C OF C 125-174

Ordinance No. 1233-15

Council Member Kelley

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976 by amending various sections of the codified ordinance as amended by various ordinances in order to correct erroneous internal references within the codified ordinances.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976 are supplemented by amending the following sections:

Section 171.311, as amended by Ordinance No. 632-95, passed April 10, 1995;

Section 178.05, as amended by Ordinance No. 2353-93, passed February 14, 1994;

Section 235.99, as amended by Ordinance No. 473-11, passed April 25, 2011;

Section 240.01, as amended by Ordinance No. 736-06, passed August 9, 2006;

Section 241.03, as amended by Ordinance No. 507-15, passed July 27, 2015;

Section 241.42, as amended by Ordinance No. 474-11, passed April 25, 2011;

Section 346.10, as amended by Ordinance No. 309-01, passed June 19, 2001;

Section 350.10, as amended by Ordinance No. 1282-06, passed November 27, 2006;

Section 393.10, as amended by Ordinance No. 2704-B-83, passed March 4, 1985;

Section 393.17, as amended by Ordinance No. 2704-B-83, passed March 4, 1985;

Section 3103.05, as amended by Ordinance No. 1116-A-85, passed February 10, 1986;

Section 3105.16, as amended by Ordinance No. 1116-A-85, passed February 10, 1986;

Section 3113.03, as amended by Ordinance No. 2933-90, passed February 4, 1991;

Section 457.07, as amended by Ordinance No. 2603-91, passed August 19, 1992;

Section 513.08, as amended by Ordinance No. 1800-2000, passed March 26, 2001;

Section 559.53, as amended by Ordinance No. 1611-95, passed December 18, 1995;

Section 619.24, as amended by Ordinance No. 164-A-2000, passed June 19, 2000;

Section 665.02, as amended by Ordinance No. 1329-10, passed December 6, 2010;

Section 665.15, as amended by Ordinance No. 1445-13, passed November 17, 2014

to read as follows:

Section 171.311 Establishing a Sick Time Contribution Program for Employees of City Council

(a) Notwithstanding the provisions of Section 171.31, the Clerk of Council may, at the Clerk's discretion, authorize any employee of the Council to contribute accumulated paid sick leave to another employee of the Council as follows:

(1) Contribution of sick leave must be based upon a catastrophic health condition of the receiving employee or a member of his or her immediate family.

(2) To be eligible to receive a contribution of sick leave, an employee must have first exhausted his or her own accumulated sick leave, vacation time, personal days, and compensatory time.

(3) A contributing employee may not be on the absence abuse list and must retain at least one hundred (100) hours of accumulated leave after any contribution.

(b) The Clerk of Council may adopt additional rules and regulations as the Clerk deems appropriate to implement the authority granted hereby.

Section 178.05 Annual Lending Disclosure and Affidavit of Intent

(a) Any depository desiring designation as an eligible depository shall submit to the Director of Finance, the following information needed for evaluation of policies and practices regarding housing and economic development of such depository:

(1) *Residential Lending Information.* The total number and the total dollar value of residential loans for one (1) to four (4) family dwellings applied for and originated during the previous calendar year in each of the following categories:

A. Home purchase loans, both federally subsidized and conventional;

B. Refinancings of home purchase loans;

C. Home improvement loans;

D. Home equity loans;

E. Multi-family loans; and

F. Non-occupant loans.

These totals shall be provided for the entire City, for each Statistical Planning Area within the City and for all of Cuyahoga County.

(2) *Commercial Lending Information.* The total number and the total dollar value of commercial loans applied for and originated during the previous calendar year (a) for the entire City, (b) for each Statistical Planning Area within the City, (c) for all of Cuyahoga County, (d) for minority business enterprises in each Statistical Planning Area within the City and for the entire City, and (e) for female business enterprises in each Statistical Planning Area within the City and for the entire City;

(3) The most recent annual report or SEC 10-K report with quarterly financial updates;

(4) A statement with timetable(s) describing current and proposed initiatives to address the credit needs of the City, its residents and businesses, including low and moderate income and minority residents, in the following categories:

A. Home purchase mortgage loans;

B. Mortgage loans to non-occupant borrowers for small rental properties;

C. Home improvement loans;

D. Small personal loans;

E. Consumer product(s) and service(s);

F. Commercial loan product(s) for small businesses, minority business enterprises and female business enterprises;

G. Participation in City-sponsored neighborhood development programs and consortiums.

H. Equitable contributions to community based non-profit organizations in the City;

I. Provision of full service banking in City neighborhoods;

J. Reserved;

K. Program to market loan products and services throughout the City to include (1) low and moderate income neighborhoods, (2) minority neighborhoods, (3) small businesses, (4) minority business enterprises and (5) female business enterprises;

L. Goals established for service and production levels for target groups identified in K. above.

(5) The affidavit set forth in Section 178.07, executed by a duly authorized officer of such financial institution;

(6) The most recent "Community Reinvestment Act Statement" issued by the depository;

(7) The most recent "Community Reinvestment Act Evaluation" issued by the federal regulatory agency authorized to conduct such evaluations;

(8) A copy of the depository's branch closing policy;

(9) A written initiative (a "Community Reinvestment Initiative") regarding community reinvestment within the City containing provisions acceptable to the Director of Community Development;

(10) Information regarding the number of minorities, females and City residents employed by the depository as lending officers and as members of its board of directors and senior management staff;

(11) Any additional information requested by the Director of Finance.

Except where otherwise specified, the information shall be made on forms provided by or prescribed by the Director of Finance.

(b) No depository shall be eligible to be designated as an eligible depository under this chapter unless it has executed a Community Reinvestment Initiative.

Section 235.99 Declaration of a Nuisance; Enforcement and Penalties

(a) Any violation of this chapter is declared to be a nuisance which affects and endangers the public health. The Director of Public Health and any authorized City officer or employee who, upon information or by observation ascertains a violation of this chapter, may impose the penalties set forth in this section. Enforcement of this chapter is in addition to any other method of enforcement provided in these Codified Ordinances and state law.

(b) Whoever violates division (b) of Section 235.01 or division (a) of Section 235.02 is liable to the City of Cleveland for a civil offense and shall receive a warning on the first offense; on the second offense, shall be fined one hundred fifty dollars ($150.00); on a third offense shall be fined two hundred fifty dollars ($250.00); and beginning with the fourth offense, shall be fined three hundred fifty dollars ($350.00) and each day a violation occurs shall be a separate offense. Any person charged with the commission of a civil offense under this section may appeal to the Director of Public Health, or his or her designee. The appeal shall be taken not later than twenty (20) days from the date of the civil charge. Failure to file an appeal or pay the costs

imposed within this time period shall constitute a waiver of the right to contest the charge and shall be considered an admission.

(c) The Director of Public Health may issue rules and regulations to carry out the provisions of these sections which shall be effective thirty (30) days after their publication in the *City Record*.

Section 240.01 Definitions

The definitions contained in RC 3742.01, and OAC 3701-30-01 and 3701-32-01 shall be applicable to this chapter, except as supplemented or otherwise provided as follows:

(a) "Lead-Based Paint Free Certificate" means a certificate issued under this chapter that the property has been found to be lead-based paint free. In order to obtain the certificate, the owner shall meet the requirements of this chapter for a Lead-Based Paint Free Certificate.

(b) "Lead Maintenance Certificate" means a certificate that entitles a property to the legal presumption in RC 3742.41 that it does not contain a lead hazard and is not the source of the lead poisoning of an individual who resides or receives care there. In order to obtain the certificate, the owner or manager shall meet the requirements of this chapter for a Lead Maintenance Certificate.

(c) "Commissioner" means the Commissioner of the Division of the Environment of the City of Cleveland unless otherwise expressly specified.

