

PART THIRTEEN - BUILDING CODE

TITLE ONE - Building Code

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CHAPTER 1301 - Ohio Building Code

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CROSS REFERENCES

See sectional histories for similar State law

Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261

Power to enact further and additional regulations - see Ohio R.C. 3781.01

Authorization by Board of Building Standards - see Ohio R.C. 3781.12

Enforcement - see Ohio R.C. 3781.03, 3781.031, 3781.10(E), 3781.102, 3781.19

Final jurisdiction - see Ohio R.C. 3781.04

Application - see Ohio R.C. 3781.06, 3781.10(A), 3781.11(A)

Submission of plans - see Ohio R.C. 3791.04

Dead bolt locks in apartment buildings - see Ohio R.C. 3781.103

Smoke detection system for apartments and condominiums - see Ohio R.C. 3781.104; OAC Ch. 4101:2-89

Use of public buildings by handicapped persons - see Ohio R.C. 3781.111

Energy conservation - see Ohio R.C. 3781.181; OAC 4101:2-20-01 et seq.

Safety glazing - see Ohio R.C. 3781.51 et seq.

Abandoned service stations - see Ohio R.C. 3791.11 et seq.

Safety standards for refuse containers - see Ohio R.C. 3791.21; OAC 4101:2-88-01 et seq.

1301.01 - ADOPTION

There is hereby adopted by the Municipality, the Ohio Building Code (OBC) and related codes as adopted by the Ohio Board of Building Standards, Department of Industrial Relations, effective March 1, 2005, and as identified and published in Division 4101:1 et seq. of the Ohio Administrative Code (OAC).

1301.02 - FILE AND DISTRIBUTION COPIES

At least one copy of the Ohio Building Code, as herein adopted, is on file within the Engineering/Fire Department for inspection by the public. (Ord. 1995-107. Passed 12-11-95.)

1301.03 - ENFORCEMENT; RIGHT OF ENTRY

(a) The Building Officer is hereby charged with the enforcement of this chapter and Chapter [1303](#) and of the Codes therein adopted.

(b) The Building Officer, in the discharge of his official duties, and upon proper identification, shall have authority to enter any building, structure or premises, within the scope of this chapter and the Code herein adopted, at any reasonable hour. (Ord. 1979-158. Passed 8-14-79.)

1301.04 - DEFINITIONS

(a) Wherever the word "Municipality" is used in the Code herein adopted it shall mean the City of Portsmouth, Ohio.

(b) Wherever the term "Corporation Counsel" is used in the Code herein adopted it shall mean the City Solicitor. (Ord. 1979-158. Passed 8-14-79.)

1301.05 - PERMIT FEES

No permit required by the Code herein adopted shall be issued until the fee prescribed in Chapter [1305](#) has been paid. Nor shall an amendment to a permit be approved until the additional fee, if any, due to an increase in the estimated cost of the building or structure, has been paid. (Ord. 1979-158. Passed 8-14-79.)

1301.06 - CONFLICT OF LAWS

In the event of any conflict between the requirements of the Code herein adopted and those of any other City Building Code, that provision which requires the greater restriction or higher standard shall prevail. (Ord. 1979-158. Passed 8-14-79.)

1301.07 - VALIDITY

The invalidity of any section of this chapter or of the Code herein adopted shall not invalidate other sections or provisions thereof. (Ord. 1979-158. Passed 8-14-79.)

1301.08 - AMENDMENTS

The Code herein adopted is amended as follows:

OBC: Scope of Code (Amended)

The provisions of the Code apply to the construction, alteration, equipment, use and occupancy, location, maintenance of and additions to buildings and structures, except one, two and three-family dwellings, and to appurtenances such as vaults, areaways and street encroachments, hereafter erected and, where expressly stated, existing on land or over water; and

to buildings and structures and equipment for the operation thereof hereafter moved or demolished in the Municipality. The provisions of this Code based on occupancy also apply to conversions of existing buildings and structures or portions thereof from one occupancy classification to another.

OBC: Penalties (Amended)

(a) Whoever violates any provision of this Code or fails to comply therewith or with any of the requirements thereof, or erects, constructs, adds to or alters, moves or demolishes, or has erected, constructed, added to or altered, moved or demolished, a building or structure or portion thereof in violation of a detailed statement or plan submitted and approved thereunder, or of a permit or certificate issued thereunder, is guilty of a misdemeanor of the second degree. This penalty shall apply individually to each owner, architect, engineer, builder, contractor, agent or other person or corporation committing or assisting the commission of such violation, as aforesaid. Each and every day or portion thereof during which any violation is committed or continued, as aforesaid, shall constitute a separate offense.

(b) The imposition of the penalties herein prescribed shall not preclude the City Solicitor from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, addition, alteration, conversion, removal, demolition, maintenance or use or to restrain, correct or abate a violation, or to prevent the occupancy of a building or structure or portion thereof, or of the premises, or to prevent an illegal act, conduct, business or use in or about any premises within the scope of the Code. (Ord. 1979-158. Passed 8-14-79.)

