) unless seedless cultivars

Morus (all Mulberry)

Populus (all Poplars)

Salix (all Willows)

Ginkgo biloba (Ginkgo Females only)

Fraxinus (all native Ash)

Sorbus aucuparia (European Mountain ash)

Robinia pseudooacacia (Black Locust)

Malus pumila (Apple)

Ulmus Americana 'Moline' (Moline Elm)

Ulmus pumila (Siberian Elm)

Populus deltoides (Cottonwood)

Pyrus calleryana (All Callery Pear)

Whenever any tree or shrub shall be planted or set out in conflict with the provisions of the section, it shall be lawful for the City Manager or their designee to remove or cause removal of the same.

SECTION 93: That Section 907.08 of the Codified Ordinances is hereby amended in its entirety to read as follows:

907.08 ABUSE OR MUTILATION OF PUBLIC TREES.

Unless specifically authorized by the City Manager or their designee, no person shall intentionally damage, cut, carve, transplant or remove any tree or shrub; attach any rope, wire, nails, advertising posters or other contrivance to any tree or shrub; allow any gaseous liquid or solid substance which is harmful to such trees or shrubs to come in contact with them; or set fire or permit fire to burn when such fire or the heat thereof will injure any portion of any tree or shrub.

SECTION 94: That Section 907.10 of the Codified Ordinances is hereby amended in its entirety to read as follows:

907.10 PLACING MATERIALS ON PUBLIC PROPERTY.

No person shall deposit, place, store or maintain, upon any public place of the City, any stone, brick, sand, concrete or other materials which may impede the free passage of water, air or fertilizer to the roots of any tree growing therein, except by written permission of the City Manager or their designee.

SECTION 95: That Section 909.01 of the Codified Ordinances is hereby amended in its entirety to read as follows:

909.01 REPAIRS GENERALLY; DUTY OF ABUTTING LOT OWNERS.

Each owner of any lot or parcel of ground in the City shall cause the sidewalks, curbs and gutters and every part thereof in front of, along side or abutting the lot or parcel to be kept in good repair and free from any nuisance. Repairs shall be made by order of the City Manager and shall be supervised by them or their authorized representative.

SECTION 96: That Section 909.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

909.02 NOTICE.

The City Manager is hereby authorized, ordered and directed to serve notice on owners of land to repair all sidewalks, curbs or gutters or parts thereof, abutting on such land, within not less than thirty days of the service of the notice. Notice shall be served by certified mail addressed to the owner at their last known address or to the address to which tax bills are sent or, if it appears by the return of service that one or more of the owners cannot be found, the owners shall be

served by publication of the notice once in a newspaper of general circulation within the Municipal corporation.

SECTION 97: That Section 909.06 of the Codified Ordinances is hereby amended in its entirety to read as follows:

909.06 BOND; DISCRETION OF CITY MANAGER.

Persons making applications pursuant to Section 909.04 may be required to file a bond in a penal sum to be determined by the City Manager or their authorized representative according to the nature of the job to be done, such bond shall be conditioned to save the City harmless from any injury to any person or property which may be caused by the construction or repair.

SECTION 98: That Section 931.08 of the Codified Ordinances is hereby amended in its entirety to read as follows:

931.08 PRIVATE LINES; REIMBURSEMENT OF CONSTRUCTION COSTS.

(a) For the purpose of this chapter:

(1) "Private water line" means a water line, not less than six inches in diameter, connecting with the water distribution system of the City, the construction of which is financed entirely or in part with other than public funds and which is designed to provide local service for property abutting the water line or which may in the future abut an extension thereof.

(2) "Owner" means the person who owns such private water line at the time of the acceptance of such water line by the City.

(b) Within sixty days from the time of completion of the construction of such water line, the owner thereof shall file with the City Manager a statement setting forth the entire cost of such water line to the owner, describing that part of abutting property which may connect to the water line and setting forth the amount of the cost for each such property.

(c) Such private water lines may be extended by the City or the City may authorize others to extend the same to serve property not abutting the water line as built.

(d) Water service for any abutting property may be connected to such water line if, in the opinion of the City Manager, such connection with reference to the best interest of the City and the water distribution system of the City can or should be made. The person desiring to make such connection shall pay into the City treasury the sum determined by the City Manager as just and equitable to both parties, which amount so determined shall be binding upon both parties. Such sum shall be held by the City, subject to the demand of the owner, or their heirs or assigns, for a period of six years after the date of collection. At the expiration of the six years, if the sum has not been claimed by the owner or their heirs or assigns, it shall then and thereafter be the property of the City and shall be credited to the General Fund.

However, such sum paid to the City for connection to such private water line shall become the sole property of the City and shall be credited to the General Fund when such property is situated as follows:

(1) Abutting an improved street at the time of the passage of this section (Ordinance 1081, passed December 4, 1956)

(2) Having available water facilities, other than such private water line, at the time of the passage of this section (Ordinance 1081, passed December 4, 1956).

(3) Abutting upon an improved street in which water facilities, other than such private water line, have been installed at the time of the connection to such private water line.

(e) Upon the completion of the private water line, the owner shall dedicate such water line to the City, subject to its acceptance, following which acceptance the City shall be responsible for all maintenance and repair.

(f) The owner of such private water line shall make no assignment of any or all of their or its rights or obligations thereto without the consent of the City.

(g) The City Manager shall prepare and maintain a permanent record of costs, abutting properties and payments for connections to private water lines.

SECTION 99: That Section 931.13 of the Codified Ordinances is hereby amended in its entirety to read as follows:

931.13 ACCESS TO WATER METERING SYSTEMS.

(a) The Director of Public Utilities is hereby authorized to install, read and maintain metering systems to any and all properties served with water or sewer by the City.

(b) The Director of Public Utilities or appointed agents are authorized to enter all properties served with water and/or sewer by the City for the purpose of installing, reading and maintaining the metering system.

(c) Water service may be terminated for failure of a customer to provide access to the property for the purpose of installing, reading or maintaining the metering systems, after being given notice and a reasonable time in which to comply with such notice.

(d) The customer shall pay the appropriate service termination and resumption charges as specified in this chapter for denying access to the Director of Public Utilities or their agents for the purpose of installing, reading and maintaining the metering system.

SECTION 100: That Section 935.05 of the Codified Ordinances is hereby amended in its entirety to read as follows:

935.05 PRIVATE LINES; REIMBURSEMENT OF CONSTRUCTION COSTS.

(a) For the purpose of this section:

(1) “Private sewer” means a sewer, other than a house sewer, not less than eight inches in diameter, connecting with and discharging directly into the sewerage system of the City, or indirectly into such system, through an authorized extension thereof, the construction of which is financed entirely or in part with other than public funds and which is designed to provide local service for property abutting the sewer or which may in the future abut an extension thereof.

(2) "Owner" means the person who owns such private sewer at the time of the acceptance of such sewer by the City.

(b) Within sixty days from the time of completion of the construction of such private sewer, the owner thereof shall file with the City Manager a statement setting forth the entire cost of such sewer to the owner, describing that part of abutting property which may connect to the sewer and setting forth the amount of the cost for each such property.

(c) Such private sewers may be extended by the City or the City may authorize others to extend the same to serve property not abutting the sewer as built.

(d) House sewers for any abutting property may be connected to such private sewer if, in the opinion of the City Manager, such connection with reference to the best interest of the City and the sewerage system of the City can or should be made. The person desiring to make such connection shall pay into the City treasury the sum determined by the City Manager as just and equitable to both parties, which amount so determined shall be binding upon both parties. Such sum shall be held by the City, subject to the demand of the owner, their heirs or assigns, for a period of six years after the date of collection. At the expiration of the six years, if the sum has not been claimed by the owner or their heirs or assigns, it shall then and thereafter be the property of the City and shall be credited to the General Fund. However, such sum paid to the City for connection to such private sewer shall become the sole property of the City and shall be credited to the General Fund when such property is situated as follows:

(1) Abutting an improved street at the time of the passage of this section (Ordinance 1081, passed December 4, 1956).

(2) Having available sewer facilities, other than such private sewer, at the time of the passage of this section (Ordinance 1081, passed December 4, 1956).

(3) Abutting upon an improved street in which sewer facilities, other than such private sewer, have been installed at the time of the connection to such private sewer.

(e) Upon the completion of the private sewer, the owner shall dedicate such sewer to the City, subject to its acceptance, following which acceptance the City shall be responsible for all maintenance and repair.

(f) The owner of such private sewer shall make no assignment of any or all of their or its rights or obligations thereto without the consent of the City.

(g) The City Manager shall prepare and maintain a permanent record of costs, abutting properties and payments for connections to private sewers.

SECTION 101: That Section 936.09 of the Codified Ordinances is hereby amended in its entirety to read as follows:

936.09 UNACCEPTABLE DISCHARGES: PRETREATMENT PROGRAM.

Upon notification by the Director of Public Utilities that pretreatment of wastewater discharges is required the person responsible for such discharge shall:

(a) Submit to the Director, within seven calendar days of notification, a proposal for a scheduled program to implement the installation of pretreatment equipment and/or procedures. Such program shall describe steps to be taken to provide pretreatment and the anticipated schedule of implementation of each step.

Such pretreatment shall be done in accordance with Federal Regulations 40 CFR 128, "Pretreatment Standards."

(b) Upon acceptance of the scheduled program by the Director, the person responsible shall proceed to implement the program in accordance with the proposal as accepted. Such person shall notify the Director at monthly intervals as to their progress in implementing the program. The Director may order removal of the unacceptable wastewater discharge from the sewerage system at any time during pretreatment program implementation if unsatisfactory progress is evident or if necessary to protect the sewerage system from damage.

SECTION 102: That Section 961.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

961.04 COLLECTION AND DISPOSAL.

(a) Residential Disposal. All residential solid waste shall be collected by and disposed of by the City or its contractor.

(b) Nonresidential Disposal. With the exception of commercial, industrial, institutional and other waste from nonresidential premises in the Uptown District established under Chapter 1123 of the Planning and Zoning Code, all solid waste and other waste from commercial, industrial, institutional and other nonresidential premises, including apartments and condominium complexes with more than four units, shall be collected by and disposed of by persons, firms or corporations authorized to do so in accordance with the provisions of Section 961.10.

Effective January 1, 1994, all commercial, industrial, institutional and other solid waste from nonresidential premises in the Uptown District shall be collected and disposed of by the City or its contractor.

(c) Individual Disposal. The disposal of solid waste in any quantity by any individual, householder or establishment in any place, private or public, within the City limits or within not more than 5,000 feet outside of the City limits, is prohibited except by persons licensed to do so in accordance with the provisions of this chapter.

(d) Off-Premise Generation Prohibited. No person, being the owner, lessee, tenant, or other person or entities having charge or care of the land shall place any waste or waste containers for collection and disposable by the City or its contractor, unless such waste is generated on the premises.

(e) Placing and Maintenance of Containers.

(1) Solid waste containers shall be stored inside a building or in the side yard or rear yard of any public or private premises or as authorized by the City Manager.

(2) Container and recycling bins from residential premises shall be placed at the street, curb, tree lawn, alley way or other collection location approved by the City Manager no earlier than 6:00 p.m. the evening before the day of collection. However, where it can be shown that the owner, occupant, tenant or lessee of any public or private premises cannot, by reason of age, infirmity or other disability, place containers and recycling bins for collection at the place designated herein, suitable arrangements for their collection shall be made by the City Manager or their authorized representative.

(3) All containers and recycling bins shall be returned to the place of storage within twenty-four hours from the time of collection. Containers and recycling bins remaining at the collection location after the time provided for herein may be removed by the City or its contractor. The owner of such containers shall have one week within which to reclaim such containers. Thereafter, such containers may be disposed of by the City or its contractor.

(4) Containers and recycling bins shall be maintained in a safe and sanitary condition and in the event that containers are not so maintained, the City Manager, or their duly authorized agent, shall notify the owner thereof, and such owner shall repair, disinfect or replace the containers, within three days of the receipt of such notice. If such containers are not placed in a sanitary and/or safe condition, the containers may be collected at the option of the City and either disposed of or rendered safe and returned to the owner. If rendered safe or repaired, the owner will be charged a fee not to exceed the amount necessary to cover the actual cost of labor and materials.

(5) Containers and recycling bins in the Uptown District shall be provided by the City or the City's contractor and shall be placed at suitable locations as designated by the City Manager. The City shall install and maintain appropriate screening of containers and may include a screening component in the collection and disposal rate charged to nonresidential premises in the Uptown District.

SECTION 103: That Section 961.10 of the Codified Ordinances is hereby amended in its entirety to read as follows:

961.10 NONRESIDENTIAL COLLECTION; COLLECTION OF CONSTRUCTION, HAZARDOUS AND INFECTIOUS WASTES.

(a) No person shall collect or transport nonresidential waste, construction waste, solid waste, hazardous waste or infectious waste within the corporate limits of the City, but outside the boundaries of the Uptown District unless they have obtained a license from the City.

(b) Any person engaged in the collection of any nonresidential waste, construction waste, solid waste, hazardous waste or infectious waste shall be licensed by the City Manager. After application is made for a license, the City Manager shall have authority to determine that all necessary permits have been obtained and such person has satisfactory proof of insurance coverage. Each license shall cost fifty dollars ($50.00) and be effective for the calendar year for which the license is issued.

(c) All vehicles used in the collection of any waste shall display the name of the licensed hauler, be watertight and be subject to inspection by the City Manager or their authorized representative and if determined that such vehicle presents any health or safety risks, such vehicle shall be prohibited from operation within the City.

(d) All vehicles used in the collection or transportation of wastes shall be operated as to prevent offensive odors escaping therefrom and waste being blown, dropped or spilled.

(e) Nonresidential waste shall be collected in the City only between the hours of 7:00 a.m. and 7:30 p.m. unless otherwise authorized in writing by the City Manager or their designee which authorization is limited to businesses located in the Uptown Zoning District whose waste disposal containers are accessible only by direct access on an arterial street.

SECTION 104: That Section 961.11 of the Codified Ordinances is hereby amended in its entirety to read as follows:

961.11 RULES AND REGULATIONS.

The City Manager or their authorized representative shall have full and complete authority to make such other rules and regulations, not inconsistent herewith, pertaining to the collection and disposal of solid waste, construction waste, hazardous waste and infectious waste, as well as to the administration thereof, as may be deemed advisable.

SECTION 105: That Section 965.11 of the Codified Ordinances is hereby amended in its entirety to read as follows:

965.11 PUBLIC ADDRESS DEVICES, RADIOS, AMPLIFIED SOUND, AND MUSICAL INSTRUMENTS.

No person shall cause a public address device, radio, amplified sound or any musical instrument or device to be used in a park at a volume audible beyond their immediate area without a specific written consent from the Director.

SECTION 106: That Section 967.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

967.04 FACILITY USE DENIED FOR MISCONDUCT.

The Director of Parks and Recreation and their designee is authorized and directed to deny the use of pool and/or community center facilities to persons who violate the rules and regulations providing for the conduct of persons using such facilities.

SECTION 107: That Section 969.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

969.02 ALARM USER PERMIT REQUIRED.

(a) No person shall install, operate or allow on the premises under their control the operation of an alarm system unless such person first obtains a valid alarm user permit. This requirement shall be the responsibility of the owner unless the occupant of the property is different from the owner, in which case it shall be the responsibility of both.

(b) If an alarm user has more than one alarm system protecting two or more separate structures having different addresses, a separate permit shall be required for each system. All addresses shall be stated on the alarm user application.

(c) No posting of the alarm user permit or the posting of any other evidence of registration shall be required.

(d) Any party holding a previously issued valid alarm permit as of the effective date of this section shall apply for an alarm user permit within thirty days.

SECTION 108: That Section 969.05 of the Codified Ordinances is hereby amended in its entirety to read as follows:

969.05 SYSTEM STANDARDS.

(a) After December 31, 1987, no alarm user permit shall be issued for any alarm system which can be activated by a failure in the electrical current from the utility. Systems shall be equipped with a secondary power source which shall hold the alarm readiness for a minimum of 120 minutes or shall be rendered inoperable by such power interruption.

(b) After December 31, 1987, no alarm user permit shall be issued or renewed for any audible alarm or automatic dialer alarm system designed to detect an intrusion which does not have an automatic cutoff which discontinues the alarm signals within fifteen minutes after activation.

(c) After December 31, 1987, no alarm user permit shall be issued by the Division of Police for any new installation of an automatic dialer alarm system and any current automatic dialer alarm systems reporting to the Division of Police shall be terminated by the alarm user by December 31, 1987.

(d) The Fire Chief may designate a specific telephone number for the Division of Fire to which all automatic dialer alarm systems signals and all alarm monitoring company calls must be directed.

(e) The equipment shall meet standards as set forth by the State and the appropriate chiefs and the applicants may be required to submit evidence of the reliability and suitability of the equipment to be installed.

(f) The Chief of Police or Fire Chief may require that repair or adjustments be made whenever they have determined that such are necessary to assure proper operation. The user's permit shall be suspended until such repairs or adjustments are made.

SECTION 109: That Section 969.07 of the Codified Ordinances is hereby amended in its entirety to read as follows:

969.07 FALSE ALARM PROHIBITED.

(a) Each false alarm response shall constitute a separate false alarm, whether police or fire response is elicited. Any response to a false alarm to a City address by another agency, in lieu of response by Westerville agencies, as a result of mutual aid or automatic response agreements, shall constitute a false alarm.

(b) No service fee shall be assessed for the first three false alarms per calendar year for each alarm user permit.

(c) Each false alarm in a calendar year in excess of three false alarms and up to and including six false alarms transmitted by an alarm system for which a valid alarm user permit is in effect, shall be assessed by the appropriate chief or their designee, a service fee of fifty dollars ($50.00).

(d) Each false alarm in a calendar year in excess of six false alarms, transmitted by an alarm system for which a valid alarm user permit is in effect, shall be assessed by the appropriate chief or their designee, a service fee of one hundred dollars ($100.00)

(e) No person who is either the holder of an alarm user permit or responsible for the alarm system operation shall negligently allow such alarm to register seven or more false alarms within a calendar year.

SECTION 110: That Section 969.08 of the Codified Ordinances is hereby amended in its entirety to read as follows:

969.08 REVOCATION OF ALARM USER PERMIT.

(a) An alarm user permit shall be reviewed for possible revocation by the appropriate chief or their designee for any of the following reasons:

(1) Any false alarms in excess of six false alarms in a calendar year.

(2) Failure to remit the service fee required by Section 969.07 within thirty days of receipt of invoice.

(3) Falsification of any information on an application for issuance or renewal of an alarm user permit.

(4) Failure to notify the appropriate chief of changes in permit information as required by Section 969.03(c).

(5) Failure to direct all automatic dialer alarm system signals to the telephone number designated by the Fire Chief as provided in Section 969.05(d).

(b) After review, the appropriate chief may recommend to the City Manager revocation of the alarm user permit for up to six months. The City Manager shall approve or disapprove the recommendation and notify the permit holder accordingly.

SECTION 111: That Section 971.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

971.02 COMPLIANCE WITH SPECIFICATIONS.

The specifications adopted in Section 971.01 shall be enforced by the City Manager or their authorized representative and the City Manager is also authorized to direct that construction shall be accomplished at a different standard or specification commensurate with good engineering practice and which is reasonably necessary for the conditions.

SECTION 112: That Section 1103.05 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1103.05 ZONING OF ANNEXED TERRITORY.

All territory annexed to the City after September 1, 1986, shall immediately upon annexation be classified in the RR Rural Residential District and shall be subject to the regulations and standards of Chapter 1122.

Within 30 days of the effective date of the ordinance annexing territory to the City, an owner of property included therein may apply for a change in the zoning of their property to a City Zoning District and such applicant is exempt from paying any required filing fee.

SECTION 113: That Section 1105.3200 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1105.3200 DISABLED CITIZEN.