(d) "Department" means the City of Cleveland Department of Public Health unless otherwise expressly specified.

(e) "Landlord" has the meaning described in division (b) of Section 375.01 of the Codified Ordinances.

(f) "Lead Abatement" means a measure or a set of measures, designed for the single purpose of permanently eliminating lead hazards. "Lead abatement" includes all of the following:

(1) Removal of lead-based paint and lead- contaminated dust;

(2) Permanent enclosure or encapsulation of lead-based paint;

(3) Replacement of surfaces or fixtures painted with lead-based paint;

(4) Removal or permanent covering of lead- contaminated soil;

(5) Preparation, cleanup, and disposal activities associated with lead abatement.

"Lead abatement" does not include any of the following:

(1) Preventive treatments performed under RC 3742.41;

(2) Implementation of interim controls;

(3) Activities performed by a property owner on a residential unit to which both of the following apply:

A. It is a freestanding single-family home used as the property owner's private residence;

B. No child under six (6) years of age who has had lead poisoning resides in the unit.

(4) Renovation, remodeling, landscaping or other activities, when the activities are not designed to permanently eliminate lead-based paint hazards, but, instead, are designed to repair, restore, or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards. This definition shall not be interpreted to exempt any person from any requirement under State or federal law regarding lead

abatement, including lead hazard control orders or requirements for full abatement of lead-based paint in certain federally-funded projects.

(g) "Lead hazard" means the presence of lead- based paint or lead-contaminated dust or lead- contaminated soil or lead-contaminated water pipes at levels described as hazardous in Ohio Administrative Rule 3701-32-19 as that rule exists at the time of passage of this section or as it may be amended.

(h) "Rental agreement" has the meaning described in division (c) of Section 375.01 of the Codified Ordinances.

(i) "Target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than six (6) years of age resides or is expected to reside in such housing) or any zero (0) bedroom dwelling.

(j) "Tenant" has the meaning described in division (e) of Section 375.01 of the Codified Ordinances.

(k) "Zero (0) bedroom dwelling" means any residential dwelling in which the living area is not separated from the sleeping area. The term includes efficiencies, studio apartments, dormitory housing, military barracks, and rentals of individual rooms in residential dwellings.

Section 241.03 Definitions

(a) As used in this chapter:

(1) "Food shop" applies to "retail food establishment" and "food service operation", as those terms are defined in RC Chapter 3717.

(2) "Mobile food shop" means a "mobile retail food establishment" or "mobile food service operation", as those terms are defined in RC Chapter 3717.

(3) "Vendor" means a mobile food shop or a person operating a mobile food shop.

(4) "Food item" means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption. Food includes ice, water or any other beverage, food ingredients, and chewing gum.

(5) "Street" means street, alley, highway, roadway, or avenue.

(6) "Vending device" means a container for the sale, display or transport of food items by a vendor.

(7) "Mobile food shop manager" means the individual or individuals with primary responsibility and authority for operating a mobile food shop.

(8) "Trailer" means an unpowered flatbed vehicle towed by another.

(9) "Central Business District" means the area defined in Section 325.12.

(10) "Community event" or "special event" means a community based organization event specifically granted use of streets and sidewalks within a specifically defined area for a period of time not exceeding ten (10) days.

(11) "Sidewalk" means that portion of the street between the curb lines or the lateral lines of a roadway and the adjacent property line.

(12) "Street" means street, alley, highway, roadway, or avenue.

(13) "Unobstructed walk" means a clear, continuous paved surface free of tree grates, elevator grates and all vertical obstructions.

(14) "Operator" means a vendor.

(15) "Commercial Activity" is defined as any activity which is conducted as part of the commercial establishment.

(16) "Public Health Information Sign" means the placard (white, yellow, or red) that is issued by Cleveland Department of Public Health to the license holder following a standard health or safety inspection which shall designate whether the license facility is inspected and in compliance, or in the enforcement process.

(b) The definitions contained in RC Chapters 3715 and 3717 pertaining to the administration and enforcement of food safety programs are adopted and incorporated by the City of Cleveland as if set forth herein.

Section 241.42 Foods Containing Industrially-Produced Trans Fat Restricted

(a) No foods containing industrially-produced trans fat, as defined in this section, shall be stored, distributed, held for service, used in preparation of any menu item or served in any food shop, as defined in division (a) of Section 241.03 of this code or successor provision, except food that is being served directly to patrons in a manufacturer's original sealed package.

(b) For purposes of this section, a food shall be deemed to contain industrially-produced trans fat if the food is labeled as containing, lists as an ingredient, or has vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil. However, a food whose nutrition facts label or other documentation from the manufacturer notes the trans fat content of the food is zero (0) grams as labeled then it shall not be deemed to contain industrially-produced trans fat.

(c) Food shops shall maintain on site the original labels identifying the trans fat content or an affidavit provided the food supplier identifying the trans fat content of the food products supplied, or other approved alternative documentation for all food products:

(l) That are, or that contain, fats, oils or shortenings;

(2) That are, when purchased by such food shops, required by applicable federal and state law to have labels; and

(3) That are currently being stored, distributed, held for service, used in preparation of any menu items, or served by the food service establishment.

Documentation Instead of Labels. Documentation acceptable to the Director and based upon information. Documentation acceptable to the Director, from the manufacturers of such food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content, may be maintained instead of original labels.

Documentation required when food products are not labeled. If baked goods, or other food products restricted pursuant to division (a) of this section, that are or that contain fats, oils or shortenings, are not required to be labeled when purchased, food shops shall obtain and maintain documentation acceptable to the Director and based upon information, from the manufacturers of the food products, indicating whether the food products contain vegetable shortening, margarine or any kind of partially hydrogenated vegetable oil, or indicating trans fat content.

(d) The Director of Public Health may make rules and regulations to secure proper enforcement of this section.

(e) Whoever violates this section is liable to the City of Cleveland for a civil offense and shall receive a warning on the first offense; on the second offense, shall be fined one hundred fifty dollars ($150.00); on a third offense shall be fined two hundred fifty dollars ($250.00); and beginning with the fourth offense, shall be fined three hundred fifty dollars ($350.00) and each day a violation occurs shall be a separate offense. Any person charged with the commission of a civil offense under this section may appeal to the Director of Public Health, or his or her designee. The appeal shall be taken not later than twenty (20) days from the date of the civil charge. Failure to file an appeal or pay the costs imposed within this time period shall constitute a waiver of the right to contest the charge and shall be considered an admission.

(f) This section shall take effect on January 1, 2013 with respect to oils, shortenings and margarines containing industrially-produced trans fat that are used for frying or in spreads; except that the effective date of this section with regard to oils or shortenings used for deep frying of yeast dough or cake batter, and all other foods containing industrially-produced trans fat, shall be July 1, 2013.

Section 346.10 Submission Requirements

In addition to otherwise required plans and information, any application to establish a Live-Work Unit or to change the use of a Live-Work Unit, including the work use, shall identify the nature of the work activities to be performed in the Live-Work Unit and shall be accompanied by a floor plan that identifies those areas to be used as living space and those areas to be used as Work Space. Such plan shall also identify the nature and location of equipment, furnishings or other improvements that cause the Work Space to meet the definition in division (b) of Section 346.02. For applications subject to the conditional use provisions of Section 346.06, the owner or lessor of the property shall demonstrate that the environmental condition of the property is not harmful to human health and safety and is safe for residential use. Such demonstration may be made through the issuance of a "No Further Action" Letter by a Certified Professional pursuant to the requirements for residential sites of RC Chapter 3746 et seq. (the "Ohio Voluntary Action Program"). A "No Further Action" Letter shall not relieve the owner or lessor from compliance with any applicable municipal, state or federal law. If the applicant does not possess a "No Further Action" Letter as described above, the applicant must submit a Phase I or Phase 2 environmental assessment, as applicable, to demonstrate that the site meets environmental standards for residential use. If an environmental assessment shows environmental threats to residential occupancy, then the owner must demonstrate that those conditions have been abated.