1301.99 - PENALTY

Whoever violates this chapter is guilty of a second degree misdemeanor.
(Ord. 1979-158. Passed 8-14-79.)

CHAPTER 1303 - Residential Building Code of Ohio for One-, Two- and Three-Family Dwellings

[1303.01](#) Application and enforcement.

[1303.02](#) Conflict.

[1303.03](#) Amendments.

CROSS REFERENCES

Adoption by reference - see Ohio R.C. 731.231

Energy conservation standards - see OAC Ch. 4101:2-31

1303.01 - APPLICATION AND ENFORCEMENT

In order to regulate the erection, construction, repair, alteration and maintenance of residential dwellings, the Residential Code of Ohio for One-, Two- and Three-Family Dwellings as adopted by the Ohio Board of Building standards pursuant to Ohio R.C. 3781.10, shall apply and be enforced within the City. (Ord. 2006-30. Passed 5-22-06.)

1303.02 - CONFLICT

Except as otherwise specifically provided for in this chapter, in all other cases of conflict between the Residential Code adopted herein and any other Municipal ordinance or technical code adopted thereby, the more restrictive provision shall govern.

1303.03 - AMENDMENTS

The Residential Code adopted herein is modified by the amendment, enactment or deletion of the following sections as respectively indicated, which modifications are hereby adopted as set forth here:

Sec. R-313-Smoke Detectors.

(a) "Early fire warning system" means an approved automatic warning system of one or more devices that detect any of the products of combustion, including visible or invisible products of combustion, and that produces an audible alarm in a building for the purpose of notifying the occupants thereof of the presence of a fire. The primary power for such system may be either an AC electrical system or a monitored battery. Systems with detectors sensitive to heat only are not included in this definition for the purposes of this section.

For the purpose of installation and maintenance only, a system shall be deemed approved if it is listed by the Underwriters Laboratories, Inc., and conforms to the applicable sections of NFIPA Standard No. 72-1999 titled "National Fire Alarm Code".

(b) The owner of a building of residential occupancy for which no early fire warning requirements have been imposed by any other applicable municipal ordinance or state law shall install an operable early fire warning system and be responsible for assuring that an operable early fire warning system is present on the premises on or before June 1, 2000. Detectors shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in each living unit and on each additional story without sleeping areas of the living unit, including basements or cellars, and excluding crawl spaces and unfinished attics. Each detection device shall cause the operation of an alarm that shall be clearly audible in all bedrooms when all intervening doors are closed and over all household equipment that may be in operation at night

or in full operation. All detectors shall be installed and maintained in accordance with NFIPA Standard 72-1999. "National Fire Alarm Code".

The owner of any dwelling unit shall not rent or lease or cause to be occupied any unit without operating approved smoke detectors as required. The owner/occupant shall verify the presence of the required smoke detectors at the time of occupancy and make such records available on demand of the fire official.

The occupant shall not occupy any living unit without operating approved smoke detectors as required.

"Owner" for the purposes of this section shall mean and include the record owner of the premises as evidenced by the deed records of the Scioto County Recorder and also the purchaser of the premises under a land contract. If the premises are being purchased pursuant to a land contract, it shall be the duty of the purchaser to install the early fire warning system and be responsible for assuring that an operable early fire warning system is present on the premises.

(c) In any building or residential occupancy in which the owner is required to have installed an operable early fire warning system, it shall be the responsibility of the occupant of each residential unit to maintain or have maintained the early fire warning system in that unit whether or not such occupant is the owner, as defined in Section R-215(B) of the Building Code. It shall be the responsibility of the owner to maintain or have maintained any detectors required in cellars or basements of multi-unit structures except where the cellar or basement is part of an individual residential unit.

"Maintain or have maintained" for the purpose of this section shall require in the case of a battery-operated device the replacement of the battery when expired, or in the case of an inoperative or missing device or an inoperative AC electrical system the notification of the building owner and the Portsmouth Fire Department of the inoperative status of the system or device. All single station smoke detectors with an exterior test device shall be tested at least monthly and upon initial occupancy where required. Smoke detectors designed with a 10 year sealed battery are preferred where battery operated smoke detectors are utilized.

(Ord. 2000-34. Passed 3-27-00.)

CHAPTER 1305 - Permits and Fees

- [1305.01](#) Permits.
- [1305.02](#) Authorizations of occupancy.
- [1305.03](#) Fees; disposition.
- [1305.04](#) One, two and three-family permit fees for new buildings; additions, alterations, repairs, rehabilitation; parking of trailers.
- [1305.05](#) Fees for Ohio Building Code regulated structures.
- [1305.06](#) Moving.
- [1305.07](#) Wrecking.
- [1305.08](#) Blocking public ways.
- [1305.09](#) Electrical permits and inspections.
- [1305.10](#) Register of persons in electrical business.
- [1305.11](#) Licenses.
- [1305.12](#) Registration of contractors.
- [1305.99](#) Penalty.