"Disabled Citizen" means an adult having a physical or mental disability that:

(a) Is expected to be of long-continued and indefinite duration;

(b) Substantially impedes the person's ability to live independently; and

(c) Is such that the person's ability to live independently could be improved by more suitable housing conditions. An adult who has a chronic mental illness, i.e., if they have a severe and

persistent mental or emotional disability that seriously limits their ability to live independently (e.g., by limiting functional capacities relative to primary aspects of daily living such as personal relations, living arrangements, work, recreation, etc.), and whose disability could be improved by more suitable housing conditions. A person whose sole disability is alcoholism or drug addiction will not be considered to be disabled.

SECTION 114: That Section 1105.10300 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1105.10300 TEMPORARY USE PERMIT.

"Temporary use permit" means any of the following:

(a) A document allowing the use of a building during periods of construction of the principal building or use, as permitted by the Board of Zoning Appeals;

(b) A document issued by the City Manager or their designee for special events;

(c) A document issued by the Zoning Officer consistent with section 1175.06 (d)(7) of the Zoning Code.

SECTION 115: That Section 1105.11500 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1105.11500 ZONING OFFICER.

"Zoning Officer" means the Zoning Officer of the City or their assistants, whose duties are outlined in Chapter 1107.

SECTION 116: That Section 1107.01 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1107.01 ZONING OFFICER; APPOINTMENT.

The City Manager shall appoint a qualified person to serve as Zoning Officer who shall:

(a) Administer and enforce the Zoning Ordinance;

(b) Maintain the Zoning District Map;

(c) Serve as secretary of the Board of Zoning Appeals;

(d) Issue zoning certificates;

(e) Inspect structures and land to determine compliance with this Zoning Ordinance and the Zoning District Map;

(f) Notify violators of this Zoning Ordinance in writing, stating the nature of violations. Notification shall be complete upon mailing the notice to the owner of the property at their last known address, or where no address is known by posting the notice in a conspicuous place on the property. Failure of the Zoning Officer to notify the owner of the property of a violation is not grounds for dismissal of a prosecution based on such a violation.

(g) Maintain accurate records of all amendments made to this Zoning Ordinance or the Zoning District Map, all conditional use permits and variances granted, and all zoning certificates and notices of violation issued;

(h) Issue conditional use permits after compliance with Chapter 1111, and variances after compliance with Chapter 1113 or Chapter 1108;

(i) Recommend to the Planning Commission revocation of conditional use permits where they believe terms of permits have been violated;

(j) Issue certificates of appropriateness after compliance with Chapter 1149.

SECTION 117: That Section 1107.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1107.02 ZONING CERTIFICATES.

(a) Zoning Certificate Required.

(1) No structure shall be placed upon or moved onto land, erected, constructed, reconstructed, converted, enlarged or structurally altered, nor shall any work be started upon same, nor shall such a building be occupied or used in whole or in part for any purpose, until a zoning certificate has been issued establishing compliance with the development standards and use requirements of this Zoning Ordinance.

(2) No material change shall be made in the use of any land or structure or part of a structure until a zoning certificate has been issued establishing that such change in use is a permitted use within the zoning district where the land or structure is located.

(b) Application Fee. In order to defray the cost of the examination of plans and inspections necessary to provide for compliance with this Zoning Ordinance and the issuance of zoning certificates, an applicant seeking a zoning certificate shall pay a fee in accordance with the fee schedule adopted and approved by City Council.

(c) Application for Zoning Certificate. Application for a zoning certificate shall be made to the Zoning Officer on a form signed by the applicant stating that the information provided is accurate and truthful.

(1) An applicant for a zoning certificate required by subsection (a)(1) hereof shall provide with their application:

A. The name, address and telephone number of the applicant, and of the owner of the property;

B. An accurate legal description of the property;

C. The existing use and proposed use of the property and the zoning district in which the property is located;

D. Two copies of the plot plan drawn to scale and showing

1. The shape and dimensions of the property with front, rear, side yard dimensions;

2. The location and dimensions of existing structures and proposed structures or alterations;

3. Means for traffic access and provisions for parking;

4. The location and description of trees and shrubs;

5. Any additional information required by the Zoning Officer to determine compliance with this Zoning Ordinance or the Zoning District Map.

(2) An applicant for a zoning certificate required by subsection (a)(2) hereof shall provide with their application:

A. The name, address, and telephone number of the applicant and of the owner of the property;

B. An accurate legal description of the property;

C. The existing use and proposed use for the property and the zoning district in which the property is located;

D. Means of traffic access and provisions for parking.

(d) Approval or Disapproval of Application.

(1) The Zoning Officer shall either approve or disapprove all applications for zoning certificates within 30 days of their filing.

(2) A zoning certificate is valid for 12 months from the date it is issued. Authority to proceed pursuant to a zoning certificate shall lapse unless the action authorized by the zoning certificate is commenced within 12 months after the zoning certificate is issued.

(3) Disapproval of an application for a zoning certificate shall be accompanied by written findings of fact by the Zoning Officer explaining the reasons for disapproval. The decision of the Zoning Officer shall be delivered by certified mail or personal service to the applicant. Except as provided in subsection (d)(4) hereof, an applicant may appeal the decision of the Zoning Officer to the Board of Zoning Appeals. Notice of appeal must be filed with the Zoning Officer within 15 days after the decision of the Zoning Officer is mailed by certified mail or personal service to the applicant at the address listed on the application.

(4) The Zoning Officer shall disapprove any application, which they determine contains information, which is clearly and demonstrably false. There is no administrative appeal from such disapproval. Should the applicant file an amended application containing correct

information, it shall be treated as a new application and the Zoning Officer shall collect the filing fee established by this section.

(e) Request for Opinion. An owner of property, upon receiving a notice of an alleged violation of this Zoning Ordinance issued pursuant to Section 1107.01(f) may request an opinion from the Board of Zoning Appeals as to the existence of a violation of this Zoning Ordinance. A request for an opinion must be filed in writing with the Zoning Officer within 15 days after the Zoning Officer has completed notification pursuant to Section 1107.01(f) and the filing of a request for an advisory opinion stays any prosecution for the alleged violation.

SECTION 118: That Section 1107.09 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1107.09 APPLICATION PROCEDURE FOR SEXUALLY ORIENTED BUSINESS ZONING CERTIFICATE.

(a) Zoning Certificate Required for Sexually Oriented Business.

(1) No structure shall be placed upon or moved onto land, erected, constructed, reconstructed, converted, enlarged or structurally altered, nor shall any work be started upon same, nor shall such a building be occupied or used in whole or in part for any purpose, until a zoning certificate has been issued establishing compliance with the development standards and use requirements of this Zoning Ordinance.

(2) No material change shall be made in the use of any land or structure or part of a structure until a zoning certificate has been issued establishing that such change in use is a permitted use within the zoning district where the land or structure is located.

(b) Application Fee. In order to defray the cost of the examination of plans and inspections necessary to provide for compliance with this Planning and Zoning Code and the issuance of a zoning certificate for a sexually oriented business, an applicant seeking a zoning certificate for a sexually oriented business shall pay a fee in accordance with the fee schedule adopted and approved by City Council.

(c) Application for Sexually Oriented Business Zoning Certificate. Application for a zoning certificate pursuant to this Section shall be made to and on a form provided by the Zoning Officer, and shall be signed by the applicant stating that the information provided is accurate and truthful to the best of their knowledge.

(1) An applicant for a zoning certificate required by subsection (a)(1) hereof shall provide with their application:

A. The name, address and telephone number of the applicant, and of the owner of the property;

B. An accurate legal description of the property;

C. The existing use and proposed use of the property and the zoning district in which the property is located;

D. Two copies of the plot plan drawn to scale and showing:

1. The shape and dimensions of the property with front, rear, side yard dimensions;

2. The location and dimensions of existing structures and proposed structures or alterations;

3. Means for traffic access and provisions for parking;

4. The location and description of trees and shrubs;

E. A site plan if required by Chapter 1108 of the Planning and Zoning Code.

(2) An applicant for a zoning certificate required by subsection (a)(2) hereof shall provide with their application:

A. The name, address, and telephone number of the applicant and of the owner of the property;

B. An accurate legal description of the property;

C. The existing use and proposed use for the property and the zoning district in which the property is located;

D. Means of traffic access and provisions for parking.

(d) Approval or Disapproval of Expedited Application for Sexually Oriented Business Zoning Certificate.

(1) The Zoning Officer shall either approve or disapprove an expedited application for a zoning certificate within ten (10) days of its proper filing. The decision of the Zoning Officer shall be delivered by personal service or certified mail, return receipt requested, to the applicant at the address listed on the application. Disapproval of an application for a zoning certificate shall be accompanied by written findings of fact by the Zoning Officer explaining the reasons for disapproval. The Zoning Officer shall also send a copy of the decision to the City Manager and the Chief of Police.

(2) A zoning certificate is valid for 12 months from the date it is issued. Authority to proceed pursuant to a zoning certificate shall lapse unless the action authorized by the zoning certificate is commenced within 12 months after the zoning certificate is issued.

(3) An applicant may appeal the decision of the Zoning Officer directly to the Board of Zoning Appeals ("BZA"). If the applicant desires to appeal the Zoning Officer's decision, the applicant shall file a Notice of Appeal with the Zoning Officer and with the City Clerk within five (5) days of the applicant's receipt of such decision.

(e) Expedited Appeal to Board of Zoning Appeals.

(1) Notice; hearing. Within ten (10) working days of the receipt of the Notice of Appeal, the BZA shall conduct a hearing at which the applicant shall have the opportunity to appear and be heard in person, or by the applicant's attorney, in opposition to the denial of the zoning certificate, and do any and all of the following: (i) present the applicant's position, arguments

and contentions; (ii) offer and examine witnesses and present evidence; (iii) cross-examine witnesses, including but not limited to the Zoning Officer and/or their designees, purporting to refute the applicant's position, arguments and contentions; (iv) offer evidence to refute evidence and testimony offered in opposition to the applicant's position, arguments and contentions; and (v) proffer any such evidence into the record, if the admission is denied by the BZA. All testimony shall be given under oath. The BZA shall have the power to subpoena witnesses or evidence and shall make such power available to the applicant. The BZA shall have a complete record of the adjudication kept, including any evidence admitted or proffered. The City Clerk shall notify the applicant, in writing, by personal delivery, or by certified mail, return receipt requested, of the hearing date within three (3) days of the receipt of the applicant's Notice of Appeal. If a Notice of Appeal is not received from the applicant by the City Clerk in the time stated or, if after the hearing the BZA finds that grounds as specified in the Planning and Zoning Code exist for denial of the zoning certificate, then such action shall become final and the City Clerk shall send notice of such to the applicant, by written decision describing the basis for the denial, within five (5) working days of the hearing. Such notice shall be sent by personal delivery, or by certified mail, return receipt requested. Such notice shall include a statement advising the applicant of the right to appeal such decision to a court of competent jurisdiction. If the BZA finds that no grounds exist for denial of a zoning certificate, then the City Clerk shall so notify the applicant in writing by personal delivery, or by certified mail, return receipt requested, of such action and the Zoning Officer shall immediately issue the applicant a zoning certificate.

(f) Appeal to Court of Competent Jurisdiction; Issuance of Temporary Zoning Certificate. When a decision to deny a zoning certificate becomes final, the applicant whose application for a zoning certificate has been denied shall have the right to appeal such action to a court of competent jurisdiction pursuant to Ohio Revised Code Chapter 2506. Upon the filing of an appeal of a final denial of an application for a sexually oriented business zoning certificate by the applicant, the Zoning Officer shall, within two (2) business days of notification thereof, issue a temporary zoning certificate to the applicant. Such temporary zoning certificate shall be effective pending the entry of a final judgment on the appeal by a court of competent jurisdiction. The temporary zoning certificate shall be in all other respects subject to the applicable provisions of the Planning and Zoning Code.

SECTION 119: That Section 1111.05 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1111.05 VIOLATION OF FINDINGS OF FACT; PERMIT REVOCATION; APPEAL.

(a) Whenever a previously approved conditional use is in violation of any of the findings of fact or other imposed conditions, pursuant to Section 1111.04(c), the Zoning Officer shall give notice in the same manner as service of summons in civil cases, or by certified mail addressed to the owner of record of the premises at their last known address, or to the address to which tax bills are sent. Such notice shall include reasons by which the Zoning Officer finds the conditional use to be in violation, and a statement that the owner shall have 30 days to comply with the granted conditional use permit.

(b) Upon failure of the owner to comply with the notice, the Zoning Officer shall notify the Planning Commission that the conditional use is in violation and itemize the reasons for revocation of the conditional use permit.

(c) The Planning Commission shall continue or revoke the conditional use permit at its first regular meeting after the notice is received.

(d) Any party, including administrative staff of the City, aggrieved or affected by the decision of the Planning Commission involving a revocation of a conditional use permit may appeal to Council, pursuant to Section 1107.06.

SECTION 120: That Section 1129.03 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1129.03 DEVELOPMENT STANDARDS.

(a) When the use is a permitted or conditional use in the R-1 Single Family District, development standards are those required in the R-2 Single Family District.

(b) Lot Requirements for Each Two-Family Dwelling in the R-3 Two-Family District are:

(1) Minimum lot area: 4,500 square feet per living unit.

(2) Minimum lot width: Eighty feet; One hundred feet for corner lots located on publicly dedicated rights-of-way.

(3) Minimum lot depth: One hundred fifty feet for lots backing onto an arterial street.

(4) Minimum front yard: Thirty feet; forty feet for structures on lots fronting major, minor arterials and major collectors as designated by the Official Thoroughfare Plan.

(5) Minimum side yard: Eight feet; provided, however, that the minimum side yard shall be five feet next to an attached or detached garage.

(6) Minimum rear yard: Thirty feet, fifty feet for lots backing onto an arterial street. Thirty feet for decks and patios thirty inches in height or less above the adjacent grade prior to construction for lots backing onto an arterial street; fifteen feet for accessory buildings, decks/patios thirty inches in height or less above the adjacent grade prior to construction.

(7) Maximum lot coverage: Thirty-five percent (35%).

(c) Building Requirements for Each Two-Family Dwelling in the R-3 Two-Family District are: Maximum height: Thirty-five feet.

(d) Site Development Requirements in the R-3 Two-Family District are:

(1) All applicable subdivision regulations and sign, parking and landscaping regulations of their Zoning Ordinance must be satisfied.

(2) Parking: Two parking spaces per unit, one space to be either covered or enclosed.

(3) Curb cuts: To ensure maximum yard space and to minimize traffic hazards, joint or combined curbcuts shall be provided whenever feasible.

(4) Clustering of two-family dwellings: Lot area per unit can be reduced to 4,000 square feet on sites having one acre or greater, provided 300 square feet per unit is combined to create a usable open space design, subject to Planning Commission plan approval.

SECTION 121: That Section 1131.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1131.04 SUPPLEMENTARY STANDARDS FOR CONDITIONAL USES.

All conditional uses shall meet the minimum requirements established by Section 1131.03 unless modified by this section.

(a) Purpose and Intent. The purpose of this section is to establish supplementary standards for certain land uses that may affect adjacent properties, the neighborhood, or the community even if all of the general standards of Section 1131.03 are met. It is the intent of this section to establish appropriate standards for permit processing and for location, design and operation of conditional uses to assure that they will be developed in a manner consistent with the purpose of the Multiple Family District.

(b) Development Standards for Nursing Homes, Senior and Disabled Housing and Senior and Disabled Independent Housing.

(1) Lot requirements.

A. Minimum lot area: None, except that lot size shall be adequate to meet all yard and parking requirements.

B. Minimum lot width: None, except that all lots must abut a public street and have adequate width to meet the parking and yard space requirements.

C. Minimum front yard: 30 feet; 40 feet for structures on lots fronting on major, minor arterial and major collectors as designated by the Official Thoroughfare Plan. Pavement areas shall be at least ten feet from the right-of-way.

D. Minimum side yard: For structures, 15 feet. For pavement areas, ten feet.

E. Minimum rear yard: For structures, 15 feet. When abutting single or two family districts the rear yard shall equal the rear yard requirement of the abutting district. For pavement areas, ten feet.

F. Maximum lot coverage: Main and accessory structures and parking pavement areas shall occupy no more than 50% of the lot.

G. Parking areas shall be no closer to main structures than ten feet.

H. Minimum lot area per dwelling unit shall be calculated on the basis of 1,450 square feet for Nursing Homes and Senior and Disabled Housing. For Senior and Disabled Independent

Housing, minimum lot area per dwelling unit shall be calculated on the basis of 5,445 square feet and may be reduced to 1,450 square feet with approval of the Planning Commission if the proposed development fully complies with the requirements of Section 1131.04. For Nursing Homes and Senior Disabled Housing, minimum lot area per unit may be varied by the Planning Commission based upon the merits of the site development plan submitted. The Commission shall consider the factors established by the site development plan, the dwelling unit size and mix, the site configuration and the development incentives set forth in Section 1135.03(c)(3)A., B. and C.

(2) Building requirements.

A. Maximum height: 35 feet. The maximum height may be increased to 50 feet by Planning Commission if the lot is not adjacent to any single or two family dwellings. If the building is adjacent to a single family or two family dwelling, the building height may be increased to a maximum height of 50 feet by Planning Commission if 1 foot of additional setback is provided for each additional foot of height along the affected property line.

B. Accessory buildings have the same yard requirements as main buildings.

C. Minimum dwelling unit area: A minimum of 300 square feet of living space for efficiency apartments, with private bathrooms, 220 square feet for efficiency apartments without private bathrooms, 500 square feet for one-bedroom units and 700 square feet for two-bedroom units. A minimum of 100 square feet of living space per person for nursing homes.

D. Housing shall be specifically designed for senior and disabled citizens and include facilities generally associated with the needs and interests of aged persons. Access to these facilities and common and public use areas shall be provided in accordance with the "Fair Housing Accessibility Guidelines (FHAG) as prescribed in Ohio R.C. 378.1.111.

E. Any facility containing two or more stories shall contain elevator access to all dwelling units above the first floor.

(3) Site development requirements.

A. All applicable subdivision regulations and sign regulations, as well as parking and landscaping regulations of this Zoning Ordinance must be satisfied. The location, size, design, and operating characteristics of the facility will be compatible with and not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to harmful effect, if any, upon desirable neighborhood character.

B. Parking accommodations and loading areas shall be provided pursuant to a layout plan designed by the owner of the land to be developed, conforming to Chapter 1171 and showing traffic movement, ingress and egress, traffic control points, the number and size of parking spaces and service areas. In addition, the expected peak hour traffic volume for employees, members of the public and deliveries shall be described by text. The facility shall not adversely affect the generation of traffic and the capacity of surrounding streets.

C. Provision for storm drainage shall be adequate to protect the public and owners of surrounding land.

D. Trash and litter shall be controlled and stored in container systems which are located and enclosed in a manner to screen them from view.

E. Provision shall be made for an Emergency Medical Service drive or zone.

F. Units are to be within reasonable walking distance, generally within two blocks, of major traffic arteries, shopping, community facilities, and other daily activities. If this requirement cannot be met, daily service by shuttle bus for residents to these activities must be available.

G. The owner shall file with the Franklin or Delaware County Recorder a covenant, approved as to form by the City Attorney, in which said owner shall covenant on behalf of themselves, their heirs, executors, and assigns not to use the property for any other use than nursing homes, senior and disabled housing or senior and disabled independent housing, unless the use complies with all requirements of the Planning and Zoning Code. Required compliance includes, but is not limited to, density, unit sizes, parking, and setbacks.

H. In addition to the requirements of Section 1111.02(c), a Site Development Plan for any site plan shall be submitted to the Planning Commission. The plan for nursing homes, senior and disabled housing or senior and disabled independent housing shall set forth:

1. Natural scenic characteristics preserved.
2. Recreational, educational and social facilities of the development.
3. Pedestrian and bicycle access to neighborhood facilities, parks and scenic areas.
4. Building architectural design and construction materials.