Section 350.10 Billboards

Billboards, as defined in division (e)(1) of Section 350.03, shall be permitted only in accordance with the following regulations and other applicable regulations of this chapter:

(a) *Zoning Districts.* Billboards shall be permitted only in General Industry and Unrestricted Industry Districts, except that billboards directed at any angle toward a freeway may be permitted in Semi- Industry Districts. Billboards shall not be permitted in Cleveland Landmark Districts, Public Land Protective Districts. Business Revitalization Districts or on the opposite side of any street bordering such districts. No billboards shall be permitted on the cast side of State Route 176 (the Jennings Freeway) and only one (1) billboard shall be permitted on the west side of State Route 176 (the Jennings Freeway).

(b) *Sign Types.* Billboards shall be permitted as either free-standing or wall signs, unless otherwise restricted in these Codified Ordinances. In General Industry and Unrestricted Industry districts, billboards shall also be permitted as roof signs not exceeding permitted building height and meeting the standards of division (h) of Section 350.08.

(c) *Size.* Billboard sign panels shall not exceed eight hundred and twenty (820) square feet in area and shall be further limited in size by the setback regulations in divisions (g) and (h) of this section. For purposes of determining required setbacks, the measurement of sign panel area shall exclude "extensions" projecting beyond the otherwise rectangular or standard

geometric panel dimensions, provided that these extensions do not exceed twenty- one percent (21%) of such standard panel area.

(d) *Height.* The maximum height of a billboard above the roadway surface to which it is oriented shall be fifty (50) feet. However, in no case shall the height of the billboard as measured from the grade of the lot on which it is placed exceed the maximum permitted height for main buildings.

(e) *Spacing.* Along freeways, the minimum distance between billboards located on one (1) side of the road shall be fourteen hundred (1,400) feet. Along freeways, the minimum distance between billboards located on opposite sides of the road and visible to approaching traffic shall have a minimum spacing of five hundred (500) feet. Along other roads, such distance shall be seven hundred fifty (750) feet between two (2) billboards which are each less than one hundred (100) square feet in area and shall be one thousand (1,000) feet in all other instances. Except for double-sided ("back-to-back") billboard panels, not more than one (1) billboard panel may be located on a single structure.

(f) *Distance from Street Lines.* Billboards shall be located behind the required building setback lines of the lots on which they are located. In addition, billboards shall be located a minimum distance of twenty-five (25) feet measured in any direction from the point of intersection of the right-of-way lines of two (2) intersecting streets.

(g) *Distance from Zoning District Lines.* Billboards located along streets other than freeways shall be set back at least two hundred (200) feet from Residential, Local Retail and General Retail District lines. For such billboard panels exceeding three hundred eighty (380) square feet in area, all minimum setbacks from zoning district lines shall be increased one (1) foot for each one (1) additional square foot of sign panel area. Billboards along freeways shall be set back at least fifty (50) feet from Residential, Local Retail, and General Retail District lines.

(h) *Distance from Bridges Not on Freeways and from Parkways.* A billboard directed at any angle toward a bridge, not on a freeway or toward a bridge not on a freeway or toward a parkway shall be set back from the outer pavement edge a minimum of one (1) foot for each one (1) square foot of sign panel area. However, the minimum such setback shall be three hundred thirty (330) feet. Furthermore, as required by State regulations, no billboard may be located within five hundred (500) feet of the interchange of a freeway, as measured along the right edge of the main traveled roadway in the direction of travel from the beginning or ending of pavement widening at the exit or entrance to the freeway.

(i) *Distance from Freeways.* A billboard directed at any angle toward a freeway shall be located outside of the freeway right-of-way, but in no case closer than fifty (50) feet from the freeway pavement edge.

(j) *Illumination.* Billboards shall be illuminated only by means of continuous reflected light. Internally- illuminated or back-lit billboards shall not be permitted. Billboards shall not include automatic changeable copy signs (i.e., electronic message centers) as defined in division (f)(2) of Section 350.03.

(k) *Referral to City Planning Department.* Any Building Permit application for installation of a new billboard shall be referred to the Director of the City Planning Department for a determination of compliance with the location, spacing and setback regulations of this section. In making this determination, the Director and staff of the Department shall utilize a map maintained by the Department showing locations of existing billboards, zoning districts and other information necessary to make such determination.

(l) *Nonconforming Billboards.* Notwithstanding the provisions of Section 350.19, a legal nonconforming billboard may be replaced or may be reconstructed to an extent greater than otherwise permitted if the City Planning Commission determines that such replacement or reconstruction will satisfy the following conditions:

(1) *Site and Design Improvements.* The site of the new or reconstructed billboard shall be landscaped and otherwise improved, through use of an ornamental base or frame, a

streamlined support structure, or similar features effective in improving the appearance of the site. At a minimum, evergreen shrubs, at least three (3) feet in height at the time of planting and four (4) feet in height after two (2) growing seasons, shall be planted at maximum intervals of four (4) feet along any side of the base of the billboard oriented toward a public street. Such planting shall extend at least the full width of the billboard panel. In addition, all portions of the parcel(s) of land on which the billboard site is located shall be planted with grass or other suitable vegetative ground cover between the billboard and all public streets abutting the parcel(s).

(2) *Degree of Nonconformity.* The new or reconstructed billboard shall be no greater in size, height, number of panels, or any panel dimension than is the existing billboard, nor shall the new or reconstructed billboard be less conforming to any zoning regulation than is the existing billboard, except that a panel or sign face may be added to the back of a billboard where previously there had been no panel or sign face.

(3) *Location.* The new or reconstructed billboard shall be placed in precisely the same location as the existing billboard unless the City Planning Commission determines that a different location on the same parcel of land would be more effective in meeting the intent of the sign regulations, as stated in Section 350.01.

(4) *Sign Type.* With respect to the "sign types" defined in division (f) of Section 350.03, the new or reconstructed billboard shall be the same type as the existing billboard unless the City Planning Commission determines that a different sign type would be more compatible with the subject property or nearby properties.

(5) *Changeable Copy.* The new or reconstructed billboard may incorporate automatic changeable copy only if such copy is limited to a single billboard panel or two (2) back-to-back billboard panels and only if each such panel replaces two (2) or more billboard panels on a single parcel of property or two (2) or more billboard panels on adjacent properties. The replacement billboard panel shall not be larger than any of the billboard panels it is replacing. In the case of a sign utilizing changeable copy, each message shall remain fixed for at least eight (8) seconds.

Section 393.10 Duties of the Fire Division

(a) The Fire Division's responsibilities include inspection of workplaces where hazardous chemicals are used, manufactured or stored, based either on a complaint or a rotating inspection schedule. The Fire Chief or his or her authorized representative upon presentation of proper credentials, may enter any building or premises at all reasonable hours to inspect for compliance with this chapter. No person shall prevent, obstruct or delay any inspection or the performance of any lawful duty of such inspector acting within his or her official capacity. The inspector shall determine whether hazardous chemicals are properly labeled consistent with Section 393.06; shall check a random sample of MSDSs for compliance with Section 393.08; and shall inspect the employee training record required by division (c) of Section 393.09. Inspections should occur regularly, but not necessarily annually.

(b) The Fire Division shall investigate, within five (5) working days of receipt, any complaint in which it is alleged that employees have been ordered to work with substances for which material safety data sheets or proper labels required by this chapter are not provided. Each such complaint shall be in writing, dated, and signed by the complainant.