CROSS REFERENCES

- Building permits to comply with subdivision regulations - see P. & Z. [1103.04](#)
- Grading permit and fee - see P. & Z. [1115.04](#)
- Plumbing permits and fees - see BLDG. [1333.03](#)
- Rooming house permits and fees - see BLDG. [1343.10](#)

1305.01 - PERMITS

(a) **Permit Required.** No person shall erect, construct, alter, repair, equip, remove or demolish a house, building or structure without first filing with the Building Officer an application in writing and obtaining a permit.

(Ord. 1947-70. Passed 7-16-47.)

(b) **Fees; Contents of Permit.** No permit shall be issued by the Building Officer until the fees hereinafter prescribed have been paid to him. Each permit shall show the owner's name, the location of the premises, the operations involved and a receipt for the total amount paid.

Where the work for which a permit is required by this Building Code is started, or proceeded with, prior to obtaining such permit, the fees hereinafter prescribed shall be doubled, except that where such fees exceed two hundred dollars (\$200.00), that part of the fee in excess of two hundred dollars (\$200.00) shall not be doubled. Such fees shall be the fees for the entire project, and the payment of such double fees shall not relieve any person from fully complying with the requirements of this Building Code in the execution of the work, nor from any other penalty prescribed herein.

(c) **Effective Period.** When a permit has been issued, the operation called for by it shall be for a term of one year from its date for new construction and six months for alterations and repairs under ten thousand dollars (\$10,000) provided that the work authorized by such permit is begun within thirty days of the date of the issuance of such permit. At the expiration of one year for new construction and six months for alterations and repairs under ten thousand dollars (\$10,000) from the date of the issuance of the permit, a new permit shall be obtained in the same manner as provided for the original permit, before such work can proceed further.

(Ord. 1991-95. Passed 8-13-91.)

(d) Application. Applications for permits shall be filed in triplicate upon appropriate forms furnished by the Building Officer and, for work other than nonstructural reconstruction, alteration, installation or repair work, shall be accompanied by plans in duplicate of the proposed work, a statement of the materials to be used and a lot or plot plan showing the dimensions of the lot and the location and dimensions of the building or structure. Such lot or plot plan shall be accompanied by such information as to establish accurately the legal boundaries and dimensions of the property.

(e) Issuance. If the Building Officer approves such application for a building permit and such application is found to be in accordance with the provisions of this Building Code and other ordinances of the City, the Building Officer shall indicate his approval of such application and issue a building permit for the proposed work as soon as practicable.

(f) Moving, Removal, Demolition. No building shall be moved until a permit has been obtained from the Building Officer or other designated official, and such official shall not issue a permit if in his judgment the proposed new location of the building would seriously increase the fire hazard of the surrounding buildings. No building of frame construction or unprotected metal construction shall hereafter be moved from without to within the fire limits.

No permit to remove a building or structure shall be granted until notice of application thereof has been given to the owners of lots adjoining the lot upon which such building or structure is to be moved and to the owners of wires or other impediments, the temporary removal of which will be necessary, and an opportunity has been given such owners to be heard upon such application; nor until a bond in an adequate sum has been filed with the Mayor to indemnify and save harmless the City for damages.

Demolition permits shall be applied for the same as building permits, but with no plans needed. However, specifications and diagrams showing methods to be used for needling or shoring adjacent buildings may be required by the Building Officer.

(g) Approval in Part. Nothing in this section shall be construed to prevent the Building Officer from issuing a permit for the construction of part of a building or structure before the entire plans and detailed statements of such building or structure have been submitted or approved, if adequate information and detailed statements have been presented for the same and have been found to comply with this Building Code.

(h) Conditions.

(1) All work performed under a permit issued by the Building Officer shall conform to the approved application and plans, and approved amendments thereof.

(2) The location of all new construction as shown on the approved plot diagram, or an approved amendment thereof, shall be strictly adhered to.

(3) No plans, specifications or area of a lot or plot for which a plot diagram has been filed and has been used as a basis for a permit, when once approved by the Building Officer or other authorized agent, shall in any way be changed or altered without the written consent of the Building Officer or his authorized agent.

(4) The permit holder or his agent shall keep posted in a conspicuous place on the work, the permit, and shall keep it posted until the completion of the work. The Building Officer may require a certified copy of the approved plans to be kept on the premises at all times from the commencement of the work until the completion thereof. The Building Officer shall be given at least twelve hours' notice of the starting of work under a permit.

(5) Every permit issued by the Building Officer under the provisions of this Building Code shall have his signature affixed thereto. However, he may authorize a subordinate to affix such signature.

(i) Revocation. The Building Officer may revoke a permit or approval issued under the provisions of this Building Code in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

(j) Conformity to Zoning Code. No building permit shall be issued for any building or structure, the construction of which, or other work on which, violates any of the provisions of the Zoning Code, as now adopted or as hereafter amended or supplemented.

(Ord. 1947-70. Passed 7-16-47.)

1305.02 - AUTHORIZATIONS OF OCCUPANCY

(a) Authorization Required. No building or structure or part thereof hereafter erected or constructed shall be occupied until an authorization of occupancy has been issued by the Building Officer or other authorized agent. No change of occupancy or use shall be made in a building hereafter erected or altered that is not consistent with the last issued authorization of occupancy or that is in violation of the provisions of this Building Code or other ordinances of the City.