I. A minimum of 20% of the total site shall be designated as common open space for active and/or passive recreational uses. Common open space shall not include required setback and buffer yard areas. Up to 40% of the required common open space area may be provided in the form of a common leisure/recreation room.

SECTION 122: That Section 1135.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1135.04 SUPPLEMENTARY STANDARDS FOR CONDITIONAL USES.

All conditional uses shall meet the minimum requirements established by Section 1135.03 unless modified by this section.

(a) Purpose and Intent. The purpose of this section is to establish supplementary standards for certain and uses that may affect adjacent properties, the neighborhood, or the community even if all of the general standards of Section 1135.03 are met. It is the intent of this section to establish appropriate standards for permit processing and for location, design and operation of conditional uses to assure that they will be developed in a manner consistent with the purpose of the Planned Neighborhood District.

(b) Development Standards for Nursing Homes, Senior and Disabled Housing, Senior and Disabled Independent Housing.

(1) Lot requirements.

A. Minimum lot area: None, except that lot size shall be adequate to meet all yard and parking requirements.

B. Minimum lot width: None, except that all lots must abut a public street and have adequate width to meet the parking and yard space requirements.

C Minimum front yard: 30 feet; 40 feet for structures on lots fronting on major, minor arterial and major collectors as designated by the Official Thoroughfare Plan. Pavement areas shall be at least ten feet from the right-of-way.

D. Minimum side yard: For structures, 15 feet. For pavement areas, ten feet.

E. Minimum rear yard: For structures, 15 feet. When abutting single or two family districts, the rear yard shall equal the rear yard requirement of the abutting district. For pavement areas, ten feet.

F. Maximum lot coverage: Main and accessory structures and parking pavement areas shall occupy no more than 50% of the lot.

G. Parking areas shall be no closer to main structures than ten feet.

H. Minimum lot area per dwelling unit shall be calculated on the basis of 1,450 square feet for Nursing Homes and Senior and Disabled Housing. For Senior and Disabled Independent Housing, minimum lot area per dwelling unit shall be calculated on the basis of 5,455 square feet and may be reduced to 1,450 square feet with approval of the Planning Commission if the proposed development fully complies the requirements of Section 1135.04. For Nursing Homes and Senior and Disabled Housing, minimum lot area per unit may be varied by Planning Commission based upon the merits of the site development plan submitted. The Commission shall consider the factors established by the Site Development Plan, the dwelling unit size and mix, the site configuration and the development incentives set forth in Section 1135.03(c)(3)A, B and C.

(2) Building requirements.

A. Maximum height: 35 feet. The maximum height may be increased to 50 feet by Planning Commission if the lot is not adjacent to any single or two family dwellings. If the building is adjacent to a single family or two family dwelling, the building height may be increased to a maximum height of 50 feet by Planning Commission if 1 foot of additional setback is provided for each additional foot of height along the affected property line.

B. Accessory buildings have the same yard requirements as main buildings.

C. Minimum dwelling unit area: A minimum of 300 square feet of living space for efficiency apartments with private bathrooms, 220 square feet for efficiency apartments without private bathrooms, 500 square feet for one bedroom units and 700 square feet for two bedroom units. A minimum of 100 square feet of living space per person for nursing homes.

D. Housing shall be specifically designed for senior and disabled citizens and include facilities generally associated with the needs and interests of aged persons. Access to these facilities and common and public use areas shall be provided in accordance with the "Fair Housing Accessibility Guidelines" (FHAG) as prescribed in Ohio R.C. 3781.1.111.

E. Any facility containing two or more stories shall contain elevator access to all dwelling units above the first floor.

(3) Site development requirements.

A. All applicable subdivision regulations, sign regulations, as well as parking and landscaping regulations of this Zoning Ordinance must be satisfied. The location, size, design, and operating characteristics of the facility will be compatible with and not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to harmful effect, if any, upon desirable neighborhood character.

B. Parking accommodations and loading areas shall be provided pursuant to a layout plan designed by the owner of the land to be developed, conforming to Chapter 1171 and showing traffic movement, ingress and egress, traffic control points, the number and size of parking spaces and service areas. In addition, the expected peak hour traffic volume for employees, members of the public and deliveries shall be described by text. The facility shall not adversely affect the generation of traffic and the capacity of surrounding streets.

C. Provision for storm drainage shall be adequate to protect the public and owners of surrounding land.

D. Trash and litter shall be controlled and stored in container systems which are located and enclosed in a manner to screen them from view.

E. Provision shall be made for an Emergency Medical Service drive or zone.

F. Units are to be within reasonable walking distance, generally within two blocks, of major traffic arteries, shopping, community facilities, and other daily activities. If this requirement cannot be met, daily service by shuttle bus for residents to these activities must be available.

G. The owner shall file with the Franklin or Delaware County Recorder a covenant, approved as to form by the City Attorney, in which said owner shall covenant on behalf of themselves, their heirs, executors, and assigns not to use the property for any other use than nursing homes, senior and disabled housing or senior and disabled independent housing, unless the use complies with all requirements of the Planning and Zoning Code. Required compliance includes, but is not limited to, density, unit sizes, parking, and setbacks.

H. In addition to the requirements of Section 1111.02(c), a Site Development Plan for any site plan, shall be submitted to the Planning Commission. The plan for nursing homes, senior and disabled housing and senior and disabled independent housing shall set forth:

1. Natural scenic characteristics preserved.

2. Recreational, educational and social facilities of the development.

3. Pedestrian and bicycle access to neighborhood facilities, parks and scenic areas.

4. Building architectural design and construction materials.

I. A minimum of 20% of the total site shall be designated as common open space for active and/or passive recreational uses. Common open space shall not include required setback and buffer yard areas. Up to 40% of the required common open space area may be provided in the form of a common leisure/recreation room.

SECTION 123: That Section 1143.06 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1143.06 SUPPLEMENTARY STANDARDS FOR CONDITIONAL USES.

All conditional uses shall meet the minimum requirements established by Sections 1143.04 and 1143.05 unless modified by this section:

(a) Purpose and Intent. The purpose of this section is to establish supplementary standards for certain land uses that may affect adjacent properties, the neighborhood, or the community even if all of the general standards of Sections 1143.04 and 1143.05 are met. It is the intent of this section to establish appropriate standards for permit processing and for location, design and operation of conditional uses to assure that they will be developed in a manner consistent with the purpose of the Community Commercial District.

(b) Child Care Centers.

(1) Minimum lot area. Sufficient to accommodate an appropriately designed facility including buildings, required yards, landscaping, drop-off area and circulation space.

(2) Required outdoor play area. There shall be provided a fenced outdoor play area containing at a minimum, the number of square feet required for State of Ohio licensing requirements.

(3) Required access and loading/unloading.

A. An on-site drop-off area shall be provided at the main entrance to the facility sufficient to accommodate four automobiles for facilities with 20 or fewer children plus one additional vehicle for each additional ten children served. The drop-off area may either be in the form of spaces parallel to an access drive adjacent to the building or additional parking spaces beyond Code requirements.

B. Access from an arterial or collector street is required or access shall be provided in a manner that does not cause heavy traffic on residential streets.

(4) Required fencing. All outdoor play areas shall be enclosed by a six-foot high wall, solid fence or chain link fence planted with a continuous evergreen screen.

(5) Hours of operation. Use of outdoor play areas shall be limited to between the hours of 8:00 a.m. and 8:00 p.m.

(c) Financial Establishments with Drive-Thru Facilities.

(1) Minimum lot area. Uses with drive-in facilities shall have a minimum lot area to accommodate building, required yards, landscaping, parking and circulation requirements.

(2) Setbacks and screening. Drive-in windows or lanes shall be located at least 50 feet from any residential property. A solid wood fence, hedge or masonry wall at least six feet in height shall be provided where a drive-in window is located adjacent to residential property.

(3) Off-street parking and circulation.

A. Stacking spaces shall be provided for every drive-in facility per Chapter 1171. Required stacking spaces shall not block or otherwise interfere with site circulation patterns.

B. Customer/employee parking shall be separated from driving activities and customer parking shall be located near the area with the highest accessibility to the principal building.

C. The circulation system shall provide continuous traffic flow with efficient movement throughout the site. Conflict between major pedestrian movement and vehicular circulation shall be minimized.

(d) Animal Hospitals Including Veterinary Clinics, Kennels, Animal Grooming and Pet Stores.

(1) Care and boarding shall be limited to small domestic animals and may not include cattle, horses or swine.

(2) Minimum lot area and setback: The minimum lot area for an animal hospital, veterinary clinic or kennel shall be sufficient to accommodate building, required yards, parking, landscaping and circulation requirements. Any structure used for such purposes shall be at least 100 feet from an adjacent residential property.

(3) Operational standards.

A. All activities other than off-street parking, loading/unloading shall be conducted from a fully enclosed structure. This includes exercise runways.

B. Each structure shall be designed and maintained in a manner to prevent the development of unsanitary conditions.

C. Rooms intended to accommodate animals shall be insulated, or otherwise soundproofed and vented so animal noises will not be audible at any point on the perimeter of the property.

(e) Convenience Food Stores and Fast Food Restaurants.

(1) Minimum lot area: The minimum lot area shall be 7,500 square feet except that uses with drive-in or drive-thru facilities shall be located on lots with a minimum area sufficient to accommodate building, required yards, parking, landscaping and circulation requirements.

(2) Setbacks: Drive-in or drive-thru windows and lanes shall be located at least 50 feet from any residential property. All other structures shall be located in accordance with required setbacks of the underlying zoning district.

(3) Screening: A solid wood fence or masonry wall six feet high shall be constructed where drive-thru facilities for convenience food stores, drive-in stores, or fast food restaurants are located adjacent to residential property.

(4) Off-street parking and circulation:

A. Stacking spaces shall be provided for every drive-thru facility per Chapter 1171. Required stacking lanes shall not block or otherwise interfere with site circulation patterns.

B. Customer/employee parking shall be separated from driving activities and customer parking shall be located in the area with the highest accessibility to dining or sales areas.

C. Circulation system shall provide continuous traffic flow with efficient, non-conflicting movement throughout the site. Conflict between major pedestrian movement and vehicular circulation shall be minimized.

(f) Automobile Washing.

(1) Minimum lot area. Sufficient to accommodate building, required yards, parking, landscaping and circulation requirements.

(2) Setbacks and screening.

A. All structures shall be located at least 50 feet from any adjacent residential property.

B. A solid fence, wall or hedge six feet high shall be required when an automobile washing facility is adjacent to residential property.

(3) Limitation on use.

A. All washing facilities shall be located entirely within an enclosed building, except that entrance and exit doors may be left open during the hours of operation.

B. Vacuum and steam cleaning equipment may be located outside of the building, but shall not be placed in any yard adjoining residential property.

(4) Off-street waiting and circulation.

A. Off-street waiting spaces shall be provided for auto washing facilities per Chapter 1171. Required waiting spaces shall not block or otherwise interfere with site circulation patterns.

B. If at all possible, exit doors shall be oriented away from the street right-of-way. If not possible, a hard surface exit drive not less than 40 feet in length shall be provided between the exit doors and the street.

(g) Gasoline Service Stations. The basis for the following development standards is the assumption that all new service stations will include a convenience store in addition to the

traditional pump islands covered by a canopy. It is also assumed that service bays will not be an integral part of the convenience store/gas pump complex. In those cases where car repair services are provided as part of the overall complex but in a separate structure, the entire complex shall be treated as a commercial center and fall under the supplemental standards set forth in Section 1143.06(h).

(1) Minimum lot area: 15,000 square feet, provided, however, that the lot size shall be adequate to meet all building and pavement setbacks, parking, circulation, open space and landscaping requirements.

(2) Minimum frontage: None, provided that individually developed lots must abut a public street and have adequate width to meet all building and pavement setbacks, parking, circulation, open space and landscaping requirements. A minimum of 250 foot frontage is required if there are to be two curb cuts for the site.

(3) Maximum lot coverage: All impervious service areas including building and pavement shall not cover more than 60% of the site.

(4) The site design shall provide for traffic circulation that does not interfere with access to and from the pump islands.

(5) To the greatest extent possible, required parking for the site shall be located adjacent to the convenience store facility and not interfere with circulation on the site or access to and from the pump islands.

(6) Canopy size (dimensions) shall be kept to a minimum. Whenever possible the smallest dimension shall be parallel to the adjacent roadway. In no case shall the width of the dimension fronting on or parallel to the roadway exceed 25% of the width or frontage of the lot.

(7) Lighting contained within the canopy shall be flush with or recessed into the ceiling of the canopy (to avoid glare off the site).

(8) There shall be no parking or pavement permitted in the front yard.

(9) The front yard shall consist of adequate and varied landscaping to act as both a screen to the paved area as well as a bufferyard to the impact of the canopy.

(10) Accessory structures are prohibited. Pump island canopies, convenience store and garage with repair bays are not considered accessory structures.

(11) The exterior facade of the structures included in the overall complex shall be natural materials such as brick or stone or some alternative material acceptable to the Planning Commission. The roof of these structures shall be covered with natural or manmade shingles and shall be designed so as to expose said materials to the adjacent streets and properties (such as a gabled or mansard roof).

(12) Should one or more bays for servicing cars be included in the convenience store structure, the site shall provide additional parking consisting of two spaces for each service bay and one space for each employee and service vehicle.

(13) Should a car wash facility be included within the convenience store structure, the site shall provide an additional parking space for each employee and a stacking lane sufficient to accommodate four waiting automobiles for each washing stall or device.

(h) Commercial Centers. Commercial centers shall be designed to fit with existing and anticipated development in the immediate area to minimize traffic congestion, conflicts, visual pollution and confusion.

(1) Minimum lot area. None, except that lot size shall be adequate to meet all building and pavement setbacks, parking, circulation, open space and landscaping requirements.

(2) Maximum lot area. For commercial centers containing two or more commercial uses, a maximum lot area of five contiguous acres shall be provided including sufficient space to accommodate buildings, required yards, landscaping, parking and circulation.

(3) Lot configuration. The width to depth ratio shall not exceed a ratio of two to one. The minimum depth of a commercial center lot shall be 300.

(4) Site layout. The applicant shall demonstrate how the proposed center will tie directly into adjacent commercial developments, both existing and anticipated, for pedestrian and vehicular traffic.

(5) Parking and circulation.

A. Customer/employee parking should be separated with customer parking located near the area with the most direct access to the principal building.

B. Continuous channelized traffic flow with sufficient movement throughout the site shall be provided. Conflict between pedestrian and vehicular movement shall be minimized.

C. Clear delineation of internal circulation roadways including directional signage and pavement markings shall be indicated.

(6) Curb cut controls. Curb cuts to adjacent arterial will be controlled in accordance with the following criteria:

A. A maximum of two curb cuts per street frontage may be allowed provided the minimum frontage of 450 feet and the curb cuts are separated by a minimum of 300 feet (centerline to centerline).

B. All curb cuts shall be located a minimum of 150 feet from an intersection and 75 feet from any property line.

(7) Signage.

A. A graphic system shall be used that is uniform in size, shape and color for various tenant signage.

B. Ground mounted signage shall be integrated within the overall site landscaping and the use of foundation planting around the ground sign shall be encouraged.

(8) Lighting.

A. All external outdoor lighting shall be cutoff fixtures or downlighting.

B. Lighting within and in relation to any service area to the rear of the building shall also be cutoff fixtures so as not to allow spillage on adjacent property.

(9) Outlots. No outlots shall be created as part of a commercial center site plan.

(i) Wireless Telecommunication Facilities.

(1) Minimum lot area. The minimum required by the zoning district, but not less than one (1) acre.

(2) Setbacks. Equal to the height of the tallest structure, but in no case less than zoning district requirements. The setback requirement based on height is not applicable when the proposed facility is constructed on or in an existing structure and does not extend more than 20 feet above the existing structure.

(3) Height: The maximum height of a tower shall be 150 feet including the antenna. The Planning Commission may allow the maximum height to increase to 200 feet to accommodate co-location. Equipment shelters shall meet district standards.

(4) Screening. Perimeter landscaping would be required around fencing at the base of the tower and around any building or equipment. The landscaping should have a year round opacity of 75%. A six foot minimum height would be required at installation for landscaping around the base of a tower. The Planning Commission may elect, in certain instances, to accomplish screening by materials other than landscaping.

(5) Parking and access. A paved access drive and one paved parking space for a service vehicle.

(6) Lighting. On site: Cutoff style fixtures for control of light spread. On tower: None, unless required by the Federal Aviation Administration (FAA).

(7) Color. The tower shall be painted a non-contrasting gray or similar color to minimize its visibility unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).

(8) Emissions. Emissions standards for electromagnetic fields must be in compliance with current and future Federal Communication Commission (FCC) standards.

(9) Co-location. All approved installations must allow other providers to co-locate on the same pole to the extent technologically feasible at a reasonable and competitive market rate. All requests for new installation must demonstrate that there is no available space on existing towers or other suitable support structure within the established service area. New installations on an existing permitted tower are exempt from the conditional use process and may proceed with a standard building permit approval.

(10) Construction. All new towers shall be constructed to be capable of accommodating at least one additional wireless communication installation for another service provider.

(11) Removal. The applicant or any subsequent owner of the facility will remove it within 90 days of obsolescence or abandonment. Obsolescence is defined as being replaced by new technology. Abandonment would occur when the provider is no longer operating a viable telecommunication network using this facility.

(12) Design. Preference will be given to monopole construction. Only monopole construction would be allowed in residential districts.

(13) Signage. Signage or advertising is to be displayed on the tower structure.

(j) Nursing Homes, Senior and Disabled Housing and Senior and Disabled Independent Housing.

(1) Lot requirements.

A. Minimum lot area: None, except that lot size shall be adequate to meet all yard and parking requirements.

B. Minimum lot width: None, except that all lots must abut a public street and have adequate width to meet the parking and yard space requirements.

C. Minimum front yard: 30 feet; 40 feet for structures on lots fronting on major, minor arterial and major collectors as designated by the Official Thoroughfare Plan. Pavement areas shall be at least ten feet from the right-of-way.

D. Minimum side yard: For structures, 15 feet. For pavement areas, ten feet.

E. Minimum rear yard: For structures, 15 feet. When abutting single or two family districts the rear yard shall equal the rear yard requirement of the abutting district. For pavement areas, ten feet.

F. Maximum lot coverage: Main and accessory structures and parking pavement areas shall occupy no more than 50% of the lot.

G. Parking areas shall be no closer to main structures than ten feet.

H. Minimum lot area per dwelling unit shall be calculated on the basis of 1,450 square feet for nursing homes and senior and disabled housing. For senior and disabled independent housing, minimum lot area per dwelling unit shall be calculated on the basis 5,445 square feet and may be reduced to 1,450 square feet with approval of the Planning Commission if the proposed development fully complies with the requirements of Section 1143.06. For nursing homes and senior and disabled housing, minimum lot area per unit may be varied by Planning Commission based upon the merits of the site development plan submitted. The Commission shall consider the factors established by the Site Development Plan, the dwelling unit size and mix, the site configuration and the development incentives set forth in Section 1135.03(c)(3)A., B. and C.

(2) Building requirements.

A. Maximum height: 35 feet. The maximum height may be increased to 50 feet by Planning Commission if the lot is not adjacent to any single or two family dwellings. If the

building is adjacent to a single family or two family dwelling, the building height may be increased to a maximum height of 50 feet by Planning Commission if one foot of additional setback is provided for each additional foot of height along the affected property line.

B. Accessory buildings have the same yard requirements as main buildings.

C. Minimum dwelling unit area: A minimum of 300 square feet of living space for efficiency apartments with private bathrooms, 220 square feet for efficiency apartments without private bathrooms, 500 square feet for one bedroom units and 700 square feet for two bedroom units. A minimum of 100 square feet of living space per person for nursing homes.