(c) If, upon inspection, the Fire Division finds violations, it shall give a written violation notice to the employer, stating specific violations, allow an appropriate period of time for corrections, and then return and reinspect. At that time, if all violations have not been corrected, the Fire Division shall have authority to issue a written violation letter and order requiring correction of specifically described deficiencies. Such order may be appealed to the Board of Building Standards and Building Appeals by filing a written notice of appeal and filing fee as provided in Sections 3103.18 and 3103.19 of these Codified Ordinances.

(d) The Fire Division shall maintain a copy of the most recent work area hazardous chemical list required by division (a) of Section 393.07.

(e) The Fire Division shall maintain for public inspection the full list of hazardous and toxic substances promulgated pursuant to Section 393.04 and their health effects.

(f) The Fire Division shall maintain a copy of the work area list for thirty (30) years.

(g) Upon written request, the Fire Division shall provide copies of any work area list or MSDS to members of the public at cost.

(h) The Fire Division shall provide consulting assistance, as feasible, to employers in connection with employee training programs.

(i) Each employer is obligated to comply with this chapter, with or without an inspection by the Fire Division.

Section 393.17 Trade Secrets

(a) Any employer may withhold the specific chemical name or other specific chemical identification of a hazardous chemical, if:

(1) The claim that the information withheld is a trade secret can be supported in writing;

(2) Information contained in the material safety data sheet concerning the properties and effects of the hazardous chemical is disclosed;

(3) The label and material safety data sheet indicates that the specific chemical identity is being withheld as a trade secret; and

(4) The specific identity is made available to the Fire Chief and health professionals, in accordance with the applicable provisions of paragraphs (b) and (c) of this section.

(b) The employer shall immediately disclose to the Fire Chief or a treating physician/nurse, upon request, the specific chemical identity of the requested trade secret, without regard to trade secrecy claims and regardless of the existence of a written statement of need or a confidentiality agreement, if:

(1) The Fire Chief determines that an accident has occurred which requires knowledge of specific chemical identities; or

(2) A treating physician or nurse determines that medical emergency exists and the specific chemical identity of a hazardous chemical is necessary for emergency or first aid treatment; or

The employer may require a written request and confidentiality agreement in the form of the standard Confidentiality Agreement contained in Section 393.21 or in accordance with the provisions of division (d) of this section as soon as circumstances permit.

(c) In situations where the employer has made a trade secret claim, the employer shall, upon written request from the Fire Chief or a health professional (i.e., physician, nurse, industrial hygienist, toxicologist, or epidemiologist) providing medical or other occupational health services to exposed employee(s), disclose the specific chemical name of any chemical substance if:

(1) The request is in writing;

(2) The request describes with reasonable detail one (1) or more of the following occupational health needs for the information:

A. To assess or study the hazards or effects of the chemicals to which employees will or have been exposed;

B. To conduct or assess sampling of the workplace atmosphere to determine employee exposure levels;

C. To medically pre-screen employees or provide medical treatment to exposed employees;

D. To assess appropriate personal protective equipment, engineering controls or other protective measures for exposed employees.

(3) The request includes a description of the procedures to be used to maintain the confidentiality of the disclosed information; and

(4) The requesting party and the employer agree in a written confidentiality agreement that the requesting party will not use the trade secret information for any purpose other than the health need(s) asserted and agree not to release the information under any circumstances.

(d) The confidentiality agreement provided by divisions (b) and (c) of this section:

(1) May restrict use of information to health and treatment purposes consistent with the preservation of the trade secret information;

(2) May provide appropriate legal remedies in the event of a breach of the agreement, but not stipulation of a reasonable pre-estimate of likely damages; and

(3) May not include requirements for the posting of a penalty bond.

(e) Nothing in this section is meant to preclude the parties from pursuing noncontractual remedies to the extent permitted by law.

(f) If the employer denies a written request for disclosure of a specific chemical identity in non- emergency or non-accident situations, the denial must:

(1) Be provided to the requesting party and the Fire Chief within ten (10) working days of the request;

(2) Be in writing;

(3) Include evidence to support the claim that the specific chemical identity is a trade secret;

(4) State the specific reason why the request is being denied; and

(5) Explain in detail how alternative information may satisfy the specific medical need without revealing the specific chemical identity.

(g) The requesting party whose request for information is denied under division (f) of this section, may refer the written request and denial to the Hazardous Chemicals Committee for consideration. Both the requesting party and the employer shall be permitted an opportunity to submit evidence supporting their respective positions to the Hazardous Chemicals Committee.

(h) The Hazardous Chemicals Committee shall consider the evidence to determine if:

(1) The employer has supported the claim that the specific chemical identity is a trade secret;

(2) The requesting party has supported the claim that there is medical or occupational health need for the information; and

(3) The requesting party has demonstrated adequate means to protect its confidentiality.

(i) If the Hazardous Chemicals Committee determines that the specific chemical identity requested under division (c) of this section is not a bona fide trade secret, or that the specific chemical identity requested under division (c) of this section is a trade secret but the requesting party has a legitimate need for the information, has executed a written confidentiality agreement, and has shown adequate means to protect the confidentiality of the information, the employer shall provide said chemical identity to the requesting party within thirty (30) days of the Committee's decision. If the employer appeals the Committee's determination pursuant to

division(j) of this section, it shall have a right to a stay, as provided in division (e)(3) of Section 3103.20 of these Codified Ordinances.

However, if the Hazardous Chemicals Committee determines that there is no medical or occupational health need for the information or that the execution of a confidentiality agreement would not provide a sufficient protection against the potential harm from the unauthorized disclosure of a trade secret specific chemical identity, the Hazardous Chemicals Committee may deny the request or may delay its final decision until appropriate modifications of the confidentiality agreement are made.

(j) The Hazardous Chemicals Committees' decision under division (i) may be appealed within thirty (30) days by either party to the Board of Building Standards and Building Appeals established pursuant to Charter Section 76-6. The Board's decision is a final order from which either party may appeal under RC Chapter 2506.

(k) No officer, employee, agent or contractor of any City department, board or commission shall knowingly and intentionally disclose to anyone in any manner, any trade secret information, except as is required to administer or enforce the provisions of this chapter and perform official duties or unless authorized by the employer claiming that the data is trade secret information or a court of law. Any person who knowingly violates this provision shall be subject to discipline for malfeasance in office under the City's Civil Service rules, and shall be subject to other applicable provisions and penalties under existing law for violations of trade secret protections. This section shall not be construed to eliminate, abridge or detract from any remedies, either at law or in equity, which an employer or other individual may have arising out of any breach of a confidentiality agreement or other legal protection of trade secrets.

Section 3103.05 Permission to Enter Adjoining Premises

(a) For the purpose of performing repairs, alterations or maintenance on the exterior of any dwelling, building or structure, necessary to effect compliance with the provisions of any Ohio statute, OBBC, the City's Building or Housing Codes or any other City ordinance, or any lawful rule adopted or order issued pursuant thereto, a property owner or his or her agent or employee shall obtain the consent to enter the adjoining premises from the owner, agent or occupant of such premises. If consent is granted, the party requesting permission to enter shall preserve and protect from injury at all times and at his or her own expense such adjoining structure or premises.

(b) Should consent be denied, the party seeking permission to enter the adjoining premises may apply in writing to the Commissioner who shall conduct the necessary investigation into the matter, and upon good cause shown, may order the issuance of a permit to enter the adjoining premises. Such order may be appealed to the Board of Building Standards and Building Appeals by the owner, agent or occupant of the adjoining premises, or by the party seeking permission to enter the adjoining premises, if such permission is denied.

(c) The procedure for appeal under this section shall be as follows:

(1) The appeal shall be in writing and be submitted to the Board within five (5) regular business days from the date notice is received that a permit has or has not been issued, which notice shall be given by the Commissioner to the party seeking to enter the adjoining premises, and to the owner, agent or occupant of such premises.