(b) Issuance. After any building or structure has been constructed in accordance with the building permit and the provisions of this Building Code and other ordinances of the City, it shall be the duty of the Building Officer to make authorization for occupancy of same, certifying that the building or structure has been constructed in accordance with the building permit and this Building Code and other ordinances of the City, and authorizing the installation and use of utilities and municipal services and the occupancy of such building or structure.

(c) Change of Occupancy. No change of occupancy or use shall be made in a building hereafter erected or altered that is not consistent with the last issued authorization of occupancy for such building, unless a permit is secured. In the case of an existing building, no change in occupancy that would bring it under some special provision of this Building Code shall be made unless the Building Officer finds, upon inspection, that such building conforms substantially to the provisions of law with respect to the proposed new occupancy and use, and issues an authorization of occupancy therefor.

The use of a building or premises shall not be deemed to have changed because of a temporary vacancy or change of ownership or tenancy. But the re-establishment in a building, after a change of occupancy has been made, of a prior use that would not have been permitted in a new building of the same type of construction, is prohibited. No person shall make a change from a specifically prohibited use to another specifically prohibited use.

(Ord. 1947-70. Passed 7-16-47.)

1305.03 - FEES; DISPOSITION

Upon the filing and approval of applications for permits herein provided for and upon the payment of the required fees to the Building Officer, a building permit or other required permit shall be issued to such person or persons to erect such building or structure or to do such other work or to conduct such operations as specified in the permit. The required fees for issuing each and every permit shall be as specified in Sections [1305.04](#) et seq.

Fees charged for permits specifically listed or referred to in this chapter shall be used specifically for the purposes of the administration of the Building Code and the necessary services rendered therefor. (Ord. 1947-70. Passed 7-16-47.)

1305.04 - ONE, TWO AND THREE-FAMILY PERMIT FEES FOR NEW BUILDINGS; ADDITIONS, ALTERATIONS, REPAIRS, REHABILITATION; PARKING OF TRAILERS

The permit fees for new buildings, additions to existing buildings, alterations, repairs, rehabilitation and parking of trailers outside approved trailer camps shall be as follows:

- (a) Buildings of estimated construction costs from \$0 to \$2,000, base flat fee of \$25.00.
- (b) Buildings of estimated construction costs from \$1,000, and less than \$100,000, a base flat fee of \$25.00 plus a unit fee of \$3.00 per \$1,000.
- (c) Buildings of estimated construction costs over \$100,000, a base flat fee of \$25.00 plus a unit fee of \$300.00, plus a unit fee of \$1.00 for each \$1,000 over \$100,000.
- (d) All of the above listed specific charges notwithstanding, the minimum fee for any single permit shall be \$25.00.
- (e) If, for any reason, a re-inspection is necessary, then an additional fee of \$25.00 shall be charged.
- (f) Any mobile home parked outside of a trailer camp, a building permit fee of \$50.00 per unit, is required.
- (g) Any double wide mobile home parked outside of a trailer camp, a building permit fee of \$100.00 per unit is required.
- (h) An occupancy permit shall be a base flat fee of \$50.00 each inspection.
- (i) A residential plumbing permit shall be a base flat fee of \$25.00 plus \$6.00 fee for each trap or fixture. (Ord. 2000-33. Passed 3-27-00.)

1305.05 - FEES FOR OHIO BUILDING CODE REGULATED STRUCTURES

(a) Fees for New Construction Additions:

| <u>Type of Work</u> | <u>Processing Fee</u> | <u>Per 100 Square Feet</u> |
|----------------------|-----------------------|----------------------------|
| Structural | \$ 200.00 | \$ 7.50 |
| Electrical | 200.00 | 4.50 |
| Sprinklers | 200.00 | 4.50 |
| Industrialized units | 150.00 | 1.30 |
| Plumbing | 200.00 | — |
| Mechanical | 200.00 | 4.50 |

(b) Fees for Alterations and Changes of Use:

| <u>Gross Floor Area in Square Feet</u> | <u>Fee</u> |
|--|------------|
| 0 - 2,000 | \$ 150.00 |
| 2,001 - 5,000 | 200.00 |
| 5,001 - 10,000 | 300.00 |
| Over 10,000 | 400.00 |

Note: These fees are charges separately for structural, electrical, sprinkler and mechanical work.

(c) Fees for Special Inspections: \$150.00 per inspection

Fees for Occupancy Permit

(Without Plans): 50.00 per inspection

(d) Fees for Plumbing:

Permit Fees

Application for permit \$50.00

Each trap or fixture,

appliance, device or apparatus \$15.00

Plan Evaluation Fee

1 through 20 fixtures \$40.00

21 through 40 fixtures \$60.00

41 through 59 fixtures \$80.00

60 or more fixtures \$100.00

Re-inspection Fee. Whenever a re-inspection of any type is made necessary by the failure of the applicant to have the work ready for inspection when so reported, or by reason of faulty or improper installation, such person shall pay a fee of fifty dollars (\$50.00) for each re-inspection. (Ord. 2003-76. Passed 8-25-03.)