D. Housing shall be specifically designed for senior and disabled citizens and include facilities generally associated with the needs and interests of aged persons. Access to these facilities and common and public use areas shall be provided in accordance with the "Fair Housing Accessibility Guidelines" (FHAG) as prescribed in Ohio R.C. 3781.1.111.

E. Any facility containing two or more stories shall contain elevator access to all dwelling units above the first floor.

(3) Site development requirements.

A. All applicable subdivision regulations, sign regulations, as well as parking and landscaping regulations of this Zoning Ordinance must be satisfied. The location, size, design, and operating characteristics of the facility will be compatible with and not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to harmful effect, if any, upon desirable neighborhood character.

B. Parking accommodations and loading areas shall be provided pursuant to a layout plan designed by the owner of the land to be developed, conforming to Chapter 1171 and showing traffic movement, ingress and egress, traffic control points, the number and size of parking spaces and service areas. In addition, the expected peak hour traffic volume for employees, members of the public and deliveries shall be described by text. The facility shall not adversely affect the generation of traffic and the capacity of surrounding streets.

C. Provision for storm drainage shall be adequate to protect the public and owners of surrounding land.

D. Trash and litter shall be controlled and stored in container systems which are located and enclosed in a manner to screen them from view.

E. Provision shall be made for an emergency medical service drive or zone.

F. Units are to be within reasonable walking distance, generally within two blocks of major traffic arteries, shopping, community facilities, and other daily activities. If this requirement cannot be met, daily service by shuttle bus for residents to these activities must be available.

G. The owner shall file with the Franklin or Delaware County Recorder a covenant, approved as to form by the City Attorney, in which said owner shall covenant on behalf of themselves, their heirs, executors, and assigns not to use the property for any other use than

nursing homes, senior and disabled housing or senior and disabled independent housing, unless the use complies with all requirements of the Planning and Zoning Code. Required compliance includes, but is not limited to, density, unit sizes, parking, and setbacks.

H. In addition to the requirements of Section 1111.02(c), a Site Development Plan for any site plan shall be submitted to the Planning Commission. The plan for senior citizen and physically handicapped housing shall set forth:

1. Natural scenic characteristics preserved.

2. Recreational, educational and social facilities of the development.

3. Pedestrian and bicycle access to neighborhood facilities, parks and scenic areas.

4. Building architectural design and construction materials. A minimum of 20% of the total site shall be designated as common open space for active and/or passive recreational uses. Common open space shall not include required setback and buffer yard areas. Up to 40% of the required common open space area may be provided in the form of a common leisure/recreation room.

(k) Outside Storage or Outside Sales Including, but Not Limited to Nurseries and Garden Supplies, Farmer's Markets, Christmas Tree Lots, and Pumpkin Sales.

(1) Outside storage or sales associated with an existing use or structure shall be located and screened and/or covered so as to be, or appear to be, an extension of the main store structure.

(2) If associated with an existing use or structure, parking, in addition to meeting the code requirements for the underlying use shall additionally provide a minimum of five additional spaces.

(3) Christmas tree lots and pumpkin sales.

A. Operation shall not exceed 45 days in duration and be permitted only once per calendar year.

B. Setbacks shall conform to those of the zoning district.

C. Signage shall conform to temporary sign standards.

D. Flashing, blinking, or moving lights of any kind are not permitted.

E. Planning Commission will determine the hours of operation, access, traffic, site lighting, and proximity to adjacent residential uses.

F. Christmas tree lots and pumpkin sales sites shall be cleaned and restored to their original condition within seven days of the end of operation.

G. Conditional use permits are valid for one year. Annual renewals may be granted administratively if the operation remains consistent with Planning Commission's approval.

(4) Farmer's markets.

A. Operation shall be between April 1 and December 1 and not exceed two days per week.

B. Setbacks shall conform to those of the zoning district.

C. Signage shall conform to temporary sign standards.

D. Flashing, blinking, or moving lights of any kind are not permitted.

E. Planning Commission will determine hours of operation, access, traffic, site lighting, and proximity to adjacent residential uses.

F. Farmer's market sites shall be cleaned and restored within 24 hours of the end of operation.

G. Conditional use permits are valid for one year. Annual renewals may be granted if the operation remains consistent with Planning Commission's approval.

SECTION 124: That Section 1147.05 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1147.05 DEVELOPMENT STANDARDS FOR NURSING HOMES, SENIOR AND DISABLED HOUSING AND SENIOR AND DISABLED INDEPENDENT HOUSING.

(a) Lot Requirements:

(1) Minimum lot area: 10,000 square feet.

(2) Minimum lot area per unit: 3,600 square feet.

(3) Minimum lot width: 100 feet on a publicly dedicated right-of-way at the front building line.

(4) Minimum front yard: 30 feet; 40 feet for structures on lots fronting on major, minor arterial and major collectors as designated by the Official Thoroughfare Plan.

(5) Minimum side yard: ten feet for principal building walls with no doors or windows. For principal building walls with windows and doors, facing the side yard, the minimum side yard shall be equal to the height of the building, or a minimum of 25 feet, whichever is greater. One-story accessory buildings and any pavement shall not be closer than ten feet to a side yard lot line.

(6) Minimum rear yard: 25 feet. Any pavement and one-story accessory buildings shall not be closer than ten feet to the rear lot line. For garages, an additional two feet of rear yard is required for each parking space in the garage in excess of two spaces.

(7) Minimum distance between buildings: If there are two or more buildings located on a single lot, the minimum distance between opposite walls shall be ten feet for facing walls with no windows or doors. If any one or both of the walls facing each other have windows or other

wall openings, the minimum distance between walls shall be equal to the height of the higher building.

(8) Two-story accessory buildings shall be located at least 65 feet from any lot line.

(9) Maximum lot coverage: 50% for structures and pavement.

(10) Units are to be within reasonable walking distance, generally within two blocks, of major traffic arteries, shopping, community facilities, and other daily activities. If this requirement cannot be met, daily service by shuttle bus for residents to these activities must be available.

(b) Building Requirements:

(1) Maximum height: 35 feet.

(2) Minimum dwelling unit area: A minimum of 300 square feet of living space for efficiency apartments with private bathrooms, 220 square feet for efficiency apartments without private bathrooms, 500 square feet for one bedroom units and 700 square feet for two bedroom units. A minimum of 100 square feet of living space per person for nursing homes.

(3) Any senior citizen or physically handicapped housing development containing two or more stories shall contain elevator access to all dwelling units above the first floor.

(4) The owner shall file with the Franklin County Recorder a covenant, approved as to form by the City Attorney, in which said owner shall covenant on behalf of themselves, their heirs, executors, and assigns not to use the property for any other use than nursing homes, senior and disabled housing or senior and disabled independent housing, unless the use complies with all requirements of the Planning and Zoning Code. Required compliance includes, but is not limited to, density, unit sizes, parking, and setbacks.

(5) Any facility containing two or more stories shall contain elevator access to all dwelling units above the first floor.

(6) Housing shall be specifically designed for senior and disabled citizens and include facilities generally associated with the needs and interests of aged persons. Access to these facilities and common and public use areas shall be provided in accordance with the "Fair Housing Accessibility Guidelines" (FHAG) as prescribed in Ohio R.C. 3781.1.111.

(c) Site Development Requirements:

(1) All applicable subdivision regulations, sign regulations, as well as parking and landscaping regulations of this Zoning ordinance must be satisfied. The location, size, design, and operating characteristics of the facility will be compatible with and not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to harmful effect, if any, upon desirable neighborhood character.

(2) Parking accommodations and loading areas shall be provided pursuant to a layout plan designed by the owner of the land to be developed conforming to subsection (c)(7) hereof and Chapter 1171 and showing traffic movement, ingress and egress, traffic control points, the

number and size of parking spaces and service areas. In addition, the expected peak hour traffic volume for employees, members of the public and deliveries shall be described by text. The facility shall not adversely affect the generation of traffic and the capacity of surrounding streets.

(3) Provision for storm drainage shall be adequate to protect the public and owners of surrounding land.

(4) Trash and litter shall be controlled and stored in container systems which are located and enclosed in a manner to screen them from view.

(5) All service and delivery shall be at the rear of structures; provided however, that under hardship conditions provisions may be made for service and delivery at the side of structures.

(6) Provision shall be made for an emergency medical service drive or zone.

(7) The minimum number of parking spaces shall be one for each unit.

(8) In addition to the requirements of Section 1111.02(c), a site development plan shall be submitted to the Planning Commission. The plan shall set forth:

A. Natural scenic characteristics preserved.

B. Recreational, education and social facilities of the development.

C. Pedestrian and bicycle access to neighborhood facilities, parks and scenic areas.

D. Building architectural design and construction materials.

(9) A minimum of 20% of the total site shall be designated as common open space for active and/or passive recreational uses. Common open space shall not include required setback and buffer yard areas. Up to 40% of the required common open space area may be provided in the form of a common leisure/recreation room.

SECTION 125: That Section 1149.05 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1149.05 PROCEDURE FOR ARCHITECTURAL REVIEW AND APPROVAL; CERTIFICATE OF APPROPRIATENESS REQUIRED.

(a) A certificate of appropriateness is required from the Uptown Review Board prior to any new construction, remodeling, reconstruction or demolition. A certificate of appropriateness is required from the Zoning Officer prior to the onset of maintenance or repair such as set forth in subsection (c) hereof.

(b) A certificate of appropriateness is required from the Uptown Review Board prior to the erection of any sign, which requires a permit pursuant to Chapter 1181. The Uptown Review Board may grant a variance to the requirements of Chapter 1181.

(c) Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any property within the Uptown District, provided such work involves no change in material,

design, texture, color or outer 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 Building Official and the Zoning Officer is required for the public safety because of an unsafe, insecure or dangerous condition.

(d) Applications for a certificate of appropriateness shall be filed with the Zoning Officer at least fifteen days before a meeting of the Uptown Review Board. The applicant shall submit with their application, drawings, material and color samples, sketches and other information that indicate or identify the proposed exterior.

(e) The Uptown Review Board shall review and approve, approve with modification, or disapprove such applications. Upon approval, or approval with modifications the Zoning Officer shall issue a certificate of appropriateness to the applicant within thirty days.

(f) Upon disapproval of an application, or upon the issuance of a certificate attaching material modifications, the applicant may within ten days appeal to Council pursuant to Section 1107.06.

SECTION 126: That Section 1155.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1155.04 SUPPLEMENTARY STANDARDS FOR CONDITIONAL USES.

All conditional uses shall meet the minimum requirements established by Section 1155.03 unless modified by this section:

(a) Purpose and Intent. The purpose of this section is to establish supplementary standards for certain land uses that may affect adjacent properties, the neighborhood, or the community even if all of the general standards of Section 1155.03 are met. It is the intent of this section to establish appropriate standards for permit processing and for location, design and operation of conditional uses to assure that they will be developed in a manner consistent with the purpose of the Office-Institutional District.

(b) Development Standards for Multiple Family Use. The development standards are those required in the R-4 Multiple Family District.

(c) Development Standards For Nursing Homes, Senior and Disabled Housing and Senior and Disabled Independent Housing.

(1) Lot requirements.

A. Minimum lot area: None, except that lot size shall be adequate to meet all yard and parking requirements.

B. Minimum lot width: None, except that all lots must abut a public street and have adequate width to meet the parking and yard space requirements.

C. Minimum front yard: 30 feet; 40 feet for structures on lots fronting on major, minor arterial and major collectors as designated by the Official Thoroughfare Plan. Pavement areas shall be at least ten feet from the right-of-way.

D. Minimum side yard: For structures, 15 feet. For pavement areas, ten feet.

E. Minimum rear yard: For structures, 15 feet. When abutting single or two family districts the rear yard shall equal the rear yard requirement of the abutting district. For pavement areas, ten feet.

F. Maximum lot coverage: Main and accessory structures and parking pavement areas shall occupy no more than 50% of the lot.

G. Parking areas shall be no closer to main structures than ten feet.

H. Minimum lot area per dwelling unit shall be calculated on the basis of 1,450 square feet for nursing homes and senior and disabled housing. For senior and disabled independent housing, minimum lot area per dwelling unit shall be calculated on the basis of 5,455 square feet and may be reduced to 1,450 square feet with approval of the Planning Commission if the proposed development fully complies with the requirements of Section 1155.04. For nursing homes and senior and disabled housing, minimum lot area per unit may be varied by Planning Commission based upon the merits of the site development plan submitted. The Commission shall consider the factors established by the Site Development Plan, the dwelling unit size and mix, the site configuration and the development incentives set forth in Section 1135.03(c)(3)A., B. and C.

(2) Building requirements.

A. Maximum height: 35 feet. The maximum height may be increased to 50 feet by Planning Commission if the lot is not adjacent to any single or two family dwellings. If the building is adjacent to a single family or two family dwelling, the building height may be increased to a maximum height of 50 feet by Planning Commission if one foot of additional setback is provided for each additional foot of height along the affected property line.

B. Accessory buildings have the same yard requirements as main building.

C. Minimum dwelling unit area: A minimum of 300 square feet of living space for efficiency apartments with private bathrooms, 220 square feet for efficiency apartments without private bathrooms, 500 square feet for one bedroom units and 700 square feet for two bedroom units. A minimum of 100 square feet of living space per person for nursing homes.

D. Housing shall be specifically designed for senior and disabled citizens and include facilities generally associated with the needs and interests of aged persons. Access to these facilities and common and public use areas shall be provided in accordance with the "Fair Housing Accessibility Guidelines" (FHAG) as prescribed in Ohio R.C. 3781.1.111.

E. Any facility containing two or more stories shall contain elevator access to all dwelling units above the first floor.

(3) Site development requirements.

A. All applicable subdivision regulations, sign regulations, as well as parking and landscaping regulations of this Zoning Ordinance must be satisfied. The location, size, design, and operating characteristics of the facility will be compatible with and not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood,

with consideration to be given to harmony in scale, bulk, coverage, and density; to harmful effect, if any, upon desirable neighborhood character.

B. Parking accommodations and loading areas shall be provided pursuant to a layout plan designed by the owner of the land to be developed, conforming to Chapter 1171 and showing traffic movement, ingress and egress, traffic control points, the number and size of parking spaces and service areas. In addition, the expected peak hour traffic volume for employees, members of the public and deliveries shall be described by text. The facility shall not adversely affect the generation of traffic and the capacity of surrounding streets.

C. Provision for storm drainage shall be adequate to protect the public and owners of surrounding land and meet the City's requirements for Storm Water Management.

D. Trash and litter shall be controlled and stored in container systems which are located and enclosed in a manner to screen them from view.

E. Provision shall be made for an emergency medical service drive or zone.

F. Units are to be within reasonable walking distance, generally within two blocks, of major traffic arteries, shopping, community facilities, and other daily activities. If this requirement cannot be met, daily service by shuttle bus for residents to these activities must be available.

G. The owner shall file with the Franklin or Delaware Count Recorder a covenant, approved as to form by the City Attorney, in which said owner shall covenant on behalf of themselves, their heirs, executors, and assigns not to use the property for any other use than nursing homes, senior and disabled housing or senior and disabled independent housing, unless the use complies with all requirements of the Planning and Zoning Code. Required compliance includes, but is not limited to, density, unit sizes, parking, and setbacks.

H. In addition to the requirements for any site plan, a plan for nursing homes, senior and disabled housing and senior and disabled independent housing shall set forth:

1. Natural scenic characteristics preserved.

2. Recreational, educational and social facilities of the development.

3. Pedestrian and bicycle access to neighborhood facilities, parks and scenic areas.

4. Building architectural design and construction materials.

I. A minimum of 20% of the total site shall be designated as common open space for active and/or passive recreational uses. Common open space shall not include required setback and buffer yard areas. Up to 40% of the required common open space area may be provided in the form of a common leisure/recreation room.

(d) Financial Establishments with Drive-Thru Facilities.

(1) Minimum lot area: Uses with drive-in facilities shall have a minimum lot area to accommodate building, required yards, landscaping, parking and circulation requirements.

(2) Setbacks and screening: Drive-in windows or lanes shall be located at least 50 feet from any residential property. A solid wood fence, hedge or masonry wall at least six feet in height shall be provided where a drive-in window is located adjacent to residential property.

(3) Off-street parking and circulation:

A. Stacking space shall be provided for every drive-in facility for at least five automobiles. Required stacking spaces shall not block or otherwise interfere with site circulation patterns.

B. Customer/employee parking shall be separated from driving activities and customer parking shall be located near the area with the highest accessibility to the principal building.

C. The circulation system shall provide continuous traffic flow with efficient movement throughout the site. Conflict between major pedestrian movement and vehicular circulation shall be minimized.

(e) Animal Hospitals including Veterinary Clinics, Kennels, Animal Grooming and Pet Stores.

(1) Care and boarding shall be limited to small domestic animals and may not include cattle, horses or swine.

(2) Minimum lot area and setback: The minimum lot area for an animal hospital, veterinary clinic or kennel shall be sufficient to accommodate building, required yards, parking, landscaping and circulation requirements. Any structure used for such purposes shall be at least 100 feet from an adjacent residential property.

(3) Operational standards:

A. All activities other than off-street parking, loading/unloading shall be conducted from a fully enclosed structure. This includes exercise runways.

B. Each structure shall be designed and maintained in a manner to prevent the development of unsanitary conditions.

C. Rooms intended to accommodate animals shall be insulated, or otherwise soundproofed and vented so animal noises will not be audible at any point on the perimeter of the property.

(f) Wireless Telecommunication Facilities.

(1) Minimum lot area: The minimum required by the zoning district, but not less than one (1) acre.

(2) Setbacks: Equal to the height of the tallest structure, but in no case less than zoning district requirements. The setback requirement based on height is not applicable when the proposed facility is constructed on or in an existing structure and does not extend more than 20 feet above the existing structure.

(3) Height: The maximum height of a tower shall be 150 feet including the antenna. The Planning Commission may allow the maximum height to increase to 200 feet to accommodate co-location. Equipment shelters shall meet district standards.

(4) Screening: Perimeter landscaping would be required around fencing at the base of the tower and around any building or equipment. The landscaping should have a year round opacity of 75%. A six foot minimum height would be required at installation for landscaping around the base of a tower, the Planning Commission may elect, in certain instances, to accomplish screening by materials other than landscaping.

(5) Parking and access: A paved access drive and one paved parking space for a service vehicle.

(6) Lighting. On site: Cutoff style fixtures for control of light spread. On tower: None, unless required by the Federal Aviation Administration (FAA).

(7) Color: The tower shall be painted a non-contrasting gray or similar color to minimize its visibility unless otherwise required by the Federal Communications Commission (FCC) or Federal Aviation Administration (FAA).

(8) Emissions: Emissions standards for electromagnetic fields must be in compliance with current and future Federal Communication Commission (FCC) standards.

(9) Co-location: All approved installations must allow other providers to co-locate on the same pole to the extent technologically feasible at a reasonable and competitive market rate. All requests for new installation must demonstrate that there is no available space on existing towers or other suitable support structure within the established service area. New installations on an existing permitted tower are exempt from the conditional use process and may proceed with a standard building permit approval.

(10) Construction: All new towers shall be constructed to be capable of accommodating at least one additional wireless communication installation for another service provider.

(11) Removal: The applicant or any subsequent owner of the facility will remove it within 90 days of obsolescence or abandonment. Obsolescence is defined as being replaced by new technology. Abandonment would occur when the provider is no longer operating a viable telecommunication network using this facility.

(12) Design: Preference will be given to monopole construction. Only monopole construction would be allowed in residential districts.

(13) Signage: No signage or advertising is to be displayed on the tower structure.

(g) Christmas Tree Lots and Pumpkin Sales.

(1) Operation shall not exceed 45 days in duration and no more than once per calendar year.

(2) Setbacks shall conform to those of the zoning district.

(3) Signage shall conform to temporary sign standards.

(4) Flashing, blinking, or moving lights of any kind are not permitted.

(5) Planning Commission will determine hours of operation, access, traffic, site lighting, and proximity to adjacent residential uses.