(2) Upon the filing of an appeal, a hearing shall be held before the Board, at a time and place fixed by the Board.

(3) Except in cases of emergency as set forth in division (j) of Section 3103.09 the filing of an appeal shall suspend the issuance of a permit to enter the adjoining premises until the appeal is acted upon by the Board.

Section 3105.16 Payment of Permit Fees

(a) A permit shall not be issued until the fee prescribed therefor has been paid to the City Treasurer. The fee to be paid for a permit to be issued by the Commissioner shall be determined in the Division of Building and Housing and shall be noted on the application when such application is otherwise ready for issuance of the permit. Upon payment of the fee a receipt shall be given.

(b) The fees prescribed in this chapter shall be additive and, unless otherwise specifically provided, separate fees shall be paid for each of the items listed.

(c) The fees prescribed in division (d) of Section 3105.25 shall apply when a building or structure is demolished or torn down, or so removed as to require re-assembly as new construction if re-built, or is moved to a site outside the limits of the City.

(d) The fees prescribed in division (e) of Section 3105.25 shall apply when such buildings or structures are moved as a unit from a location within the City to a new site within the City. Re-located structures such as marquees, signs, awnings, tanks, and grandstands, and other similar structures new or re-used, which require erection or assembly when re-located shall be subject to the permit fees prescribed for corresponding new structures. Buildings or structures moved out of the City shall be subject to the fees prescribed in divisions (d) and (e) of Section 3105.25. Buildings or structures moved into the City shall be subject to the permit fees prescribed for new buildings and the permit fees prescribed under division (e) of Section 3105.25.

(e) The permit fees prescribed in this chapter shall apply to all permits for buildings or other structures, or parts thereof, obtained after June 27, 1949 including existing buildings or structures which are relocated or re-erected.

Section 3113.03 Permits; Conditions and Exemptions

(a) Excepting only outdoor signs and display structures specifically exempted by division (c) of this section, no outdoor sign or display structure shall hereafter be erected and no outdoor sign or display structure shall be affixed, attached to, suspended from or supported on a building or other structure until a permit has been issued by the Commissioner.

(b) Permits shall be obtained for all electrical wiring and electrical installations in connection with signs or outdoor display structures. All such electrical wiring and electrical installations shall be done in conformity with the provisions of Chapter 3137.

(c) *Exemptions.* No permit shall be required for the affixation or erection of the following signs. Such exemption shall, however, apply to the requirement for a permit only and shall not be construed as relieving the owner of such sign from responsibility for its erection and maintenance in a safe condition, or from conformity with applicable provisions of this chapter governing material, construction and erection.

(1) Signs erected in compliance with Zoning Code division (a) of Section 350.04, Section 350.11, division (c) of Section 350.13 and division (d) of Section 350.13;

(2) Noncombustible tablets built into the wall of a building or other structure and used for inscriptions or as memorial tablets or for similar purposes;

(3) Posting of bills, signs or posters on billboards or display structures legally erected and maintained for such purpose;

(4) Municipal street, traffic or emergency signs, and railroad sign;

(5) Legal notices and house numbers;

(6) Temporary signs on buildings under construction.

(d) Issuance of required permits shall be by the Commissioner. No permit for a sign over public property shall be issued until the application for the permit has been approved by the Director of Public Service.

(e) The application for a permit shall be submitted in such form as the Commissioner may prescribe and, when deemed necessary by him or her, shall be accompanied by such drawings and descriptive data as are required to verify compliance with the provisions of this Building Code and OBBC. Whenever the conditions of installation are such as to require unusual structural provisions, and for all roof signs, the Commissioner may require that the structural design drawings be prepared by and bear the seal of a registered architect or registered professional engineer competent to design such structure, and that the work be supervised and inspected either by the person who prepared the approved structural design, or by other competent persons acceptable to the Commissioner.

(f) No permit to erect, alter, enlarge or maintain a sign or sign structure beyond a street or alley line shall constitute a permanent easement. Every such permit shall be revocable at any time by action of Council, and the City shall not be liable for any damages to the owner by reason of such revocation.

(g) Any permit issued for an outdoor sign or display structure shall be valid only while such sign or display structure is maintained in a safe, sound and non-hazardous condition. The Commissioner shall revoke any permit when unsafe conditions are not promptly corrected by the owner of the sign, display structure or premises.

Section 457.07 Screening Barriers

Except as provided in division (e) of Section 457.07, all surface parking lots with ten (10) or more spaces shall be bordered along the entire length of all lot lines fronting on public streets or public alleys, as defined in Section 303.09 of the Codified Ordinances, except at established entrances and exits, by a visual screen and a vehicular barrier, as further described in divisions (a) and (b) of this section. Such screen and barrier shall be sufficient to prevent vehicular ingress and egress except at established entrances and exits, to prevent motor vehicles from encroaching into the public right-of-way, to restrict pedestrian movement to established sidewalk areas and to screen parked vehicles from view from the public right-of-way.

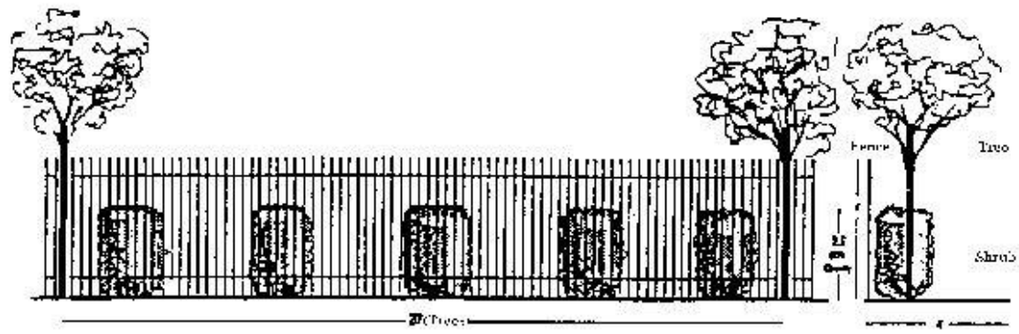
(a) *Vehicular Barriers.* The vehicular barrier shall consist of a continuous concrete or cut stone curb at least eight (8) inches high and six (6) inches wide or anchored concrete wheel stops, as necessary to prevent motor vehicles from projecting into the public right-of- way or impacting with the visual screen.

(b) *Visual Screens.* All visual screens shall meet the following requirements with respect to height, opacity and materials.

(1) *Central City Area.* Within the Downtown Core, Gateway and Warehouse Parking Districts, as established in Section 457.035, visual screens shall meet the following standards. Minimum required height and opacity shall be provided throughout the length of any required visual screen. The visual screen shall be a minimum of four (4) feet and a maximum of six (6) feet in height and shall conform to one (1) of the following four (4) standards with respect to materials and opacity.

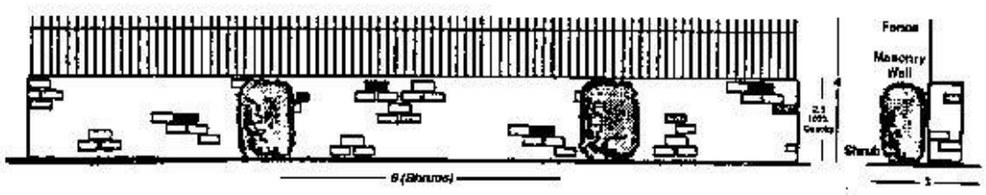
A. *Shrubbery and Fence*: A continuous hedge of shrubbery and a metal picket and rail fence, together providing one hundred percent (100%) opacity to a height of two and one-half (2.5) feet and providing a minimum of five percent (5%) and a maximum of twenty-five (25%) opacity between a height of two and one-half (2.5) feet and four (4) feet.