1305.06 - MOVING

Permit fees for moving buildings shall be as follows:

(a) Where a building of a size not exceeding 2,500 cubic feet is moved on vehicles over a public thoroughfare, and the total height above the ground when placed on such vehicles does not exceed fourteen feet, or a maximum width of ten feet - forty dollars (\$40.00).

(b) Where a building is moved on or across a public thoroughfare, other than as provided for in subsection (a) and is of frame construction not over one story in height - one hundred dollars (\$100.00); frame over one story in height - two hundred dollars (\$200.00); any brick building - four hundred dollars (\$400.00).

(c) Where a building is moved from one lot to another without moving on a public thoroughfare, the cost of moving shall be considered as an alteration cost and the fee shall be determined in accordance with Section [1305.05](#).

(d) Where a building is moved from one location on a lot to another location on the same lot, the cost of moving shall be considered an alteration cost, and the fee shall be determined in accordance with Section [1305.05](#). (Ord. 1991-95. Passed 8-13-91.)

1305.07 - WRECKING

(a) The permit fee for wrecking shall be four dollars (\$4.00) for each 1,000 square feet or fraction thereof of total floor area. The floor areas of each story, except the basement, using outside dimensions, shall be additive and a separate permit shall be required for each separate building. Before the bond as required in Section [1305.01](#) can be released, the lot shall be cleaned to the satisfaction of the Building Officer.

(Ord. 1991-95. Passed 8-13-91.)

(b) All of the above listed specific charges notwithstanding, the minimum fee for any single permit shall be fifty dollars (\$50.00). (Ord. 2000-33. Passed 3-27-00.)

(c) If, for any reason, a re-inspection is necessary, then an additional fee of twenty dollars (\$20.00) shall be charged. (Ord. 1991-95. Passed 8-13-91.)

1305.08 - BLOCKING PUBLIC WAYS

There shall be no fee for the blocking of a sidewalk, street or alley, but it shall be the responsibility of the person constructing, reconstructing, altering, repairing, moving, removing or demolishing a building or structure or part thereof, to repair, or repay to the City for the repair of any damage to such sidewalk, street or alley as may occur during such work upon such building or structure and to save harmless the City for all damage claims arising from the neglect to erect barricades and warning lights and other protective measures.
(Ord. 1947-70. Passed 7-16-47.)

1305.09 - ELECTRICAL PERMITS AND INSPECTIONS

All electrical work shall be in accordance with the regulations and requirements of the National Electrical Code and the "List of Inspected Electrical Equipment", being the standards of the National Fire Protection Association both as adopted or hereafter amended, or advanced engineering practices recognized by the American Institute of Electrical Engineers Electrical Testing Laboratories and the National Bureau of Standards and in accordance with the minimum requirements of the State Building Code.

(a) Residential Wiring Permit Fees.

(1) New residential construction.

Service entrance - flat fee:

| | |
|----------|---------|
| 100 amps | \$40.00 |
| 150 amps | 60.00 |
| 200 amps | 80.00 |
| 250 amps | 100.00 |
| 300 amps | 110.00 |
| 350 amps | 120.00 |
| 400 amps | 130.00 |
| 450 amps | 140.00 |
| 500 amps | 150.00 |
| 550 amps | 160.00 |
| 600 amps | 170.00 |

(2) Existing residential.

Change of capacity or relocation of service entrance - flat fee:

| | |
|----------|---------|
| 100 amps | \$30.00 |
| 150 amps | 40.00 |
| 200 amps | 60.00 |
| 250 amps | 70.00 |
| 300 amps | 80.00 |
| 350 amps | 90.00 |
| 400 amps | 100.00 |

(3) Miscellaneous alterations, repairs and additions to existing residential buildings.

A. Repair jobs in residential units where no more than ten new receptacles or lights,

or a combination of both are added - \$20.00

For all above ten receptacles or lights, minimum additional charge, per receptacle - 20.00

B. Major appliances added in an existing minimum residence:

Electric range 12.00*

Electric dryer 12.00*

Air conditioner 12.00*

Electric hot water tank 12.00*

Heat pump 12.00*

Any combination of the above at the same time 12.00*

Baseboard and/or ceiling heat per room 8.00*

* \$20.00 minimum

(b) Temporary Service Entrance.

All sizes, all purposes \$30.00

(c) Signs.

(1) Neon signs, fluorescent signs.

First transformer or ballast for sign \$10.00*

Each additional transformer or ballast 6.00*

* \$20.00 minimum per sign

(2) Incandescent signs.

Minimum inspection charge 20.00*

Or 1 to 10 bulbs .60 each*

All above 10 bulbs .20 each*

* \$20.00 minimum per sign

(d) Miscellaneous Alterations, Residential.

(1) Air conditioners and cooling towers.