(6) Christmas tree lots and pumpkin sales sites shall be cleaned and restored to their original condition within seven days of the end of operation.

(7) Conditional use permits are valid for one year. Annual renewals may be granted administratively if the operation remains consistent with Planning Commission's approval.

(h) Farmer's Markets.

(1) Operation shall be between April 1 and December 1 and not exceed two days per week.

(2) Setbacks shall conform to those of the zoning district.

(3) Signage shall conform to temporary sign standards.

(4) Flashing, blinking, or moving lights of any kind are not permitted.

(5) Planning Commission will determine hours of operation, access, traffic, site lighting, and proximity to adjacent residential uses.

(6) Farmer's market sites shall be cleaned and restored within 24 hours of the end of operation.

(7) Conditional use permits are valid for one year. Annual renewals may be granted administratively if the operation remains consistent with Planning Commission's approval.

SECTION 127: That Section 1162.01 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1162.01 PURPOSE AND INTENT.

(a) The purpose of the Planned Development District (PD) is to allow for a mixture of a wide variety of land use types within one planned district in order to:

(1) Respect the unique characteristics of the site and surrounding uses.

(2) Encourage imaginative arrangements of land use types and recognize the need to mitigate the impacts of incompatible land uses.

(3) Allow a development pattern which preserves and utilizes the natural topography, geologic features, vegetation and drainage.

(4) Encourage provision of site amenities to serve the immediate development and surrounding community.

(5) Allow the potential for a self-sufficient development area, thus reducing the requirement for non-essential vehicular trips.

(b) The intent of this Chapter is to allow the applicant to lessen the development standards in some areas in exchange for an increase in development standards in another. The process for achieving the stated purposes and intent is to require the submission and approval of a preliminary plan for the total proposed development and the submission and approval of a Development Plan for all or any part of the area defined in the Preliminary Plan prior to obtaining a Zoning Certificate as part of the approval for the construction of any portion of the area. As part of the Preliminary Plan, the applicant must prepare and submit a Development Standards Text that identifies any development standard that is less restrictive than the standards set forth in this Chapter or other referenced Chapters. As part of the Development Standards Text, the applicant must justify the modifications of these standards based on the fact that the proposed development goes beyond minimum requirements in other areas that will result in a superior development than if the standards set forth in this Chapter had been followed. As part of the final Development Plan, the applicant must verify that they are using the previously approved Development Standards Text or submit as part of the Development Plan a modified Development Standards Text for approval by Planning Commission.

SECTION 128: That Section 1162.05 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1162.05 SUPPLEMENTARY STANDARDS FOR CONDITIONAL USES.

All conditional uses shall meet the minimum requirements established by Section 1162.04 unless modified by this section:

(a) Purpose and Intent. The purpose of this section is to establish supplementary standards for certain land uses that may affect adjacent properties, the neighborhood, or the community even if all of the general standards of Section 1162.04 are met. It is the intent of this section to establish appropriate standards for permit processing and for location, design and operation of conditional uses to assure that they will be developed in a manner consistent with the purpose of the Planned Development District.

(b) Development Standards For Nursing Homes, Senior and Disabled Housing, Senior and Disabled Independent Housing.

(1) Lot requirements.

A. Minimum lot area: None, except that lot size shall be adequate to meet all yard and parking requirements.

B. Minimum lot width: None, except that all lots must abut a public street and have adequate width to meet the parking and yard space requirements.

C. Minimum front yard: 30 feet; 40 feet for structures on lots fronting on major, minor arterial and major collectors as designated by the Official Thoroughfare Plan. Pavement areas shall be at least ten feet from the right-of-way.

D. Minimum side yard: For structures, 15 feet. For pavement areas, ten feet.

E. Minimum rear yard: For structures, 15 feet. When abutting single or two family districts, the rear yard shall equal the rear yard requirement of the abutting district. For pavement areas, ten feet.

F. Maximum lot coverage: Main and accessory structures and parking pavement areas shall occupy no more than 50% of the lot.

G. Parking areas shall be no closer to main structures than ten feet.

H. Minimum lot area per dwelling unit shall be calculated on the basis of 1,450 square feet for Nursing Homes and Senior and Disabled Housing. For Senior and Disabled Independent Housing, minimum lot area per dwelling unit shall be calculated on the basis of 5,455 square feet and may be reduced to 1,450 square feet with approval of the Planning Commission if the proposed development fully complies the requirements of Section 1162.05. For Nursing Homes and Senior and Disabled Housing, minimum lot area per unit may be varied by Planning Commission based upon the merits of the site development plan submitted. The Commission shall consider the factors established by the Site Development Plan, the dwelling unit size and mix, the site configuration and the development incentives set forth in Section 1135.03(c)(3)A, B and C.

(2) Building requirements.

A. Maximum height: 35 feet. The maximum height may be increased to 50 feet by Planning Commission if the lot is not adjacent to any single or two family dwellings. If the building is adjacent to a single family or two family dwelling, the building height may be increased to a maximum height of 50 feet by Planning Commission if 1 foot of additional setback is provided for each additional foot of height along the affected property line.

B. Accessory buildings have the same yard requirements as main buildings.

C. Minimum dwelling unit area: A minimum of 300 square feet of living space for efficiency apartments with private bathrooms, 220 square feet for efficiency apartments without private bathrooms, 500 square feet for one bedroom units and 700 square feet for two bedroom units. A minimum of 100 square feet of living space per person for nursing homes.

D. Housing shall be specifically designed for senior and disabled citizens and include facilities generally associated with the needs and interests of aged persons. Access to these facilities and common and public use areas shall be provided in accordance with the "Fair Housing Accessibility Guidelines" (FHAG) as prescribed in Ohio R.C. 3781.1.111.

E. Any facility containing two or more stories shall contain elevator access to all dwelling units above the first floor.

(3) Site development requirements.

A. All applicable subdivision regulations, sign regulations, as well as parking and landscaping regulations of this Zoning Ordinance must be satisfied. The location, size, design,

and operating characteristics of the facility will be compatible with and not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to harmful effect, if any, upon desirable neighborhood character.

B. Parking accommodations and loading areas shall be provided pursuant to a layout plan designed by the owner of the land to be developed, conforming to Chapter 1171 and showing traffic movement, ingress and egress, traffic control points, the number and size of parking spaces and service areas. In addition, the expected peak hour traffic volume for employees, members of the public and deliveries shall be described by text. The facility will not adversely affect the generation of traffic and the capacity of surrounding streets.

C. Provision for storm drainage shall be adequate to protect the public and owners of surrounding land.

D. Trash and litter shall be controlled and stored in container systems which are located and enclosed in a manner to screen them from view.

E. Provision shall be made for an Emergency Medical Service drive or zone.

F. Units are to be within reasonable walking distance, generally within two blocks of major traffic arteries, shopping, community facilities, and other daily activities. If this requirement cannot be met, daily service by shuttle bus for residents to these activities must be available.

G. Community water and sewerage facilities are required.

H. The owner shall file with the Franklin or Delaware County Recorder a covenant, approved as to form by the City Attorney, in which said owner shall covenant on behalf of themselves, their heirs, executors, and assigns not to use the property for any other use than nursing homes, senior and disabled housing or senior and disabled independent housing, unless the use complies with all requirements of the Planning and Zoning Code. Required compliance includes, but is not limited to, density, unit sizes, parking, and setbacks.

I. In addition to the requirements for any site plan, a plan for nursing homes, senior and disabled housing or senior and disabled independent housing shall set forth:

1. Natural scenic characteristics preserved.

2. Recreational, educational and social facilities of the development.

3. Pedestrian and bicycle access to neighborhood facilities, parks and scenic areas.

4. Building architectural design and construction materials.

J A minimum of 20% of the total site shall be designated as common open space for active and/or passive recreational uses. Common open space shall not include required setback and buffer yard areas. Up to 40% of the required common open space area may be provided in the form of a common leisure/recreation room.

SECTION 129: That Section 1167.10 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1167.10 CERTIFICATE OF ZONING CLEARANCE REQUIRED FOR DEVELOPMENT IN THE FLOOD PLAIN.

Within the flood plain, no building or structure shall be erected, constructed, altered or enlarged and no development or use shall occur except upon the issuance of a zoning certificate.

(a) Application. Application for a zoning certificate shall be made to the Zoning Officer on a form signed by the applicant stating that the information provided is accurate and truthful, and containing:

(1) The name, address and telephone number of the applicant, and of the owner of the property.

(2) An accurate legal description of the property.

(3) The existing use and proposed use and proposed development of the property and the zoning district in which the property is located.

(4) Two copies of a plot plan drawn to scale and showing:

A. The shape and dimensions of the property.

B. The area of special flood hazard located on the property.

C. Locations and dimensions of existing structures and improvements.

D. Means for traffic access and provisions for parking.

E. Location and description of trees and shrubs.

F. Elevation in relation to mean sea level, of the lowest floor, including basement, of all structures.

G. Elevation in relation to mean sea level to which any structure has been flood-proofed.

H. Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 1167.12(a)(6).

I. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

J. Any additional information required by the Zoning Officer to determine compliance with this Zoning Ordinance.

(b) Approval or Disapproval of Zoning Certificate.

(1) The Zoning Officer shall not issue a zoning certificate until:

A. It has been determined that sites affected by the flood plain as designated by the Flood Insurance Study meet all the provision of this chapter; or

B. In unnumbered A zones where FEMA has not provided data, the City Engineer has determined based on data supplied by the applicant's engineer or architect that the proposed development will not adversely affect the flood-carrying capacity of the area of special flood hazard. "Adversely affect" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one-half foot at any point. The City Engineer may require additional engineering data as part of the application in order to make such a determination.

(2) The Zoning Officer shall either approve or disapprove all applications for zoning certificate within thirty days of their filing.

(3) Disapproval of an application for a zoning certificate shall be accompanied by written findings of fact by the Zoning Officer explaining the reason for disapproval. Except as provided in subsection (b)(4) hereof, an applicant may appeal the decision of the Zoning Officer disapproving their application to the Board of Zoning Appeals. Notice of appeal shall be filed with the Zoning Officer within fifteen days after the decision of the Zoning Officer is mailed to the applicant at the address listed on the application.

(4) The Zoning Officer shall disapprove an application, which they determine contains information which is clearly and demonstrably false. There is no administrative appeal from such disapproval. Should the applicant file an amended application containing correct information, it shall be treated as a new application.

(5) Review all applications to assure that all necessary permits have been received from those federal, state and local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required.

(6) Make interpretations, where needed, as to the exact location of the boundaries of special flood hazards when there appears to be a conflict between a mapped boundary and actual field conditions. Where a map boundary and elevation disagree, the elevations delineated in the flood elevation profile shall prevail. The applicant may appeal the interpretation as per Section 1167.11.

SECTION 130: That Section 1167.10 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1171.06 PARKING REGULATIONS IN RESIDENTIAL DISTRICTS.

The provisions for the parking or storage of vehicles within a residential zoning district or Planned Residential Zoning District shall be subject to the following conditions:

(a) Parking of Motor Vehicles.

(1) In a residential zoning district, all automobiles, motorcycles, or other motor vehicle shall be parked on an impervious parking surface (e.g. driveway or parking area) or within a private garage, carport, etc.

(2) All motor vehicles on the premises shall be in operating condition and in compliance with all motor vehicle safety, equipment, and registration and licensing laws displaying proper tags and validation stickers unless parked or stored within an enclosed structure. A violation of this Section may result in the vehicle being declared a Nuisance under the provisions of Section 1175.04 of this Zoning Code.

(b) Parking and Storage of Commercial Vehicles.

(1) For purposes of this Section, "commercial vehicle" means any motor vehicle or trailer that is registered with the Ohio Bureau of Motor Vehicles as a commercial motor vehicles or a commercial trailer pursuant to Chapter 4503 of the Ohio Revised Code.

(2) With the exception of the vehicles listed in A below, no commercial vehicle shall be parked in any residential district except for the purpose of delivery to or the receiving of goods or other articles, or in connection with the construction, repair or other services being performed, during the actual parking time.

A. The following commercial vehicles may be parked in a residential district. Such vehicles shall be parked in a garage or on an improved impervious surface in a location least intrusive:

i. Vehicles associated with legally established home occupations pursuant to Chapter 1177;

ii. Vehicles with a GVWR (Gross Vehicle Weight Rating) less than ten thousand pounds (10,000 lbs);

iii. Any vehicle required to respond on an emergency basis for the public health, safety and welfare, and has received a certificate of exemption from the Chief of Police or their designee.

(c) Parking and Storage of Recreational Vehicles and Watercraft.

Not more than two vehicles or watercraft for personal use, such as, but not limited to, boats, campers, recreational vehicles, travel trailers, or motor homes shall be stored or parked outdoors. These vehicles shall be parked or stored on a paved surface behind the front building line. Vehicles may be parked in front of the building line for loading or unloading, for a period of time not greater than seventy-two hours in any thirty (30) day period without the permission of the Zoning Officer or their designee.

SECTION 131: That Section 1173.05 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1173.05 PROCEDURE.

(a) Any person seeking a zoning certificate, a variance, a conditional use permit, subdivision plat approval, development plan approval or site plan approval, shall file with their application a landscaping plan prepared by a registered professional, which, by plot plan and description shall include:

(1) The present location and size of all major trees, with a designation of major trees sought to be removed. In the case of a heavily wooded site, a recent aerial photo, or other format acceptable to the Zoning Officer, delineating the existing canopy coverage and the canopy coverage to be removed may be required in lieu of the above.

(2) The location, size and description of landscaping materials proposed to be placed on the lot in order to comply with this chapter.

(3) The location and size of any structures presently on the lot, and those proposed to be placed on the lot.

(4) The proposed location and description of screening proposed to be placed on the lot in order to comply with this chapter.

(b) The Planning Commission shall consider a landscape plan as part of its review of any conditional use permit, subdivision plat, development plan or site plan application. The Board of Zoning Appeals shall consider a landscape plan as part of the action on a variance application.

(c) The Zoning Officer shall either approve or disapprove all landscaping plans submitted as part of a Zoning Certificate application within 30 days of their filing. On reviewing the application and receiving suggestions or recommendations from the Zoning Officer, the applicant may agree to modify their application including the plans and specifications submitted. The Zoning Certificate will not be issued until plans reflecting the agreed upon changes are submitted to the Zoning Officer. An applicant may appeal a decision of the Zoning Officer disapproving their landscaping plan to the Board of Zoning Appeals. Notice of appeal must be filed with the Zoning Officer within 15 days after the decision of the Zoning Officer is mailed to the applicant at the address listed on their application.

(d) No variance, zoning certificate, development plan approval, site plan approval or conditional use permit shall be granted or issued until final approval of the landscaping plan.

(e) Zoning Certificate. No Zoning Certificate shall be issued until the installation of the landscaping as shown on the approved plan is complete and accepted by the Zoning Enforcement Officer unless a performance bond, cash bond or irrevocable letter of credit is posted at the time the Zoning Certificate is issued.

(1) Posting of bond or letter of credit. The bond or letter of credit shall be in an amount equal to one hundred percent (100%) of the estimated cost of landscaping and installation as specified in the approved landscape plan and in a form acceptable to the City. The property owner shall provide the landscape contract for completion of the approved landscaping plan, upon which the required amount of bond or letter of credit shall be based.

(2) The bond or letter of credit shall remain in effect until such time as the installation of the landscaping is completed and has been determined by the City to be in accordance with the final approved landscaping plan.

(3) Forfeiture proceedings shall be brought against the bond or letter of credit if the required landscaping has not been installed within six (6) months of the approval of the zoning certificate.

In the event of failure to install the required landscaping, written notice shall be served upon the holder of the performance guarantee. Such notice shall state that the failure to install the landscaping as required shall result in the forfeiture of the performance guarantee and that such failure shall be deemed an implied consent for the City to cause said landscape to be installed.

SECTION 132: That Section 1173.06 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1173.06 LANDSCAPING AND SCREENING STANDARDS.

Consistent with the objectives established in the Intent and Purpose section of this chapter, landscaping shall be provided in the following areas: At the perimeter of sites to buffer, separate and/or screen adjacent land uses; at the perimeter of parking lots to shade, separate and/or screen the view of parked cars from adjacent streets and adjacent land uses; in the interior of parking lots to shade and beautify the paved surface; around the perimeter of buildings to soften, shade and enhance the appearance of structures.

Screening is required to block the view of trash dumpsters, loading areas, service courts and storage areas. Screening is also required between residential and non-residential land uses. Parking lots shall be screened to minimize the view of cars from adjacent streets and adjacent residential uses. It is not necessary to screen, but only to separate adjacent non-residential parking areas.

(a) Bufferyards (perimeter lot landscaping). The bufferyard is a designated unit of yard or open area together with any plant materials, barriers, or fences required thereon. Both the amount of land and the type and amount of landscaping specified are designated to lessen impacts between adjoining land uses. By using both distance and landscaping, the impact of such items as noise, glare, activity, dirt, and unsightly parking areas will be minimized. It is a further intent of the following provisions to provide flexibility to the property owner through the manipulation of four basic elements -distance, plant material type, plant material density, and structural or land forms.

(1) Location of bufferyards. Bufferyards shall be located on the side and rear lot lines of a parcel extending to the lot or parcel boundary line. Bufferyards shall not extend into or be located within any portion of an existing street right-of-way.

(2) Determination of bufferyard requirements. To determine the type of bufferyard required between two adjacent parcels, the following procedure shall be followed:

A. Identify the land use class of the proposed use by referring to Table I.

B. Identify the land use class of each adjoining use by referring to Table I.

C. Determine the bufferyard requirements for those side and rear lot lines or portion thereof on the subject parcel by referring to Table II. Existing plant material or fences may be counted as contributing to the total bufferyard requirement. The bufferyards specified are to be provided on each lot or parcel independent of adjoining uses or adjoining bufferyards.

D. Should a developed use increase in intensity from a given land use class to a higher one (e.g., Class III to Class IV), the Planning Commission shall, during the site plan or development plan review process, determine if additional bufferyard is needed and, if so, to what extent and type.

E. Bufferyard requirements are stated in terms of the width of the bufferyard and the number of plant units required per 100 linear feet of bufferyard. The requirements may be satisfied by any of the options indicated in Table III and illustrated in Exhibit I.

(3) Bufferyard requirements for non-conforming structures or sites. If a non-conforming site is unable to comply with the minimum bufferyard requirements of this chapter, the applicant shall not be entitled to the permit for which application has been made unless a variance is granted. Existing paved areas beyond the minimum code requirements for number of spaces, maneuvering/access aisles or loading areas, shall be removed if necessary to provide the required buffer.

(b) Screening of Service Court, Storage Areas and Loading Dock Areas.

(1) For commercial, industrial, office-institutional and community service uses, all areas used for service, loading and unloading activities shall be screened along the entire rear lot line and side lot lines from the rear lot line to the building setback line, if adjacent to or abutting a residential district.

(2) Screening shall consist of walls, fences, natural vegetation or an acceptable combination of these elements, provided that screening must be at least seven feet, and walls and fencing no more than 12 feet in height. Natural vegetation shall be a variety which will attain seven feet in height within five years of planting.

(3) Natural vegetation screening shall have a minimum opaqueness of 75% at all times. The use of year-round vegetation, such as pines or evergreens is encouraged. Vegetation shall be planted no closer than three feet to any property line.

(c) Screening of Trash Container Receptacles.

(1) For commercial, community service, industrial, office-institutional and multiple family uses, all trash containers or receptacles shall be screened or enclosed. Trash containers designed to service more than one residential unit or to service a non-residential structure shall be screened on all sides by walls, fences, or natural vegetation or an acceptable combination of these elements. Trash containers shall not be located in the front yard building setback and shall otherwise conform to the side and rear yard pavement setbacks of the applicable zoning district.