B. *Shrubbery, Fence and Trees*: Shrubbery and a metal picket and rail fence, supplemented by trees planted at a minimum average spacing of twenty (20) feet, together providing fifty percent (50%) opacity to a height of two and one-half (2.5) feet and providing a minimum of five percent (5%) and a maximum of twenty-five percent (25%) opacity between a height of two and one-half (2.5) feet and four (4) feet.



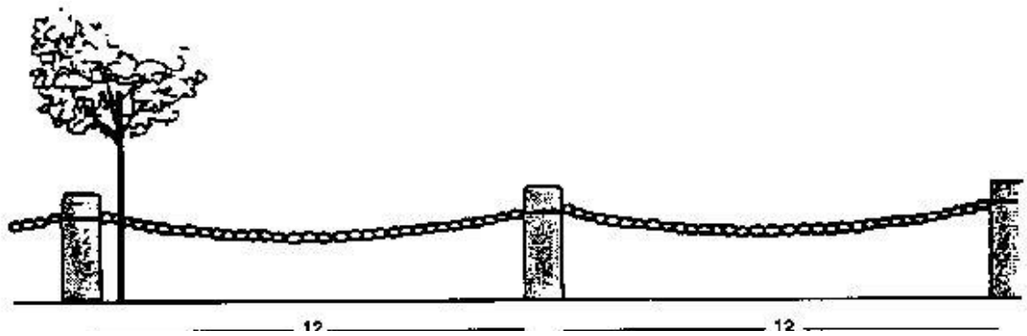
C. *Berm and Trees*: A landscaped earthen berm planted with trees placed at a minimum average spacing of twenty (20) feet, providing one hundred percent (100%) opacity to a height of two and one-half (2.5) feet and a maximum of twenty-five percent (25%) opacity between a height of two and one-half (2.5) feet and four (4) feet.

D. *Wall/Fence and Shrubbery*: Shrubs planted at a minimum average spacing of eight (8) feet and a combination metal picket and rail fence/masonry wall, together providing a minimum of one hundred percent (100%) opacity to a height of two and one-half (2.5) feet and providing a minimum of five percent (5%) and a maximum of twenty-five percent (25%) opacity between two and one-half (2.5) feet and four (4) feet.



(2) *Other Areas.* All parking lot areas established and licensed on or after June 26, 1991 shall meet the screening standards established in division (b)(1) of this section. Outside of the

Downtown Core, Gateway and Warehouse Parking Districts, as established in Section 457.035, all parking lots legally established prior to June 26, 1991 shall meet the following visual screening standards. The visual screen shall be composed of anchored concrete, wood or metal bollards, at least eight (8) inches in width or diameter and at least two and one-half (2.5) feet in height, in uniform intervals of not more than eight (8) feet, connected through the top of each bollard by aluminum or galvanized metal chains, at least one-half (1/2) inch in diameter. The bollards and chains shall be supplemented by trees planted at minimum intervals of thirty (30) feet.



(c) *Supplemental Standards for Visual Screens.* The elements which compose a required visual screen shall meet the following requirements:

(1) *Standards for Shrubs, Trees and Ground Cover*. Shrubbery used as part of a visual screen must be sufficient to meet the height and opacity requirements by the end of the second growing season after initial planting. All shrubs and trees shall be selected from lists of approved types, as adopted by the City Planning Commission. At the time of installation, deciduous trees shall be a minimum of two (2.0) inches in caliper at one (1) foot above grade, and evergreen trees shall be a minimum of six (6.0) feet in height. Trees shall be permitted as part of any visual screen, and the maximum height and opacity limitations shall not apply to trees. In the event that irrigation as required under division (c)(4) of this section is not available, landscaping materials installed on such property shall be of a type which do not require such irrigation for proper maintenance, as determined by the Director of Parks, Recreation and Properties, or his or her designee.

(2) *Standards for Landscaped Areas.* If a visual screen is set within a landscaped area, such area shall be bordered by a continuous concrete or cut stone curb at least six (6) inches wide and eight (8) inches high and such area shall be covered by grass or other suitable vegetative ground cover, bark or decorative stones. If planted with shrubs, the landscaped area shall be a minimum of three (3) feet in width. If planted with trees, the landscaped area shall be a minimum of four (4) feet in width.

(3) *Standards for Fences and Walls.* All walls and fences used as part of a visual screen shall be of uniform appearance and shall be set in a concrete base. Required metal picket and rail fences shall be of actual or simulated wrought iron or cast iron construction. Masonry walls shall be of brick or stone construction.

(4) *Irrigation Requirements.*

A. *General Provisions.* Every landscaped area shall be served by a permanently-installed underground irrigation system. No irrigation system, however shall be required for trees provided to supplement the use of bollards and chains as required by division (b)(2) of this section.

B. *Method of Connection.* For parking lots established on or after June 26, 1991, the irrigation system shall be connected directly to City water lines. For parking lots legally established before June 26, 1991, the irrigation system shall be either connected to City water lines or shall be configured for coupling to a hose which draws water from any permitted source. In such instances, the selection of the water source shall be made by the applicant. In all

instances, however, the Division of Water may reject a particular method of connection if it determines that such method is technically infeasible or unsafe in a particular location.

C. *Responsibilities.* In the case of a property, or adjoining properties under common ownership, which are not served by City water lines, the City shall provide, at its expense, water line hook- ups to serve the irrigation system. The City's responsibility to dedicate a water source shall arise upon approval by the Division of Building and Housing and the Division of Water of plans, submitted by the applicant, for such irrigation, including necessary water line hook-ups. The parking lot operator shall not be responsible for installing live landscaping materials until the City provides the water line hook up. Each applicant shall be required to install and pay for a separate water meter or meters, vault and backflow devices and shall pay for all water used. In the case of a system served by a fire hydrant tap, the applicant shall be responsible for payment of a single annual fee to cover the costs of estimated water use and issuance of a permit.

(d) *Maintenance.* All screening materials shall be maintained in good condition at all times. Unhealthy or dead vegetation shall be replaced with healthy plantings no later than the end of the next applicable growing season. Fences and walls shall be kept free from peeling paint, rust, spalling, and broken, cracked or missing elements. Fences and walls shall also be kept plumb, with no more than a two (2) inch deflection from a vertical position.

(e) *Exemption for Alleys.* No visual screen shall be required along public alleys except within the Downtown Core Parking District (as established in Section 457.035), where the required visual screen shall be provided.

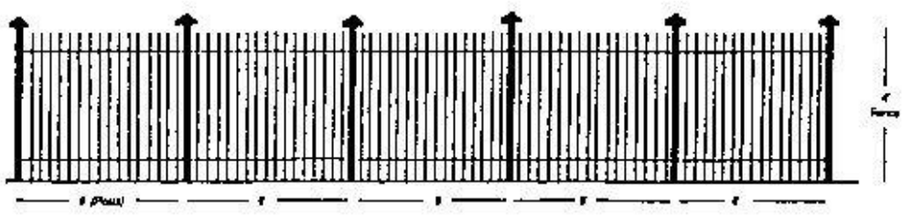
(f) *Landscaping Requirement Reductions and Exemptions.* With regard to a parking lot which otherwise complies with all requirements of Section 457.07, the City Planning Commission shall grant a reduction of or an exemption from the requirements for shrubs, trees and landscaped areas of division (b) of Section 457.07 if full compliance with such requirements would result in a loss of existing parking spaces which cannot be avoided or remediated through re-design or re-configuration of the parking lot. The Commission shall take such action in accordance with the following provisions.

(1) *Evidence to Be Provided by the Applicant.* An applicant seeking a reduction of or an exemption from the requirement for landscape elements of a visual screen shall present evidence to the City Planning Commission demonstrating that the potential loss of existing spaces cannot be avoided or remediated through re-design or re-configuration of the parking lot.