First motor or compressor motor \$20.00

Each additional motor, one horsepower or over 6.00

(2) Open wiring or lighting. (Primarily lighting for outside sales lots)

Minimum inspection charge 12.00*

Or 1 to 50 lamps .50 each*

All above 50 lamps .20 each*

* \$20.00 minimum

(3) Other installations. For the following listed installations the permit fee shall be the minimum inspection charge of twenty dollars (\$20.00) or, for multiple installations on the same permit, the total of the individual fees as follows:

Window type air conditioners \$6.00
Miscellaneous motors under 1/hp 3.00 each
Heat pumps 8.00
Baseboard and/or ceiling heat, per room 8.00
Electronic air filtering systems 6.00
220 volt special application receptacles 4.00

(e) Existing Commercial.

Change of capacity or relocation of service entrance - flat fee

100 amps or below \$50.00
150 amps 70.00
200 amps 90.00
250 amps 100.00
300 amps 110.00
350 amps 120.00
400 amps 150.00
500 amps 175.00

(f) Miscellaneous Alterations, Repairs and Additions to Existing Commercial Buildings.

(1) Air conditioners and cooling towers.

First motor or compressor motor \$20.00
Each additional motor, one horsepower
or over 6.00

(2) Commercial lighting and/or receptacles (120 volt).

1 to 10 openings \$12.00*
All above 10 openings .50* add'l
* \$20.00 minimum

(3) Open wiring or lighting. (Primarily lighting for outside sales lots).

Minimum inspection charge \$12.00*
Or, 1 to 50 lamps .50 each*
All above 50 lamps .20 each*
* \$20.00 minimum

(4) Other installations. For the following listed installations the permit fee shall be the minimum inspection charge of six dollars (\$6.00) or, for multiple installations on the same permit, the total of the individual fees as follows:

Window type air conditioners \$6.00
Commercial cooking ranges 6.00
Commercial deep fryers 6.00
Commercial cooking ovens 6.00
Miscellaneous motors under 1/hp 3.00 each
Commercial hot water tanks 6.00
Heat pumps 8.00
Baseboard and/or ceiling heat per room 8.00
Electronic air filtering systems 6.00
220 volt special application receptacles 4.00

For each inspection or re-inspection necessary because of incomplete work, wrong address, faulty construction, meter reinstallation or power restored after the power company has removed power or meter for any reason, a charge of twenty dollars (\$20.00) shall be made. This charge shall apply to both commercial and residential wiring.

The minimum charge for inspection shall be twenty dollars (\$20.00). If any person begins any phase of electrical work for which it is necessary to obtain an electrical permit, prior to obtaining such permit, the fee for such work shall be double the fees enumerated herein.

(g) All of the above listed specific charges notwithstanding, the minimum fee for any single permit shall be twenty dollars (\$20.00).

(h) If, for any reason, a re-inspection is necessary, then an additional fee of twenty dollars (\$20.00) shall be charged. (Ord. 2000-05. Passed 1-24-00.)

1305.10 - REGISTER OF PERSONS IN ELECTRICAL BUSINESS

The City Electrical Inspector shall maintain a register of all persons engaged in or intending to engage in the electrical installation business. Any person engaged in or intending to engage in the electrical installation business shall make application to the Division of Electrical Inspection, Department of Engineering, on a form provided by the City, to have his name placed on the register for those engaged in the electrical installation business. This application form shall contain the name and address of the firm or place of business and such other information as the Electrical Inspector determines will be reasonably necessary in the administration and enforcement of this Building Code.

Any person making application to have his name placed on the register of those engaged in the electrical installation business shall submit with the application a fee of thirty dollars (\$30.00). The registration provided for in this section shall apply as of January 1, 1963, and annually on each January 1 thereafter.

No electrical permit shall be issued to any person to do any electrical work whose name is not on the register maintained by the Electrical Inspector, except to the owner of property to personally perform the work in or on such property. (Ord. 1991-95. Passed 8-13-91.)

1305.11 - LICENSES

Nothing in this Building Code shall interfere with or prevent the issuance of licenses as required or provided for by law or ordinance or the holding of an examination of a person applying for such license or of the premises for which a license is issued, provided that the Building Officer is kept duly informed of such actions as to matters covered by this Building Code. (Ord. 1978-44. Passed 4-11-78.)

1305.12 - REGISTRATION OF CONTRACTORS

The City Engineering Department shall maintain a register of all persons engaged in or intending to engage in any aspect of construction contracting within the City. Any person engaged in or intending to engage in the construction contracting business shall make application to the Department of Engineering on a form provided by the City, to have their name placed on the register of those engaged in the construction contracting business. This application form shall contain the name and address of the contractor and such other information as the Engineering Department determines to be reasonably necessary in the administration and enforcement of this registration process.

Any person making application to have their name placed on the register of those engaged in any construction contracting business shall submit with the application a fee of fifty dollars (\$50.00); a performance bond in the amount of fifteen thousand dollars (\$15,000); proof of liability insurance in the amount of three hundred thousand dollars (\$300,000); Ohio Workers Compensation Certificate; State required license for electrical, plumbing, HVAC, refrigeration or hydronic work; and proof of registration with the City Income Tax Division. The registration shall be renewed the 2nd day of January each year.