(2) The height of such screening shall be at least six feet. The maximum height of walls and fences shall not exceed ten feet. Natural vegetation shall have a minimum opaqueness of 75% at all times. The use of year-round vegetation, such as pines or evergreens is encouraged. Natural vegetation shall be a variety which will attain six feet in height within five years of planting.

(d) Parking Lot Screening and Landscaping.

(1) Perimeter screening. Effectively concealing vehicles within a parking area from the adjacent roadway or adjoining property requires the selective use of plant, mounding or fence material for visual separation. Located adjacent to the parking lot edge, the perimeter screening is designed to supplement required bufferyard material. The perimeter of parking areas, except those for single-family and two-family residential uses, shall be screened as follows:

A. Parking areas adjacent to a public street or private roadway shall be developed with plant, mounding or fence/wall material which conceals the view of parked cars from the street. The height of walls/fences in this location shall be minimized with a maximum height of 4' and plant material should be used to soften and add visual interest to a wall/fence. A plant material screen shall have a minimum opaqueness of seventy-five percent (75%) at all times. The use of year-round vegetation, such as pines or evergreens is encouraged.

B. Parking areas for non-residential uses and for residential uses such as churches, schools, parks and public facilities adjacent to residentially zoned or used land shall be developed with plant, mounding or fence/wall material which conceals the view of parked cars from the residential property. The height of wall/fences located in front of the building line should be minimized with a maximum height of 4'. Plant material should be used to soften and add visual interest to a wall/fence. A plant material screen shall have a minimum opaqueness of seventy-five percent (75%) at all times. The use of year round vegetation, such as pines or evergreens is encouraged.

C. The separation and landscaping of the required bufferyard will provide adequate screening for all other parking lot perimeters.

(2) Interior parking area landscaping. Landscaping within parking areas, whether ground cover or other upright plant material, is necessary not only to reduce the generation of heat and runoff, but to break up visually the expanse of paved areas. The use of parking islands or peninsulas strategically placed throughout the parking lot is one of the most effective ways to landscape parking lot interiors. The use of shade trees in these landscape areas is encouraged. Any open parking area (including loading areas) containing more than 6,000 square feet of area or 15 or more parking spaces shall provide the following interior landscaping in addition to the required perimeter screening:

A. An area equal to five percent (5%) of the total size in square feet of parking areas smaller than 15,000 square feet shall be landscaped and permeable. For lots between 15,000 and 29,999 square feet, the landscaped area shall equal seven and one half percent (7.5%). For lots larger than 30,000 square feet, the landscaped area shall be ten percent (10%).

B. Whenever possible, large parking areas of 30,000 square feet or larger shall be designed so as to break up their visual expanse and create the appearance of smaller parking lots. This distinction or separation can be achieved by interspersing yard space and buildings in strategic areas and by taking advantage of natural features such as slope, existing woodland or vegetation, drainage courses and retention areas.

C. Landscaping in parking areas shall be dispersed throughout in peninsulas or islands. Minimum island or peninsula size shall be 200 square feet, with a 2' minimum distance between all trees or shrubs and the edge of pavement where vehicles overhang and a minimum width of 10'.

D. The Planning Commission, as part of the site plan review process, may vary the requirements for minimum and maximum size of parking islands and peninsulas if situations including, but not limited to, the following exist:

1. The need to concentrate landscape areas for the purpose of stormwater detention;

2. The need to relocate required landscaping on the perimeter of a parking area in the case of a small or unusually shaped lot or where additional screening is desired.

(3) Required plant materials for the interior of parking areas:

A. One deciduous tree shall be required for every 3,000 square feet of parking area or for every 10 parking spaces.

B. Where site distance or maneuvering conflicts exist, trees shall have a clear trunk of at least five feet above the ground, and the remaining required landscape areas shall be planted with shrubs or groundcover not to exceed two feet in height.

(e) General Landscaping For Lots and Building Foundations. To visually soften the building mass or help define exterior spaces, the following landscaping shall be required for all lots in addition to the landscaping for bufferyards and parking areas. All required planting shall be located in areas which do not include any bufferyard or right-of-way. If the lot consists primarily of impervious surface, such trees may be placed close to the building or may be used to add to required parking area landscaping. Existing plant materials which meet the requirements of this Ordinance may be counted as contributing to the landscaping required of this section.

(1) Lot interior landscaping. Three deciduous trees shall be required for each 100 linear feet of building perimeter of non-residential uses or per dwelling unit of single-family residential uses and one deciduous tree for each multi-family unit.

(2) Building foundation planting requirements.

A. Foundation plantings are intended to soften building edges and screen foundations, and shall be placed within five feet of the building perimeter if feasible. If the Zoning Officer determines that, because of site design considerations such as the location of sidewalks, plazas or service areas, this is not feasible, such plant materials may be located in planter boxes or in other areas of the site in a manner that enhances the overall landscape plan for the development.

B. Five shrubs shall be required per dwelling unit.

C. Foundation shrubbery for non-residential uses shall be used to enhance and highlight building architecture. The use of foundation plantings is particularly important on blank walls (i.e. to window or door openings).

D. Ten shrubs shall be required for every one hundred linear feet of building perimeter for non-residential uses.

(f) Street Trees. Street trees shall be installed adjacent to public or private streets with the species and spacing to be determined by the Director of Parks and Recreation or their designee.

SECTION 133: That Section 1173.08 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1173.08 MAINTENANCE AND REPLACEMENT REQUIREMENTS.

The owner shall be responsible for the maintenance of all landscaping in good condition so as to present a healthy, neat and orderly appearance. This should be accomplished by the following standards:

(a) All plant growth in landscaped areas shall be controlled by pruning, trimming or other suitable methods so that plant materials do not interfere with public utilities, restrict pedestrian or vehicular access, or otherwise constitute a traffic hazard.

(b) All planted areas shall be maintained in a relatively weed-free condition, clear of undergrowth and free from refuse and debris.

(c) All landscaping materials contained on a landscape plan approved by the Planning Commission, Board of Zoning Appeals, or Zoning Officer or their designee must be properly maintained. All plant materials shall be replaced if they die or become unhealthy because of accidents, drainage problems, disease or other causes. Replacement plants shall conform to the size standards that govern original installation. Deciduous trees must be replaced with deciduous trees, coniferous trees must be placed with coniferous trees and shrubbery must be replaced with shrubbery. Plants intended for screening must maintain the required minimum opacity. Dead or unhealthy plants shall be replaced within the next planting season, or within six (6) months, whichever comes first. Other defective landscape material shall be replaced within three (3) months.

SECTION 134: That Section 1175.03 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1175.03 SUPPLEMENTAL YARD AND HEIGHT REQUIREMENTS.

(a) Setback Requirements for Corner Lots. On a corner lot, the principal building and accessory structures shall be required to have the same setback distance from all street right-of-way lines as required for the front yard in the district in which such structures are located.

(b) Setback Requirements for Alleys. Setbacks from property lines abutting an alley shall meet the appropriate side or rear yard setback for the applicable district.

(c) Visibility of Intersections. No use of structures, signs or landscaping shall materially impede vision at the intersection of two public streets or the intersection of a private street with a public street, such determination to be made by the City Manager or their designee.

(d) Architectural Projections. Open structures such as porches, canopies, balconies, platforms, carports, covered patios and similar architectural projections shall be considered parts of the building to which such projections are attached and shall not project into the required minimum front, side or rear yard setback. Porches are permitted to project into the required front yard setback of single-family residences in the R-1, R-2, R-3, and R-4 districts no more than eight feet but in no case closer than ten feet from the front lot line. In order to be permitted this reduced

setback, a porch must adhere to the following criteria unless otherwise provided in Part Eleven of the Codified Ordinances:

(1) Be constructed at a first floor elevation no lower than eight inches below the first floor of the dwelling at the front entrance and no higher than the first floor level at the entrance to the dwelling;

(2) Must utilize design elements and materials consistent with that of the principal building.

(e) Exceptions to Height Regulations. The height limitations of this Zoning Ordinance shall not apply to silos, spires, flag poles, cupolas, antennas, chimneys, or other appurtenances usually required to be placed above the roof level, but shall not be erected beyond a safe height as determined by the City Manager or their designee.

SECTION 135: That Section 1175.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1175.04 NUISANCE CONTROL.

(a) Nuisance Control Required. No person, whether the owner, lessee, agent, tenant or other person or entity having charge or care of land in the City, shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance outside of any building within the City. These requirements are not intended to restrict any use permitted by this Zoning Ordinance provided all regulations pertaining to that use are followed.

(b) Public Nuisance Defined. As used in this Ordinance, a public nuisance shall mean any act, thing, occupation or use of property which shall be of such a nature and shall continue for such length of time as to do any of the following:

(1) Substantially annoy, injure or endanger the public health and safety of the public.

(2) Cause conditions which adversely affect the legitimate use and enjoyment of surrounding areas.

(3) Unlawfully and/or substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

(c) Illustrative Enumeration. Public nuisances shall include but not be limited to the following acts, conduct, omissions, conditions or things:

(1) Any accumulation of garbage, refuse, rubbish, trash, junk or accumulation of metals, plumbing fixtures, appliances, auto parts, lumber, furniture, clothing, household items or other materials, such as to create an unsightly appearance or in a manner in which flies, mosquitos, disease-carrying insects, rodents, or other vermin may breed or may reasonably be expected to breed.

(2) Abandoned unlicensed or inoperable motor vehicles and equipment including inoperable, disabled, obsolete, cannibalized and/or incomplete contractor equipment, construction equipment or farming equipment.

(3) Any concentration of building materials including concrete, wood, steel or masonry which are not suitable for building construction, alterations or repairs, and which are in open places.

(4) Any improper or inadequate drainage on property which causes flooding, interferes with the use of, or endangers in any way the streets, sidewalks, parks or other City-owned property of any kind; or any unauthorized condition which blocks, hinders or obstructs, in any way, the natural flow of branches, streams, creeks, surface waters, ditches or drains; or any collection of water not dedicated as a wetland for which no adequate natural drainage is provided and which is or is likely to become a nuisance and a menace to health; or any storm water retention or impoundment device which is operating improperly.

(5) Any use of property, substances or things within the City, emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, effluvia or stenches extremely repulsive to the physical sense of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City.

(6) All exterior lighting that is not shaded or inwardly directed so that no direct lighting is cast upon adjacent property. All outdoor recreational/ sports facility lighting will be reviewed for compliance with regard to the intent to minimize the impact of light trespass and glare on all surrounding properties and public rights of way.

(7) Such other actions, conduct, omissions, conditions or things defined or specified in the Codified Ordinances as nuisances or as public nuisances.

(8) Any well, hole or similar excavation which is left uncovered or in such a condition as to constitute a hazard to any child or any person coming on the premises where it is located.

(9) Any accumulation of materials, structure or condition which is capable of being a fire hazard or contributes to the spread of fire in the sole discretion of the Fire Chief.

(10) Any other condition specifically declared by ordinance to be a danger to the public health, safety, morals, and general welfare of inhabitants of the City and public nuisance by Council.

(d) Filing Complaints, Inspections.

(1) All complaints alleging the existence of a public nuisance shall be filed with the Zoning Officer or their designee.

(2) The Zoning Officer or their designee shall promptly inspect the premises or cause them to be inspected and shall make a written report of the findings of the inspection. Whenever practical, photographs of the premises shall be attached to the written report. The Zoning Officer shall keep all such written reports on file for at least three years.

(e) Notice to Abate. Upon determining that a public nuisance exists on a property and that there is a great and immediate danger to the public health and safety, the Zoning Officer or their designee shall cause written notice to be served upon the owners, in accordance with this subsection (e). The notice shall state that unless such nuisance is so abated or removed, the cost thereof will be charged to the owner, occupant or person causing, permitting or maintaining the

nuisance and such cost shall be a lien on the real property where the nuisance was abated or removed. Such notice shall also state that the failure of such owner, occupant or person to abate the nuisance as required by such notice shall be deemed an implied consent for the City to abate or remove such nuisance. Such implied consent shall be deemed to form a contract between such owner, occupant or person and the City. If the public nuisance does not constitute a great and immediate danger to the public health, safety or welfare, the Zoning Officer or their designee may serve the owner or occupant of such premises or the person in whose name such real estate was last billed for property tax purposes a notice to demand the abatement or removal of the violation within ten days. Service may be had by certified mail or personal service; or by posting the notice on the property and mailing the notice by first class mail. The notice to abate shall contain a statement as to the right to request an opinion.

(f) Request for Opinion. The person upon whom a notice to abate a nuisance is served, the property owner, lessee, agent, tenant or person having charge or care of the subject land may request an opinion from the Board of Zoning Appeals as to the determination of nuisance as provided in Section 1107.02(e). The written appeal must be made within the time period in which to abate the nuisance given in the notice. The Board of Zoning Appeals may extend the time in which the nuisance must be abated, determine that a nuisance does not or no longer exists, or that the nuisance must be abated within the time period set out in the notice or immediately if the period set out in the notice has run. Provided, however, that if the nuisance was determined to be an emergency and that the opportunity for an appeal was not available due to the short period of time to abate the nuisance, an appeal may be heard after the abatement of the nuisance by the City. In that event, the Board of Zoning Appeals may determine that the appellant is not liable for the costs, or that, upon good cause shown, the appellant is not liable for the costs that a lien shall not be filed by the City upon the property.

(g) Procedure When Owner Fails to Comply. The Zoning Officer may determine that the public nuisance for which a notice has been issued under subsection (e) hereof constitutes a public nuisance pursuant to subsection (b) hereof and that the person having charge or care of the land has failed to comply with the notice within the time specified in the notice. The Zoning Officer or their designee may cause the abatement of such public nuisance by use of City force and equipment or by the hiring of private contractors. The reasonable cost thereof shall be a lien on the real property where the nuisance was abated or removed less any monies accruing to the City from disposal of abated nuisances.

(h) Statement of Cost. Upon completion of abatement of the nuisance, the Zoning Officer shall determine the cost of abatement and shall cause a statement thereof to be mailed to the owner of the land. Such statement of costs shall include:

(1) City equipment charge;

(2) City equipment operator charge;

(3) Equipment transportation charge;

(4) Administration and supervision charge;

(5) Removal charge;

(6) Contractual charges.

(i) Payment of Cost. The owner shall pay such costs as are charged in accordance with this section to the Finance Director within thirty days after the statement of charges has been mailed to the owner at the address of record in the office of the County Treasurer. Such payments shall be credited to the appropriation from which such cost was paid by the City. If the charge is not paid within thirty days after mailing, the Director of Finance shall certify the charges for services as provided in subsection (g) hereof to the County Auditor, together with a proper description of the premises. Such amounts shall be entered upon the tax duplication, shall be a lien upon such lands from the date of the entry, and shall be collected as other taxes and returned to the City with the General Fund pursuant to Ohio R.C. 731.54.

SECTION 136: That Section 1175.05 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1175.05 SATELLITE DISH ANTENNAS.

(a) Purpose. The purpose of these regulations is to regulate the proper development and use of satellite dish antenna systems. In addition to protecting from distractions and obstructions, it is the intent of these regulations that satellite dish antennas are as much subject to control as noise, odors, debris and like characteristics of a use that, if not controlled and regulated, can become a nuisance factor to adjacent properties or the community in general. To protect the general health, safety and welfare, and to protect and encourage a more attractive economic, business and overall physical appearance of the community, all satellite dish antennas are subject to the regulations set forth in this section. Provided, however, this section shall not apply to satellite dish antennas less than three feet in diameter.

(b) Definitions. "Satellite dish antenna" means an antenna of any size, shape, material or description, which receives or transmits microwave signals, either directly or indirectly, to or from satellites.

(c) Permit Required.

(1) No satellite dish antenna shall be erected in the City unless a permit has first been issued by the Building Department.

(2) Written application for a satellite dish antenna permit shall be made to the Department. The application shall include:

A. The address of the property, and the name, address and telephone number of the owner and occupant of the property.

B. A site plan of the property showing the exact location of the proposed satellite dish antenna and all other structures on the premises.

C. A description of the proposed satellite dish antenna, including information regarding its construction, method of assembly and installation.

D. Plans showing the specifications and elevations of the proposed satellite dish antennas.

E. A landscaping plan showing the size, quantity and types of landscaping materials to be used for screening.

F. If the applicant is not the owner of the premises, the application shall include a statement by the owner giving the applicant written consent to install the satellite dish antenna on the premises.

(d) Regulations. No satellite dish antenna permit shall be issued, and no satellite dish antenna shall be installed or maintained, unless the satellite dish antenna complies with the following regulations:

(1) Residential uses.

A. Satellite dish antennas shall be permanently mounted and located only in rear yards. No rooftop installations or mobile satellite dish antennas mounted on trailers or vehicles are permitted.

B. Satellite dish antennas shall be located not closer than twenty feet to the rear lot line and twenty feet to the side lot line.

C. The maximum diameter of a satellite dish antenna shall not exceed twelve feet. The maximum height of the satellite dish antenna shall not exceed fifteen feet from grade level.

D. The satellite dish antenna, including mounting hardware and guywires, shall be permanently screened by landscaping a minimum of five feet in height which visually screens the dish on all sides during all seasons from adjacent residences.

E. The satellite dish antenna foundation shall be concrete. The satellite dish antenna shall consist of metal supports and/or galvanized construction. The structure, including foundation, shall be designed to withstand wind forces in conformance with generally accepted engineering practices and shall comply with all requirements of the National Electric Code.

(2) Nonresidential uses. Except as to the following, the regulations set forth for residential uses in subsection (d) above shall apply:

A. Rooftop installations shall be permitted, provided that the satellite dish antenna, including mounting hardware and guywires, are permanently screened so as not to be visible from the street level.

B. When adjacent to a residential district, a satellite dish antenna shall be located not closer than fifty feet to the rear and/or side lot line.

C. Whenever the Chief Building Official determines that good engineering practice has not been used in the preparation of the construction plans, they may require that the plans be sealed by a registered engineer of the State.

D. The maximum diameter of a satellite dish antenna shall not exceed twelve meters.

(e) Compliance with this section shall be made by and subject to reasonable inspection of the Chief Building Official.

SECTION 137: That Section 1175.06 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1175.06 RESIDENTIAL ACCESSORY STRUCTURES.

(a) Purpose. The purpose of this section is to regulate and control the size, type, location and operation of accessory structures and uses in residential zoning districts.

(b) Intent. Unless otherwise specified, accessory structures and uses shall be permitted on a lot in a residential zoning district in association with a principal use or structure provided the accessory use or structure meets the requirements of this section and the development standards, in particular, lot coverage of the applicable residential zoning district. In the event of a conflict between the development standards in this section and the development standards in the applicable use district, the standards of this section are to be used.

(c) Definitions.

(1) An accessory use or structure shall be defined as a use of land or of a structure or building or portion thereof, customary, incidental and subordinate to the principal use of land or structure, and located on the same lot with such principal use or structure. For the purposes of this section, a fence and a storage building equal to or less than 100 sq. feet in area not permanently attached to the ground, are not considered structures. Only one such storage building equal to or less than 100 square feet may be placed on the lot without a permit, any additional buildings shall be considered Accessory Structures as defined in Section 1175.06 and shall be subject to the regulations of 1175.06. Storage buildings equal to or under 100 square feet shall be located completely to the rear of the principal structure.

(2) Accessory structures shall be detached from and subordinate to the principal structure. Examples of accessory structures include, but are not limited to, garages, workshops, studios, greenhouses, picnic shelters, gazebos, pool houses, storage buildings, decks, patios, swimming pools (above or below ground), satellite dish antennas, and athletic/recreational facilities (tennis courts, basketball courts, soccer goals, baseball batting cages and skateboard ramps).

(3) Accessory uses are subordinate to the principal use of the land or structure and include, but
are not limited to, home occupations, bed and breakfast facilities, "in-law suites", home child care, yard/garage sales and storage.

(d) Development Standards for Accessory Structures. The following development standards shall apply to all accessory structures:

(1) Location. Accessory structures shall be located completely to the rear of the principal structure and shall be no closer than 10 feet from any part of the principal structure.