(2) *City Planning Commission Determination.* Upon consideration of evidence submitted by the applicant as well as any analysis prepared by City staff, the City Planning Commission shall determine whether strict application of the visual screen landscaping requirements will result in an unremediable loss of parking spaces. In determining whether a loss of parking spaces can be avoided

through re-design or re-striping, the Commission shall assume continued use of existing parking space and aisle dimensions for the subject property except where such dimensions are in excess of City standards. The Commission shall further determine whether the applicant can comply with the visual screen landscaping requirements through the use of a legal encroachment in one (1) or more of the public rights- of-way adjoining the parking lot.

(3) *Minimum Requirement.* Any reduction of standards approved by the City Planning Commission with respect to the required visual screen shall be the minimum reduction necessary to prevent a loss of parking spaces. The Commission may require compliance with the visual screen standards through the use of a legal encroachment in one (1) or more of the public rights-of-way adjoining the parking lot. At a minimum, the Commission shall require installation of a metal picket and rail fence meeting all applicable requirements of this section and, in addition, providing a metal, brick or stone pier or post, at least two (2) inches square, at a minimum spacing of eight (8) feet. The Commission shall also require provision of landscaped areas where such provision will not result in a loss of parking spaces.



(g) *Temporary Uses.* Where the City Planning Commission deems a parking lot to be a temporary use, the barrier and screening requirements of this section shall be met if the parking lot operator installs anchored concrete wheel stops supplemented by bollards and chains, as required in division (b)(2) of this section. The requirement for bollards and chains shall not apply outside of the Downtown Core Parking District. No surface parking lot shall be deemed temporary for a period in excess of one (1) year, provided however, that the City Planning Commission may extend the temporary use for one (1) additional one (1) year period if, prior to the completion of the initial one (1) year period, a project agreement with the City is executed which requires development of the lot within one (1) year or a Building Permit application has been filed for development of the lot. A parking lot shall also be considered as a temporary use if there exists a lease, recorded with the Cuyahoga County Recorder, between the parking lot operator and the owner of the subject property, and the term of the lease expires within eighteen (18) months after the compliance date for filing of plans, as specified in division (i) of this section.

(h) *Approval.* The materials, design, location and construction of the screens and barriers required by this section shall be approved by the Director of City Planning Commission, in consultation with the Commissioners of Research, Planning and Development and Traffic Engineering and shall be in accordance with the standards promulgated by the Commissioners in compliance with the provisions of this chapter. Unless otherwise permitted by the Commissioner of Traffic Engineering, each parking place shall have one (1) common entrance and one (1) common exit, which may or may not be combined.

(i) *Compliance Dates.* Parking lots legally established prior to June 26, 1991 shall comply with the requirements of this section in accordance with the following provisions:

(1) For lots within the Downtown Core Parking District, plans shall be filed by May 1, 1992, and installation shall be completed by August 1, 1992.

(2) For lots within the Erieview, Downtown Lakefront and Flats Parking Districts, plans shall be submitted by May 1, 1993, and installation shall be completed by August 1, 1993.

(3) For lots within the Gateway and Warehouse Parking Districts and in the remainder of the City, plans shall be submitted by May 1, 1994, and installation shall be completed by August 1, 1994.

Section 513.08 Permit Suspension and Revocation

(a) The Director may suspend or revoke the permit of any permittee if the permittee or his or her agent fails to abide by the provisions of these Codified Ordinances or state law, or if any required health license has been suspended or revoked.

(b) The Director shall give written notice of suspension or revocation of the permit to the permittee or his or her agent stating the reasons therefor. If the reason for the suspension or revocation is that a required health license has been suspended or revoked or that the permittee does not currently have an effective insurance policy as required by division (j) of Section 513.03, the action shall be effective upon giving such notice to the permittee or to his or her agent. Otherwise, such notice shall contain the further provision that the action shall become final and effective ten (10) days thereafter unless, within five (5) days of receipt of notice, the permittee requests a hearing before the Director. The Director shall forthwith hold the requested

hearing, at which time the permittee shall be afforded the opportunity to give his or her version of the facts which gave rise to the Director's action. After the hearing the Director shall determine whether to proceed with the action or to rescind it.

(c) The action of the Director may be appealed to the Board of Zoning Appeals.

Section 559.53 Trespass on City Facilities

(a) No person shall trespass, loiter, or remain in or upon the grounds of any park or recreational facility under the supervision and control of the Director of Parks, Recreation and Properties during any hour when the public is not permitted in such park or recreational facility as determined by the Director pursuant to Section 559.52, unless such person has been authorized to be present in the park or recreational facility by the Director of Parks, Recreation and Properties.

(b) No person shall trespass, loiter, enter or remain in or upon the grounds of any park or recreational facility under the supervision and control of the Director of Parks, Recreation and Properties after being lawfully ordered to leave such park or recreational facility by an authorized official or agent of the City.

(c) Whoever violates this section shall be guilty of a minor misdemeanor for a first offense. In addition to any other method of enforcement provided for on this chapter, this minor misdemeanor may be enforced by the issuance of a citation in compliance with Rule 4.1 of the Ohio Rules of Criminal Procedure. For each subsequent offense, whoever violates this section shall be guilty of a misdemeanor of the fourth degree.

Section 619.24 Nuisance Property Declared

(a) Any vehicle, boat, aircraft, building or place that has been used on two (2) occasions in the commission of one (1) or any combination of the following offenses, for which convictions have been entered in the court's journal, without regard to the ownership of the property and without regard to whether the same person(s) were convicted of both offenses, is hereby declared to be a nuisance:

Pertaining to Prostitution:

(1) Procuring, Section 619.08;

(2) Soliciting, Section 619.09;

(3) Prostitution, Section 619.10;

(4) Use of a Vehicle to Solicit a Person to engage in Prostitution or a Drug Offense Prohibited, Section 619.23.

Pertaining to Drugs:

(5) Drug Abuse: Controlled Substance Possession or Use, Section 607.03;

(6) Possessing Drug Abuse Instruments, Section 607.04;

(7) Permitting Drug Abuse, Section 607.05;

(8) Possession, Manufacture and Sale of Drug Paraphernalia, Section 607.17.

Pertaining to Liquor:

(9) Permit Required, Section 617.05.

Pertaining to Gambling:

(10) Gambling, Section 611.02;

(11) Operating a Gambling House, Section 611.05;

(12) Public Gaming, Section 611.06.

(b) Any building, vehicle, boat, aircraft, or place that constitutes a nuisance as defined in division (a) and all of the contents of the same, if any, may be abated as provided in Section 619.25.

Section 665.02 Definitions

As used in this chapter:

(a) "Aggrieved person" includes any person who:

(1) Claims to have been injured by a discriminatory housing practice; or

(2) Believes that such person will be injured by a discriminatory housing practice that is about to occur.

(b) "Covered multi-family dwellings" means buildings consisting of four (4) or more units, if such buildings have one (1) or more elevators, and ground floor units in other buildings consisting of four (4) or more units.

(c) "Disability"

(1) Means, with respect to a person:

A. A physical or mental impairment that substantially limits one (1) or more major life activities, including the functions of caring for one's self such as: performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and/or working;

B. A record of a physical or mental impairment;

C. Being regarded as having a physical or mental impairment; or

D. Any person associated with that person, and any person residing or intending to reside with that person.

(2) Does not include current, illegal use of, or addiction to, a controlled substance, as defined in 21 U.S.C. 802.

(d) "Manager of Fair Housing and Consumer Affairs" means the Manager as established and defined in Section 137.03.

(e) "Fair Housing Board" means the Board as established and defined in Section 665.05.