No construction contracting permit shall be issued to any person to do any contracting work whose name is not on the register maintained in the Engineering Department, except to the owner of the property to personally perform the work in or on such property.

(Ord. 2007-34. Passed 5-29-07.)

1305.99 - PENALTY

(a) Whoever violates any provision of this Code or fails to comply therewith or with any of the requirements thereof, or erects, constructs, adds to or alters, moves or demolishes, or has erected, constructed, added to or altered, moved or demolished, a building or structure or portion thereof in violation of a detailed statement or plan submitted and approved thereunder, or of a permit or certificate issued thereunder is guilty of a misdemeanor of the second degree. This penalty shall apply individually to each owner, architect, engineer, builder, contractor, agent or other person or corporation committing or assisting the commission of such violation, as aforesaid. Each and every day or portion thereof during which any violation is committed or continued, as aforesaid, shall constitute a separate offense.

(b) The imposition of the penalties herein prescribed shall not preclude the City Solicitor from instituting an appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, addition, alteration, conversion, removal, demolition, maintenance or use, or to restrain, correct or abate a violation, or to prevent the occupancy of a building or structure or portion thereof, or of the premises, or to prevent an illegal act, conduct, business or use in or about any premises within the scope of the Code. (Ord. 1978-44. Passed 4-11-78.)

CHAPTER 1308 - Signs

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| 1308.02 | Applicability. | 1308.10 | Permit procedure. |
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| 1308.08 | Prohibitions. | 1308.16 | Abatement by City. |
| 1308.99 | Penalty. | | |

CROSS REFERENCES

Power to regulate advertising - see Ohio R.C. 715.65

Advertising on State and Interstate highways - see Ohio R.C. Ch. 5516

Advertising, billposters and handbills - see BUS. REG. Ch. [709](#)

Awnings and signs - see S.U. & P.S. Ch. [905](#)

1308.01 - DEFINITIONS

(a) "Sign" means any letters, figures, sign, symbol, trademark or illuminating device intended to attract attention to any place, subject, person, firm, corporation, public performance, article, machine or merchandise whatsoever for identification or advertising purposes. However, this shall not include any official court or public notices, nor the flag, emblem or insignia of a government.

(b) "Area" means that area enclosed by one rectangle, the sides of which make contact with the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper or the display. The area of a sign composed of characters or words attached directly to a building wall surface shall be the smallest rectangle which encloses the whole group.

(c) "Ground sign" means a free-standing sign which has a supporting base designed as an integral part of the sign resting totally or primarily on the ground.

(d) "Pole sign" means a sign which is supported wholly by a pole or poles and designed so as to permit pedestrian or vehicular traffic thereunder.
(Ord. 1977-56. Passed 5-24-77.)

(e) "Wall or panel sign" means a sign mounted upon the exterior face of an exterior wall of a building, or attached to the wall of a building, or less than thirty-six inches therefrom.
(Ord. 1977-183. Passed 10-11-77.)

(f) "Marquee" means a canopy or covering structure projecting from and attached to a building.

(g) "Projection" means the distance by which a sign extends over public property or beyond the building line.

(h) "Building line" means the line beyond which the building may not extend as established by ordinance. A building line in some instances may coincide with the property line.

(i) "Roof line" means either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette, and where a building has several roof levels, this roof or

parapet shall be the one belonging to that portion of the building on whose wall the sign is located.

(j) "Window sign" means any sign affixed to, in contact with, or within twelve inches of a window.

(k) "Project sign" means direct attention to the promotion, development and construction of the property on which it is located and which identifies the architects, engineers, contractors and other individuals, organizations or firms involved in the construction.

(l) "Memorial sign" means names of buildings and dates of erection when cut into any masonry surface or inlaid so as to be a part of the building or when constructed of bronze, aluminum or other incombustible material.

(m) "Real estate sign" means advertising the sale, rental or lease of the premises or part of the premises on which the sign is displayed.

(n) "Political sign" advocates action on a public issue or indicates a candidate for public office.

(o) "Informational sign" means a public sign designed to give general information concerning historic sites, designation of rest rooms, telephone locations, restrictions on smoking, door openings and private traffic control and parking signs.

(p) "Off-premises sign" identifies or advertises a business or activity on premises other than the premises on which the sign is located.

(q) "Super graphic" means an artistic rendering painted or applied directly to the exterior face of a building which may or may not serve the identification or advertisement purposes of a sign. (Ord. 1977-56. Passed 5-24-77.)

1308.02 - APPLICABILITY

This chapter is applicable to all lots and lands within the City, with certain restrictions for the regulated area of the Downtown Business District, defined as all lots and lands bounding upon and abutting upon the north side of Second Street to the south side of Ninth Street to the east side of Washington Street to the west side of Waller Street. (Ord. 2005-58. Passed 8-8-05.)

1308.03 - SIZE

A total sign area shall not exceed more than seventy-five percent (75%) of the total building surface area containing the sign. (Ord. 1977-56. Passed 5-24-77.)