(2) Setbacks. Accessory structures shall meet the rear and side yard setback requirements of the applicable zoning district.

(3) Area. Any accessory structure covered by an impervious roof or consisting of an impervious or paved surface shall meet the lot coverage requirement of the applicable zoning district. In addition, the maximum permitted area of an accessory structure placed on a lot in a residential zoning district shall be based on the following lot size categories.

A. Lot size of less than 20,000 square feet: An accessory structure shall be no larger than seven hundred and twenty (720) square feet, shall contain no more than one (1) story, nor shall it exceed a total height of fifteen (15) feet as measured from the grade at the lowest entrance to the top of the roof. No door serving the accessory structure shall exceed nine (9) feet in height.

B. Lot size of 20,000 square feet and greater: An accessory structure shall be no larger than one thousand two hundred (1,200) square feet and shall not exceed a height of twenty-five (25) feet as measured from the grade at the lowest entrance to the top of the roof.

C. Agricultural land in the RR, Rural Residential District (minimum lot size three acres): Accessory buildings used for agricultural purposes in the RR, Rural Residential District where the lot size is greater than three acres and the land is used for agricultural purposes, do not have a maximum structure size other than the limitations defined by the lot coverage requirements of that zoning district. The height limit for these agricultural structures is forty feet. Residential accessory structures in this district shall meet the requirement of subsection (d)(3)B. hereof.

(4) Height. Except as otherwise provided in this chapter, no accessory structures shall exceed fifteen (15) feet in height.

(5) Compatibility. In order to protect property values and encourage neighborhood stability, an accessory structure shall have an exterior which meets the intent of this subsection and which is compatible in appearance, design, siting, architectural character, color and building materials to the principal building on the parcel or lot. For the purposes of this chapter, compatibility shall be defined as capable of existing or operating together in harmony.

(6) Maintenance. Accessory structures shall be maintained in good condition and kept secure from the deteriorating affects of natural elements.

(7) Special requirements.

A. Garages: Garage space on a residential lot shall be limited to parking for four vehicles. Four additional spaces may be permitted as a Conditional Use. The Planning Commission, in evaluating the Conditional Use application, shall consider lot size, impact on adjacent properties and future use.

B. Swimming pools: See Chapter 1174.

C. Portable On-site Deliverable Storage Units: A temporary use permit shall be obtained from the Zoning Officer, or their designee, prior to the placement of a portable on-site deliverable storage unit on a property. No more than one unit is permitted on a property at any given time, the duration of which shall not exceed a period of fourteen (14) days. The unit must be placed on a paved surface or driveway. The use of these units shall be limited to no more than twice in any twelve month period. Permission to exceed these limitations may be granted by the Board of Zoning Appeals.

1. Calamity Exception. If the portable on-site storage unit is being used to store personal property as a result of a major calamity (e.g. fire, flood or other event where there is significant property damage), the City Manager or their designee may extend these time periods.

D. Dumpsters on Residential Properties: Dumpsters are only permitted on residentially zoned property in conjunction with a valid building permit for a building or site improvement project. No more than one dumpster shall be placed on a residential property at any given time. The dumpster may remain on site during active work on the property, and may be placed no earlier than three calendar days prior to the start of work. If no active work is taking place, the dumpster may remain on the property for no more than fourteen (14) days. The dumpster shall be placed on a paved surface or driveway.

(e) Development Standards for Accessory Uses. The following development standards shall apply to all the listed accessory uses:

1) Home Child Care. Consistent with the licensing requirements of the State of Ohio for a Type B home in a Single Family Residential District, a resident may provide day care services for one to six children, including the provider's own children under the age of six, and including no more than three children under the age of two. Any numbers or combinations of ages beyond these limitations would be considered a child care center and in a Single Family Residential District would require a Conditional Use Permit.

(2) Home Occupation. See Chapter 1177.

(3) Accessory Dwelling Unit (ADU).

A. Definition. Accessory Dwelling Unit (ADU) is an additional Dwelling Unit that is located on the same lot as and is subordinate to a single-family dwelling. For purposes of this section, the single-family dwelling and the ADU must each have independent accommodations for sleeping, cooking, bath, and sanitation, and connected to public utilities for water, sewer, and electricity. An ADU may be:

1. Attached to the single-family dwelling by sharing one or more common walls with the single-family dwelling, with shared or separate outdoor access (an "Attached ADU").

2. Detached from the single-family dwelling and located in an Accessory Building on the lot with a permanent foundation and satisfactory utility connections (a "Detached ADU").
B. ADU permit. A zoning certificate may be issued permitting an ADU determined by the Zoning Officer to be in compliance with all of the following development standards:

1. The lot shall be located in the Olde Westerville Special Overlay District.

2. There shall be only one ADU on the lot.

3. The ADU shall not exceed 720 gross square feet.

4. An ADU shall be a structure with a permanent foundation that is properly connected to public utilities. The following structures shall not be ADUs: a mobile home as defined in Ohio R.C. 4501.01(O), a recreational vehicle or travel trailer as defined in Ohio R.C. 4501.0l(Q), or a Manufactured Home as defined in Ohio R.C. 3781.06(C)(4).

5. The owner of the lot shall reside in one of the dwelling units and shall: i. Record a covenant, in the form specified by the City, providing that the property owner shall reside on the property for so long as the ADU exists. ii. Provide the City with a copy of the recorded covenant identified in subsection 5.i. properly filed in the appropriate county. iii. Notify the City of any change in ownership or owner's residence within 14 days of the change.

6. If an Attached ADU, it shall comply with the setbacks applicable to the single-family dwelling. If a Detached ADU, it shall comply with the setbacks applicable to an Accessory Building on the lot; shall be located to the rear of the principal structure; and shall meet the applicable lot coverage requirements.

7. The maximum height of a Detached Accessory Structure with an ADU on the second floor shall be 25 feet.

8. A second story ADU in a detached Accessory Building shall adequately reduce impact on adjacent properties, by measures including the placement, design and use of windows, and vegetative or other screening.

9. One additional off-street parking space is provided.

10. The lot shall not be or become a condominium property as defined in Ohio R.C. 5311.01(O), or a planned community as defined in Ohio R.C. 5312.01(M).

11. The lot is compliant with building and property maintenance codes and any necessary building permits are obtained.

C. Conditional Use.

1. An ADU may be approved as a Conditional Use outside of the Olde Westerville Special Overlay District in the Rural Residential-RR, Estate Residential-ER, Residential-R, Single Family District-R-1, Single Family District-R-2, Two Family District-R-3, and Multiple Family District-R-4, and in the Planned Neighborhood District-PND, Planned Residential District-PRO, or Planned Development-PD districts provided ADU's are

permitted in the applicable development plan and/or development standards text. The development standards set forth in Section B.2 through 9 above shall apply.

2. An ADU not meeting the requirements of Section B.2 through 9 above may be approved as a Conditional Use in Olde Westerville Special Overlay District.

3. As part of the Conditional Use process, Planning Commission may approve variances from the development standards set forth in B.2 through 9, or to allow a Detached ADU without cooking accommodations. These variances shall be consistent with the intent and purpose of this section. No action by the Board of Zoning Appeals is required for these variances.

D. An ADU shall not be considered a dwelling subject to the minimum lot area requirement in the applicable zoning district.

E. A Home Occupation may be conducted in an ADU if it complies with the standards of Section 1177.02.

F. In the event of a conflict with any other ADU provision in this Zoning Code, the development standards set forth in this Section shall apply.

(4) Storage.

A. No outdoor storage is permitted in any residential district other than wood, intended for the personal use of household residents in a fireplace or wood stove.

B. For purposes of this section, storage means retention on the site for more than thirty (30) days.

(5) Yard/garage sales. Yard or garage sales are limited to one occasion within a six month period for up to three consecutive days.

SECTION 138: That Section 1179.03 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1179.03 PERMIT AND INSPECTION.

No fence or wall shall be erected or constructed until a fence permit has been issued by the Zoning Officer who shall review each request to determine its compliance with this chapter. In order to defray the cost of examination of plans and inspections, an applicant seeking a fence permit shall pay a fee in accordance with the fee schedule adopted and approved by City Council. Each property owner shall determine property lines and ascertain that the fence or wall does not encroach upon another lot or parcel of land. The City shall furnish such inspection as is deemed necessary. An inspection by the City shall not be construed to mean that the City has determined that the fence is not encroaching upon another lot, nor shall it relieve the property owner of the duty imposed upon them herein or otherwise.

SECTION 139: That Section 1181.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1181.04 ADMINISTRATION.

(a) Application and Permit Procedure.

(1) Applications for sign permits shall contain the following information:

A. Two copies of plans and/or blueprints to scale of signage including details of fastenings, lighting and any lettering, symbols or other identification which will be on the sign.

B. A site plan of a proposed ground sign location showing the distance from the public right-of-way and relationship to access drives, parking areas and buildings or a facade elevation of proposed wall or window signs showing the height and proportions of the sign.

C. Any information peculiar to a particular sign application, which is necessary to uphold the provisions of this chapter.

(2) All applications for both temporary and permanent signs in the Uptown District must be submitted to the Uptown Review Board. The Board shall have the right to approve, approve with modifications or disapprove the application. The repair and maintenance of such signs shall be governed by the provisions of Chapter 1149. Such Board shall also determine at public hearing when a sign in the Uptown District is abandoned as is provided for in Section 1181.10. The Uptown Review Board shall act on all sign applications within a reasonable time after receipt of the completed application.

(3) Except as otherwise provided above, all applications for sign permits shall be submitted to the Zoning Officer, who shall act on the application within 30 days of receipt of the completed application.

(b) Zoning Officer.

(1) The Zoning Officer shall regulate and enforce the requirements of this chapter, and shall be in charge of issuing all sign permits. Permits for signs subject to the approval of the Uptown Review Board shall not be issued until such approval is certified to the Zoning Officer.

(2) The Zoning Officer shall have the power to approve or disapprove all requests for temporary sign permits, except for signs located within the Uptown District. The Zoning Officer shall, however, implement and enforce the Uptown Review Board's decisions.

(3) No sign, except for municipally owned signs and signs authorized by the City Manager for community events and programs which are sponsored by nonprofit, public, educational, religious and charitable organizations, shall be placed in, on or above the public right-of-way including on utility poles. The Planning and Zoning Officer or their designee may effect removal of any sign illegally placed within the right of way of any road within the Municipality. The Planning and Zoning Officer shall maintain said sign for 5 days. If the owner fails to contact the Planning and Zoning Officer or claim the same sign within 5 days, said sign may be destroyed.

(c) Sign Fees. In order to defray the cost of examination of plans and inspections, an applicant for a sign permit and/or a variance shall pay a fee in accordance with the fee schedule adopted and approved by City Council.

(d) Abandoned Signs. Except as otherwise provided in Section 1181.04(a)(2), the Board of Zoning Appeals shall determine at public hearing when a sign is abandoned as is provided for in Section 1181.10.

SECTION 140: That Section 1181.07 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1181.07 SIGNS WHICH DO NOT REQUIRE A PERMIT.

The following signs may be erected without a permit:

(a) Address and name of occupant of premises for a residential structure, not include designations as to employment or home occupation and to be limited in size to two square feet.

(b) Signs required or authorized for a public purpose by any law, statute or ordinance, such signs to include traffic control devices provided that such signs contain no supplementary advertising.

(c) On site directional signs indicating points of entry or exit for a facility or off-street parking area, provided such signs are limited to a maximum of two square feet in area and three feet in height and do not interfere with safe vehicular or pedestrian traffic circulation and are not located within the clear sight distance triangle. No more than two such signs are allowed per vehicular access point. Such signs may contain information such as “in”, “enter”, “entrance”, “out”, “exit”, “do not enter” or similar language as approved by the Planning Administrator or their designee or arrows indicating desired traffic movement. Such signs may contain no advertising, including logos and must be of a rectangular shape. Such signs must be on the property to which they refer and may not be placed within a public right-of-way. Private Traffic and on site Directional Signs are excluded from total sign count.

(d) Signs, in all districts except for the Uptown District, which are in the nature of cornerstones, commemorative tables and historical signs, provided that such signs are less than nine square feet in size and not illuminated.

(e) Signs clearly in the nature of decorations customarily associated with any national, local or religious holiday, to be limited to 60 days in any one year and to be displayed not more than 60 consecutive days. Such signs must meet the sign area limitations of the applicable zoning district. Such signs may be illuminated or animated provided that safety and visibility hazards are not created.

(f) Political signs or posters concerning candidates for elective office, public issues and similar matters to be decided by public election. Such signs shall not exceed six square feet in area, shall not be illuminated, and shall not create a safety or visibility hazard, nor be affixed to any public utility pole or tree or be located within a public right-of-way. This section is not

applicable to political campaign headquarters signs which shall require a temporary sign permit pursuant to Section 1181.08.

(g) Signs that indicate the sale, rental or lease of a particular one or two family residential structure or one or two family residential land area, to be limited in size to six square feet, with one sign allowed per street front. Such signs shall not be located in a public right-of-way, and shall not be illuminated. Signs advertising a one or two family residential structure or land area must be removed within 14 days after the sale, rental, or lease has occurred.

(h) Informational window signs that are limited in size to two square ft. per sign.

(i) Signs, in all districts except for the Uptown District, which are less than two square feet in size and mounted or attached flat or parallel onto a building face of an administrative, business or professional office building which denotes the name and address of an occupant in a building where more than one tenant is located and which has individual and separate entries.

(j) A sign which advertises the sale of personal property such as a garage, yard, porch or moving sale sign provided that it is limited to one sign, not greater than four square feet in size and which sign is located on the sale premises for a time period not greater than two consecutive days. Such signs shall not be located in a public right-of-way.

(k) Construction signs which display the identification of the contractors, architects and other construction principals and temporary development signs which shall include signs indicating or promoting the development of land, facilities, or structures. Construction and/or development signs shall not be illuminated. No more than one such sign shall be permitted per street frontage and such signs shall be installed on the property to which they refer. For sites having at least 100 feet of frontage on each of two public rights-of-way, a second sign may be permitted facing the second right-of-way if both signs comply with Code requirements. The two signs shall be no closer than 75 feet. The distance shall be measured by drawing two straight lines from the edge of each sign, forming a 90 degree angle. Such signs shall be limited to 32 square feet and 8 feet in height. They shall be placed at least 10 feet from any public right-of-way. In residential subdivisions, development signs must be removed when 75% of the lots in the first subdivision phase have received any certificate of occupancy or the permanent subdivision sign has been erected. For other than single family residential development, development signs must be removed when more than 50% of the space is rented, sold or leased. For construction signs in developed residential neighborhoods, such sign shall conform to the size requirements of the zoning district in which they are located and must be removed upon completion of construction or the commencement of occupancy, whichever event occurs first.

(l) Signs for community events and programs which last for a time period of 14 days or less and which are sponsored by nonprofit, public, educational, religious and charitable organizations. Four signs may be displayed during the event for a period of 14 days immediately preceding the commencement of the event. One sign may be located at the site of the event provided it does not exceed 24 square feet in size. All off-site signs shall not exceed 24 square feet in size and must be located on private property with the permission of the property owner. Each sign shall be placed at a different site and shall be removed not later than 48 hours after the scheduled activity. If the program or event is for a continuing period of time in excess of 14 days, only one sign, not larger than ten square feet, is permitted and such sign must be located either at the site of the event or program or at the location of the sponsoring organization.

(m) Signs that indicate the sale, rental, or lease of a particular residential or non-residential undeveloped parcel over three acres in area, multi-family, commercial structure or industrial land area, to be limited in size to 16 square feet in area and eight feet in height, with one sign allowed per street front. They shall be placed at least ten feet from any public right-of-way, and shall not be illuminated. Individual tenant spaces within a parcel are allowed a window or wall sign in compliance with section 1181.07(n) and 1181.08.

(n) Temporary window signs that are limited in size to 25% of the window area in which it is placed, and which are not illuminated. Such signs may be placed only in ground level windows where no other temporary signs are placed and be limited to only one sign per window. Such signs may be displayed not more than 120 days per calendar year if they indicate or promote special sales or special occasions. The date upon which a temporary window sign is first displayed shall be legibly marked on the sign. It will be assumed that a sign has been displayed continuously from the date marked. Merchandise may be displayed within individual store display windows.

(o) Business flags, not exceeding one per parcel and displaying the corporate or business emblem or seal, may be displayed if flown on a vertical staff or pole and in conjunction with the national flag. Such business flags shall be flown on the same staff or pole and below the national flag or on a separate staff or pole at a lower level than the national flag if such separate staff or pole is not in front of the national flag. The business flag shall not be larger than the national flag and in no instance exceed three feet in width or five feet in length. The business flag shall not display a product and shall contain no advertising copy.

(p) Menu Boards, provided such signs are oriented solely for the use of patrons utilizing the drive-thru and are not intended to be visible from adjacent property or the right-of-way.

(q) Messages displayed upon approved Manual Changeable Copy Signs provided for in Section 1181.09(b)(3) may be changed without permit.

SECTION 141: That Section 1181.10 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1181.10 NONCONFORMING SIGNS AND ILLEGAL SIGNS.

(a) The continuance of an existing sign which does not meet the regulations and requirements of this chapter shall be deemed a nonconforming sign which shall terminate by abandonment. A sign shall be considered abandoned:

(1) When the sign is associated with an abandoned use.

(2) When the sign remains after the termination of a business. A business has ceased operations if it is closed to the public for at least 90 consecutive days and no active building permit is on file for remodeling or reconstruction. Seasonal businesses are exempt from this determination.

(3) When the sign is not maintained or does not conform to the following:

A. All signs, together with all supports, braces, guys and anchors shall be kept in repair and in proper state of preservation. The display surfaces of all signs shall be subject to periodic inspection.

B. Every sign and the immediately surrounding premises shall be maintained by the owner or person in charge thereof in a clean, sanitary and inoffensive condition free and clear of all obnoxious substances, rubbish and weeds.

C. Should any sign be or become unsafe or in danger of falling, the owner thereof or the person responsible for maintaining the sign shall proceed at once to put such sign in a safe and secure condition or shall remove the sign. When the Planning and Zoning Officer or their designee finds, upon investigation, that a sign is unsafe or unsound structurally, they shall notify the owner of said sign, together with the owner of the land on which the sign is located, by certified mail of their findings. Such notice shall advise the owner that the sign has been declared abandoned and/or unsafe and/or structurally unsound and must be removed with ten (10) days for an unsafe or structurally unsound sign. The owner may request an opinion as to the existence of a violation from the Board of Zoning Appeals as provided for in Section 1107.02(e) of this Zoning Code. If an unsafe, or structurally unsound sign is not removed as ordered and the owner has not requested an opinion as to the existence of the violation from the Board of Zoning Appeals, the same may be removed at the expense of the lessee or owner after ten (10) days of notice for an unsafe or structurally unsound sign. If the Municipality is not immediately reimbursed for such costs, the amount thereof shall be certified to the County Auditor for collection as a special assessment against the property on which the sign is located.

(c) A nonconforming sign shall be maintained as required in accordance with the following provisions:

(1) The size and structural shape shall not be changed or altered. The copy may be changed provided that the change applies to the original nonconforming use associated with the sign and that the change is made by the owner of the sign at the time the sign became nonconforming; the copy area shall not be enlarged. Any subsequent owner or user shall bring the sign into compliance within 30 days.

(2) In case damage occurs to the sign to the extent of 50% or more of either the structure or the replacement value of the sign, the sign shall be brought into compliance. Where damage in the sign is less than 50% of the structure or its replacement value, the sign shall be repaired within 60 days.