(f) "Familial status" refers to the status of:

(1) One (1) or more individuals (who have not attained the age of eighteen (18) years) being domiciled with:

A. A parent or another person having legal custody of the individual or individuals; or

B. The designee of the parent or other person having such custody, with the written permission of the parent or other persons.

(2) Any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(g) "Gender identity or expression" means the gender-related identity, external presentation of gender identity through appearance, or mannerism or other gender-related characteristics of an individual, regardless of the individual's designated sex at birth.

(h) "Housing for older persons" means:

(1) Housing provided under any State or Federal program that the Secretary of the United States Department of Housing and Urban Development (hereafter "HUD") determines is

specifically designed and operated to assist elderly persons (as defined in the State or Federal program);

(2) Housing intended for, and solely occupied by, persons sixty-two (62) years of age or older;

(3) Housing intended and operated for occupancy by at least one (1) person fifty-five (55) years or older per unit. The determination as to whether housing qualifies as housing for older persons under this division shall be consistent with regulations promulgated by the Secretary of HUD, which require that at least the following factors are present:

A. The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons or if the provision of the facilities and services is not practicable, that the housing is necessary to provide important housing opportunities for older persons; and

B. That at least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and

C. The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older.

(4) Housing shall not fail to meet the requirements for housing for older persons by reason of:

A. There being persons residing in the housing as of the date of enactment of the Fair Housing Act of 1988 who do not meet the age requirements of division (h)(2) or (3) of this section; provided that the new occupants of the housing meet the age requirements of division (h)(2) or (3); or

B. There being unoccupied units, provided that such units are reserved for occupancy by persons who meet the age requirements of division (h)(2) or (3).

(i) "Lending institution" means any bank, savings and loan association, insurance company, or other organization or person regularly engaged in the business of lending money, guaranteeing loans for profit, or otherwise providing financial assistance or insurance in connection with the purchase, sale or rental of dwellings.

(j) "Person" means one (1) or more individuals, partnerships, associations, organizations, corporations, joint stock companies, mutual companies, legal representatives, trusts, trustees, trustees in bankruptcy, receivers, and other organized groups of persons. It also includes, but is not limited to, any owner, lessor, assignor, builder, manager, broker, salesman, appraiser, agent, employee, and lending institution.

(k) "Property", as used in this chapter, means any building, structure, facility or portion thereof, which is used, occupied or is intended, arranged or designed to be used or occupied;

(1) As the residence, dwelling unit, or sleeping place of one (1) or more individuals, groups, or families whether or not living independently of each other, and includes any housing accommodations held or offered for sale or rent by a real estate broker, salesman, or agent, or by any other person with authorization of the owner, by the owner, or by the person's legal representative;

(2) For the purpose of operating a business, an office, a manufactory or public accommodation; or

(3) Any vacant land offered for sale, lease or held for the purpose of constructing or locating thereon any such building, structure, facility, business concern or public accommodation.

(l) "Protected group" or "protected class" refers to persons who are or may be discriminated against on the basis of race, religion, color, sex, sexual orientation, gender identity

or expression, national origin, age, disability, ethnic group, Vietnam-era or disabled veteran status, familial status, marital status or ancestry.

(m) "Purchase" means to obtain property through sale.

(n) "Real estate broker" means a real estate agent or salesperson, or a limited real estate broker or salesperson as defined in RC 4735.01.

(o) "Rent" or "rental" means to lease, sublease, assign or otherwise grant or obtain the right to occupy property not owned by the occupant in return for consideration, or a contract or option to do any of the foregoing.

(p) "Sale or sell" means to convey, exchange, transfer or assign legal or equitable title to, or beneficial interest in, property in return for consideration, or a contract or option to do any of the foregoing.

(q) "Sexual orientation" means a person's actual or perceived homosexuality, bisexuality or heterosexuality, by orientation or practice.

(r) "Solicitation" or "solicit" means the mailing or delivery of any printed matter or any oral communication either in person or by telephone to the owner or occupant of property by any real estate broker, agent, sales representative or other person for any of the following purposes:

(1) Advertising the accomplishments and/or abilities of the real estate broker, agent, sales representative or other person to sell or rent property;

(2) Requesting or suggesting that the owner or occupant list his or her property for sale or rent; or

(3) Offering to purchase or rent the owner's property.

Section 665.15 Intimidation or Interference in Housing

No person, whether or not acting under color of law, shall by force or threat of force willfully injure, intimidate or interfere with, or attempt to injure, intimidate or interfere with any of the following:

(a) Any person because of race, religion, color, sex, sexual orientation, gender identity or expression, national origin, age, disability, or ethnic group, Vietnam-era or disabled veteran status, familial status, marital status or ancestry and because that person is or has been selling, purchasing, renting, financing, occupying, contracting, or negotiating for the sale, purchase, rental, financing, or occupation of any property; or applying for or participating in any service, organization, or facility relating to the business of selling or renting housing accommodations;

(b) Any person because that person is, or has been, or is considering:

(1) Participating, without discrimination on account of race, religion, color, sex, sexual orientation, gender identity or expression, national origin, age, disability, ethnic group, Vietnam-era or disabled veteran status, familial status, marital status or ancestry, in any of the activities, services, organizations or facilities described in division (a) of this section;

(2) Affording another person or class of persons opportunity or protection so to participate;

(c) Any person because that person is, or is considering lawfully aiding or encouraging other persons to participate, without discrimination on account of race, religion, color, sex, sexual orientation, gender identity or expression, national origin, age, disability, ethnic group, Vietnam-era or disabled veteran status, familial status, marital status or ancestry, in any of the activities, services, organizations or facilities described in division (a) of this section, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.

Section 2. That the following existing Sections:

Section 171.311, as amended by Ordinance No. 632-95, passed April 10, 1995;

Section 178.05, as amended by Ordinance No. 2353-93, passed February 14, 1994;

Section 235.99, as amended by Ordinance No. 473-11, passed April 25, 2011;

Section 240.01, as amended by Ordinance No. 736-06, passed August 9, 2006;

Section 241.03, as amended by Ordinance No. 507-15, passed July 27, 2015;

Section 241.42, as amended by Ordinance No. 474-11, passed April 25, 2011;

Section 346.10, as amended by Ordinance No. 309-01, passed June 19, 2001;

Section 350.10, as amended by Ordinance No. 1282-06, passed November 27, 2006;

Section 393.10, as amended by Ordinance No. 2704-B-83, passed March 4, 1985;

Section 393.17, as amended by Ordinance No. 2704-B-83, passed March 4, 1985;

Section 3103.05, as amended by Ordinance No. 1116-A-85, passed February 10, 1986;

Section 3105.16, as amended by Ordinance No. 1116-A-85, passed February 10, 1986;

Section 3113.03, as amended by Ordinance No. 2933-90, passed February 4, 1991;

Section 457.07, as amended by Ordinance No. 2603-91, passed August 19, 1992;

Section 513.08, as amended by Ordinance No. 1800-2000, passed March 26, 2001;

Section 559.53, as amended by Ordinance No. 1611-95, passed December 18, 1995

Section 619.24, as amended by Ordinance No. 164-A-2000, passed June 19, 2000;

Section 665.02, as amended by Ordinance No. 1329-10, passed December 6, 2010;

Section 665.15, as amended by Ordinance No. 1445-13, passed November 17, 2014

are hereby repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

KJK:rns
10-5-15

Ord. No . 1233-15

Council Member Kelley

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio, 1976 by amending various sections of the codified ordinance as amended by various ordinances in order to correct erroneous internal references within the codified ordinances.

READ FIRST TIME on OCTOBER 5, 2015 **REPORTS**
and referred to DIRECTOR of Law;
COMMITTEE on Finance

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol._____ Page _____

Published in the City Record _____

REPORT
after second Reading

PASSAGE RECOMMENDED BY COMMITTEE ON
FINANCE

FILED WITH COMMITTEE