(d) If any sign is installed, erected, constructed or maintained in violation of any provision of this Chapter, except for nonconforming signs in compliance with Section 1181.10, the Planning and Zoning Officer or their designee shall notify the owner of user thereof to comply with the provisions of this chapter by certified mail. If the owner or user fails to comply with such notice, and the owner has not requested an opinion as to the existence of the violation from the Board of Zoning Appeals, or, after a reasonable search, cannot be found, the Planning and Zoning Officer or their designee shall cause such graphic or such portion thereof as is constructed or maintained in violation of this chapter to be taken down; the expense of which shall be paid by the owner or user. Unless clearly specified otherwise, the property owner will be considered to be the presumptive owner of said sign. However, nothing herein contained shall prevent the Planning and Zoning Officer or their designee from adopting such precautionary measures as may seem to

them necessary or advisable in case of imminent danger to place the graphic in safe condition, the expense of which shall be paid by the owner of the premises or recovered against them in the manner as further described in this section.

No owner or person in charge, possession or control of the temporary sign(s) mentioned in Chapter 1181 shall fail to comply with the notices provided in Section 1107.01 within five (5) days of mailing of the notice. No owner or person in charge, possession or control of permanent sign(s) mentioned in Chapter 1181 shall fail to comply with the notices provided in Section 1107.01 within twenty-one (21) days of mailing of the notice.

If a violation of a provision of this Chapter is repeated within 90 days of a previous violation of the same provision of this Chapter by the owner or user subject of the previous violation on the same property as the previous violation, such sign may be seized immediately and a charge assessed for removal without additional notification.

Fees for removal shall be immediately due and payable to the Municipality. Notice of such assessment shall be given to the owner or user by mailing such notice to the address utilized by the County Treasurer for tax billing purposes and by posting a Notice of Assessment at the subject premises where the sign owner and property owner are the same. All assessments not paid within ten (10) days after such mailing and posting, after approval by Council, shall be certified by the Finance Director to the County Auditor to be placed on the tax duplicate and collected as other taxes are collected.

The City may also collect such costs together with interest through a civil action in the appropriate court of law having jurisdiction thereof and seek such additional orders from a court of competent jurisdiction as may be necessary from time to time in order to enforce the provisions of this section.

Every owner or occupant of real estate in the Municipality impliedly grants a license to the Planning and Zoning Officer, their designee or Municipal employees to enter upon real property in the Municipality without the consent of the owner or user for the purposes of fulfilling the provisions of this section.

SECTION 142: That Section 1181.99 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1181.99 PENALTY.

(a) Any person, firm, corporation, partnership, or association violating any provision of this chapter or failing to obey any lawful order or failing to obey any lawful order issued pursuant to its terms shall be fined not more than $100.00. Each day during which such violation continues may be deemed a separate offense.

(b) An organization may be convicted of a violation of a provision of this chapter 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 their 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, such provision 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 their 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, such 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 their office or employment.

(c) Regardless of the penalties provided in subsection (a) hereof, an organization convicted of a violation or a provision of this chapter shall be fined, which fine shall be fixed by the court as follows:

Type of Misdemeanor	***Maximum Fine***
First degree	$5,000.00
Second degree	$4,000.00
Third degree	$3,000.00
Fourth degree	$2,000.00
Minor	$1,000.00

SECTION 143: That Section 1201.02 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1201.02 DEFINITIONS.

(a) Words used in the present tense shall include the future. Words used in the singular shall include the plural and the plural the singular. “Shall” is mandatory; “may” is discretionary. The following definitions shall apply:

(1) “Alley” means a public right-of-way not more than 25 feet wide affording secondary means of access to abutting property.

(2) “Block” means a piece of land usually bounded on all sides by streets or other transportation routes such as railroad lines, or by physical barriers such as water bodies or public open space, and not traversed by a through street.

(3) “Comprehensive Plan” means the adopted plan or plans, as may be amended, indicating the general locations recommended for principal streets, parks, public buildings, zoning districts, character and extent of community development or other physical aspects of urban and rural planning.

(4) “City” means the City of Westerville, Ohio, including staff, officials, commissions, departments, agents or representatives.

(5) “Commission” means the Westerville Planning Commission.

(6) “County” means Franklin or Delaware County (as applicable), State of Ohio.

(7) “Easement” means authorization by a property owner to another party or entity for a specified purpose, or purposes, of a designated part of their property.

(8) “Extra-territorial jurisdiction” means an option by which a municipality, subject to statutory requirements, local agreements and other applicable ordinances or provisions becomes the subdivision authority for a designated unincorporated area within three miles of the municipal border.

(9) “Improvements” means streets, pavements, sidewalks, curbs, gutters, water lines, sanitary sewers, storm drains and structures, storm water management facilities, erosion and sedimentation control measures, access management and traffic safety measures, street signs, street lights, street trees, screening and other related items associated with development of land.

(10) “Letter of compliance” means written notification from the Service Director that all public improvements in a subdivision or phase of a subdivision have been inspected, found to be complete and are accepted by the City.

(11) “Lot” means a parcel of land of sufficient size to meet minimum health and zoning requirements for use, coverage and area, and to provide such yards and other open spaces as required. Each lot shall front and abut an improved public street right-of-way.

(12) “Plat, final” means the drawing of a proposed subdivision meeting the requirements of these Regulations and intended for recording; also referred to as “plat”.

(13) “Plat, preliminary” means drawings, plans and materials depicting a proposed subdivision and otherwise meeting the requirements of these Regulations.

(14) “Reserve” means a parcel of land within a subdivision set aside for a specified use or purpose noted on the final plat.

(15) “Right-of-way” means a strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities and may include special features required by topography or treatment such as grade separation, landscaped area, viaducts and bridges.

(16) “Staff” means employees of the City of Westerville.

(17) “Street, arterial” means a roadway serving major activity centers, high traffic volume corridors and longer strips. For arterial, service to the adjacent land is subordinate to the provision of travel service.

(18) “Street, collector” means a roadway providing both land access and traffic circulation within residential, commercial and industrial areas distributing traffic from arterial streets and channeling traffic from local streets.

(19) “Street, local” means a roadway not on a higher classification system with a primary purpose of providing direct access to adjacent land.

(20) “Street, cul-de-sac” means a no outlet roadway with permanent turnaround provisions (bulb, hammerhead, tee, circle, etc.)

(21) “Street, stub” means a short section of roadway to be extended when adjacent property is developed.

(22) “Street, perimeter” means a roadway outside of but adjoining a subdivision.

(23) “Street, frontage” means a roadway which is generally parallel and contiguous to an expressway, freeway, parkway, major or minor street and is so designed as to intercept, collect and distribute traffic desiring to cross, enter or leave such street, and which provides access to abutting properties and protection from through traffic.

(24) “Subdivider” means a property owner or authorized representative undertaking the subdivision of land. “Subdivider” may also be referred to as “applicant” or “developer”.

(25) “Subdivider’s agreement” means an agreement by and between a subdivider and the City setting forth the manner in which improvements shall be provided, the plat recorded and building and zoning permits issued in the subdivision.

(26) “Subdivision” means:

A. The division of any parcel of land into two or more parcels, sites or lots; or

B. The development of one or more parcels of land for multi-family uses or any use other than a residential use or an improvement involving the division or allocation of land for street opening, widening or extension, the division or allocation of land as open space for common use by owners, occupants or lease holders, or an easement for extension and maintenance of sewer, water, drainage and other public facilities.

(27) “Thoroughfare Plan” means the system of primary and secondary streets, both existing and proposed, for the City and surrounding extra-territorial area as adopted by the City, with adopted amendments.

SECTION 144: That Section 1201.03 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1201.03 PROCEDURES FOR SUBDIVISION APPROVAL.

(a) Approval Required. Prior to a subdivision of land or before a zoning certificate or building permit for development of a lot is issued, the deed or plat shall be approved and recorded in accordance with these Regulations.

(b) Major and Minor Subdivision. If the staff determines the proposed subdivision:

(1) Adjoins an existing public street and does not involve opening, widening, extension or improvement of any roadway or installation of any public utility,

(2) Creates no more than five lots.

(3) Does not adversely impact surrounding tracts, and

(4) Complies with zoning and other applicable regulations, it shall be classified as a minor subdivision (lot split) and may be accompanied by recording an approved deed, including a legal description and survey drawing or by recording an approved final plat. Other subdivisions shall be classified as major subdivisions, accomplished by recording an approved subdivision final plat.

(c) Optional Sketch Plan Discussion. Prior to preparing a survey and a deed or preliminary plat for submittal, the subdivider may meet with the staff for an informal discussion of procedures and requirements. An informal sketch plan may be provided for comment.

(d) Minor Subdivision Procedure (Lot Split).

(1) Information required. Only such information needed by the staff to determine compliance of the proposed lot split with applicable regulations need be submitted in support of a requested minor subdivision approval.

(2) Approval. Within a reasonable time of the submittal of an acceptable survey drawing, legal description, deed and fee, the staff shall approve a proposal if it complies with applicable regulations. The staff approves the deed by stamping it AAPPROVED WESTERVILLE PLANNING COMMISSION: NO PLAT REQUIRED@, including date and authorized staff signature.

(3) Recording. The subdivider shall record the deed within one year of staff approval, otherwise such approval shall expire and become void.

(e) Major Subdivision Procedure (Preliminary Plat).

(1) Submittal. The preliminary plat submittal shall be prepared in accordance with these Regulations and shall include a completed application form, a number of copies of the preliminary plat submittal defined by the staff and required fees.

(2) Schedule or reject. The staff shall review submitted materials for completeness and shall:

A. Within a reasonable time, place the preliminary plat submittal on the agenda of the Commission; or

B. Reject the application and return the fee to the subdivider which an itemization of deficiencies. The application shall be considered filed as of the date of the meeting in which it is presented by the staff to the Commission.

(3) Commission action. The preliminary plat submittal shall be considered and acted on by the Commission. A preliminary plat shall not be approved unless the Planning Commission finds that:

A. All the provisions of the applicable Zoning Code, these Regulations and other codes of the City are complied with;

B. The subdivision can be adequately served with public facilities and services suitable in the circumstances; and

C. All land intended for building sites can be used safely and without endangering the health and safety of the residents by peril from floods, erosion, continuously high water table, poor soil conditions or other menace. If disapproved, the Commission shall state the reason for disapproval. Approval or conditional approval shall not constitute final plat approval, nor shall it grant the subdivider the right to construct improvements, but shall be an endorsement of the layout and intent of the proposal, and shall govern the preparation of the final plat.

(4) Preliminary plat expiration. All final plats for lands within an approved preliminary plat shall be approved by the Commission within five years of Commission approval of the preliminary plat, otherwise unplatted portions (that is, the phases for which final plat approval has not been obtained) of the preliminary plat shall expire and become void. The Commission may at any time, based on new information or changed conditions, reconsider a previously approved preliminary plat.

(5) Disapproved or expired. These Regulations shall not prevent a new preliminary plat application from being filed for land included in a previously disapproved or expired preliminary plat. Up-to-date submittal requirements, standards and fees shall apply to the new application.

(f) Major Subdivision Procedure (Final Plat).

(1) Final plat submittal. The submittal shall include a number of copies of the final plat defined by the staff, a completed application form and the application fee. The plat shall conform to these Regulations and to the approved preliminary plat, excepting minor engineering changes not in conflict with standards and procedures of these Regulations approved by the City Engineer and Service Director.

(2) Schedule or reject. The staff shall review the submittal for completeness and compliance with the preliminary plat or appropriateness of modifications and these Regulations and shall:

A. Within a reasonable time, place the final plat on the agenda of the Commission; or

B. Reject the submittal and return the application fee to the subdivider with an itemization of deficiencies.

(3) Phased platting. The final plat may cover a portion of the approved preliminary plat only if the phases have been identified and approved by the Commission.

(4) Notification to ODOT Director (ORC 5511.01)). For any subdivision plat within 300 feet of the centerline of a proposed state highway or a state highway for which changes are proposed, or any land within a radius of 500 feet from the point of intersection of such centerline with any public road, the staff shall notify the ODOT Director by registered or certified mail. The plat shall not be approved for 120 days from the date the notice is received by the Director. If the Director indicates they will acquire land within the proposed plat, the Commission shall disapprove a plat containing such land. If the Director indicates acquisition is not in the public interest, or upon expiration of the 120 day period, the Commission may approve the final plat.

(5) Commission action on final plat. The final plat shall be considered and acted on by the Commission. If disapproved, the reason shall be stated in the record of the Commission.

(6) Acceptance of public land. Approval of the final plat by the Commission shall be deemed to constitute acceptance by the City of any dedicated public rights-of-way, public easements or other dedicated public open space shown on such final plat.

(7) Recording or recall. The subdivider shall record the final plat within one year of Commission approval and provide the City with a copy of the recorded plat with all signatures on Mylar or other material acceptable to the City staff, otherwise no final plat shall be recorded without consent of the Commission which consent may require reconsideration or compliance with revised standards of these or other Regulations.

(g) Variances and Hardships.

(1) Where the Commission finds that the land involved in a subdivision is of such size or shape, or is subject to topographical or other conditions which make it impossible or impracticable for the subdivider to conform fully to such regulations, the Commission may accept such modifications as may be reasonable and within the general intent and purpose of these Regulations. Such modifications shall be granted only if substantial hardship or injustice would be experienced by strict compliance to the provisions of this chapter.

(2) The requirements of these Regulations may be modified and varied whenever a plat is submitted for a complete community or neighborhood which will insure that adequate public spaces, circulations, recreation, light and air will be provided and the needs of the entire community or neighborhood when fully developed, will be met.

(3) In granting variances to these Regulations, the Commission may attach such reasonable conditions as will further secure the objectives of the general Regulations.

(4) Decisions of Planning Commission approving or disapproving variances in connection with subdivision approval are appealable to City Council in accordance with the provisions of Section 1107.06(d).

(h) Improvement Plans Approval Procedure.

(1) Submittal, review and approval. Prior to submission of a final plat to the Commission, the subdivider shall submit the staff defined number of sets of proposed improvement plans to the City for review. All street, storm grading, erosion and sedimentation control, waterline, street lighting, sanitary sewer and other required improvement plans shall be approved by the City Engineer, Service Director and City Manager prior to the signature of the plat. Required

improvements shall be completed within one year of Commission approval of the plat. A subdivider's agreement shall be executed as part of the improvement plan approval process.

(2) Review and inspection funds. Prior to approval of improvement plans, the subdivider shall deposit with the City an amount estimated by the City Engineer to cover costs of plan review, reconstruction inspection and other fees required by these Regulations.

(3) Inspection procedure. The subdivider shall notify the Service Director at least two working days prior to inspection dates for various stages of construction requiring inspection. Failure to reject any defective work or material shall not prevent later rejection should such defects be discovered, nor obligate the City to final acceptance. The subdivider shall notify the Service Director when all required improvements have been completed. Within two weeks, the Service Director shall conduct a final inspection of improvements and if satisfactory, shall issue a letter of compliance accepting the improvements. City signatures shall not be placed on the final plat and building permits shall not be granted until all improvements have been completed and accepted by the department of Public Service.

(4) As-built drawings. Improvements shall be installed as shown in the plans. "As-built" drawings shall be provided by the subdivider if improvement plan details are changed. "As-built" drawings include locations, dimensions and specifications which differ from originally approved plans.

(i) Improvements Construction Procedure.

(1) Methods for the installation of improvements. After approval of the improvement plans and Commission final plat approval, but prior to City plat signatures, the subdivider shall:

A. Post adequate performance surety. The subdivider shall provide a performance surety acceptable to the City Attorney equal to 100% of the estimated cost of street, drainage, waterline, sanitary sewer and other required improvements, and

B. Complete the improvements. The subdivider shall complete all improvements and receive a letter of compliance of all required improvements and provide for their maintenance and/or dedication.

(2) Use and release of performance surety. If the subdivider fails to complete required improvements in accordance with the subdivider's agreement, the City may use the performance surety to do so. If the subdivider shows satisfactory progress, a portion of the performance surety may be released at intervals and in amounts deemed appropriate by the Service Director and City Engineer.

(3) Maintenance of improvements. The subdivider shall maintain improvements in the subdivision until final inspection approvals are granted and streets are accepted. As a condition of final inspection approval, the City shall require a warranty and maintenance surety (up to three percent (3%) of the improvement costs) which shall remain in force for one year after final inspection approvals are granted. If during that year any improvements in the subdivision should fail to perform in the designed manner or fail to retain an acceptable condition, the City may use or allocate the maintenance surety to correct these deficiencies. At the end of the one-year period, any unused or unallocated portion of the maintenance surety shall be released.

(j) Resubdivision, Vacation or Plat Amendment Procedures.

(1) General. Procedures and requirements for approval of a plat amendment, the vacation of all or a portion of a plat, or the resubdivision of a platted lot or reserve shall be the same as that which is required in this section for the approval of the subdivision, or as may otherwise be allowed by the Commission, in keeping with the spirit and intent of these Regulations.

(2) Additional signatures. The resubdivision or amended plat shall be signed by those current property owners of lots and reserves in the original plat who may potentially be injuriously affected by the resubdivision, vacation or amendment, as determined by the Commission.

SECTION 145: That Section 1201.06 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1201.06 MISCELLANEOUS IMPROVEMENT STANDARDS.

(a) General. Improvement plans shall meet design and construction standards and specifications of these Regulations, the City Engineer and Service Director. Improvements shall be required to be extended, or provisions made for extension, to subdivision boundaries to serve adjoining properties.

(b) Curbs and Sidewalks. Standard curb and gutter street sections shall be required in all subdivisions. Residential subdivisions shall include sidewalks. Sidewalks may be required for commercial or industrial development.

(c) Easements. Easements ten feet or more wide shall be provided where necessary for sanitary sewers, storm sewers, waterlines, gas mains, electric lines, telephone lines, television cable, etc. When required, easements shall be provided along watercourses, drainage channels or other environmentally sensitive areas. Public or private easements for the use or maintenance of property, improvement or features may be proposed or required.

(d) Screening and Buffering. Landscaping, fences, walls, trees, moundings or combinations may be required. No screening and buffering provisions shall be permitted in public street rights-of-way nor shall vehicular sight distance at drives or intersections be impaired.

(e) Waterlines and Sanitary Sewers. The design of sanitary sewers, waterlines and associated structures and features shall be in accordance with requirements of the City Engineer, Service Director and these Regulations.

(f) Erosion and Sedimentation Control. The erosion and sedimentation control plan shall meet the requirements of the City Engineer and Service Director and follow criteria of the Soil Conservation Service Handbook, “Water Management and Sediment Control for Urbanizing Areas”. The Soil and Water Conservation District may provide assistance with these issues.

(g) Blocks. The lengths, widths and shapes of blocks shall be determined with due regard to provision of adequate building sites suitable to the needs of the type of use contemplated, zoning requirements as to lot sizes and dimensions, needs for convenient access, circulation, control and safety of street traffic, and limitations of topography. Irregularly shaped blocks and those with

interior parks or open space, may be approved if properly designed and located, and if ownership and maintenance of interior or open areas is resolved. Blocks shall be 400 to 1,600 feet long. Crosswalks or pedestrian easements may be required.

(h) Lots. Lots shall have frontage on a public street, provide potential building sites properly related to the topography and character of the land and surrounding area, and meet requirements of these Regulations. Side lot lines shall be substantially at right angles or radian to street centerline. No lot shall have a depth more than three and one-half times its width, as interpreted by the staff.

(i) Street Trees. Street trees shall be installed adjacent to public or private streets with the species and spacing to be determined by the Director of Parks and Recreation or their designee.

SECTION 146: That Section 1501.04 of the Codified Ordinances is hereby amended in its entirety to read as follows:

1501.04 SETTING FIRES WHICH SPREAD.

No person shall set, kindle or cause to be set or kindled any fire, which through their negligence, spreads beyond its immediate confines to any structure, field or wood lot.

SECTION 147: That this Ordinance shall take effect and be in force from and after the earliest date allowed by law.

PASSED: July 2, 2024

Michael Heyeck
Chair of Council

APPROVED:

Andrew Winkel
Director of Law

Sara Yinger
Clerk of Council