1308.04 - LOCATION

Signs attached to the exterior of buildings may be wall signs only and may be located anywhere on the surface of the building. Where a building does not cover the full area of the property the sign may be free-standing or ground-supported and may be located anywhere behind the street setback lines, except as may be further limited by the Zoning Ordinance.

Base or pole must be behind the setback line and sign not extend over line more than thirty-six inches.

Sign may be placed on the vertical or angled surfaces of marquees, canopies, or awnings, but may not project above or below the vertical or angled surface.

Signs shall not project above the roof line. (Ord. 1977-183. Passed 10-11-77.)

1308.05 - CONTENT

Signs permitted within the regulated areas shall be for the purposes of identification. Promotional slogans or advertising must receive approval of the Planning Commission. (Ord. 1977-56. Passed 5-24-77.)

1308.06 - TEMPORARY SIGNS

Temporary signs of the types listed below shall be permitted within the restricted area thirty days prior to the event or commencement of the activity to which they refer and are for a period of not more than ten days following the event or cessation of the activity. The following signs shall be permitted within the restricted area as provided above and shall not require a permit:

- (a) Project signs.
- (b) Window signs.

(Ord. 1977-56. Passed 5-24-77.)

1308.07 - ILLUMINATION

The light from any illuminated sign shall be so shaded, shielded or directed that the light intensity or brightness will not be objectionable to surrounding areas.

Beacon lights are not permitted.

No colored lights shall be at any location or in any manner so as to be confused with or construed as traffic control devices.

Neither the direct nor reflected light from primary light sources shall create a traffic hazard to operators of motor vehicles on public thoroughfares.

No exposed reflective type bulbs and no strobe light or incandescent lamp which exceeds fifteen watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property. (Ord. 1977-56. Passed 5-24-77.)

1308.08 - PROHIBITIONS

Any sign shall be prohibited which:

(a) Contains statements, words or pictures of an obscene, indecent or immoral character, such as will offend public morals or decency.

(b) Contains or is an imitation of an official traffic sign or signal or contains the words "stop", "go slow", "caution", "danger", "warning" or similar words.

(c) Is of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hides from view any traffic or street sign or signal.

(d) Contains or consists of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners or other similarly moving devices. These devices when not part of any sign are similarly prohibited, unless they are specifically permitted by other legislation.

(e) Uses flame as a light source.

(f) A project sign shall not exceed twelve square feet in area naming the parties engaged in the construction on the premises where the sign is located, but only during such period prior to and during which actual construction takes place.

(g) An information sign shall not exceed two square feet in sign area.

(Ord. 1977-56. Passed 5-24-77.)

1308.09 - NONCONFORMING SIGNS

Signs existing at the time of the effective date of this section and not conforming to the provisions of this chapter shall be regarded as nonconforming signs which may be continued for a period of five years from the date of their construction or six months from the effective date of this section, whichever is longer, if properly repaired and maintained as provided in this chapter and continued to be in conformance with other City ordinances. At the end of this period they shall be removed by the owner, agent or person having beneficial use of the structure or land on which the signs are located.

Any sign existing in violation of the prohibitions contained in Section [1308.08](#) shall be removed, altered or repaired in accordance with the provisions of this chapter within six months following the date of passage of this section.

Nonconforming signs which are structurally altered, relocated or replaced shall comply immediately with all provisions of this chapter. (Ord. 1977-56. Passed 5-24-77.)

1308.10 - PERMIT PROCEDURE

Applications for permits to erect, place, paint, illuminate or alter a sign shall be made by the owner or lessee of the property for which a sign is proposed.

Each application for a sign permit shall be accompanied by drawings to scale showing:

- (a) The width of the building face or faces which abut the street or the width of the lot not occupied by a building;
- (b) The design and layout proposed including the total sign area, the size, height, character, materials and color of letters, lines and symbols, and total number of items of information;
- (c) For illuminated signs, the number and types of lamps and lens material, and a statement in writing that the illumination of such signs shall meet the following provisions:
 - (1) Light sources to illuminate signs shall be shielded from all adjacent residential buildings and streets and shall not be of such brightness so as to cause reasonable objection from adjacent residential districts.
 - (2) Any sign having an outside power source must have an electrical inspection and a permit to govern safety and conformance with the State Electrical Code.
- (d) The exact location of the sign in relation to the building and property; and
- (e) Details and specifications for construction, erection and attachments as may be required by the Building Code and the name of the sign contractor and company.

Notwithstanding other sections of this chapter, owners and applicants of all permitted advertising devices or signs located within 660 feet of the edge of the right of way of an interstate or primary state highway shall make application for a permit to the Director of the Department of Transportation of the State of Ohio, c/o Advertising Device Control Section, and comply with all provisions of Ohio R.C. Chapter 5516 prior to applying for a permit from the City. Interstate and primary highways are defined in Ohio R.C. 5516.01. (Ord. 2005-59. Passed 8-8-05.)

1308.11 - SEVERANCE

When, for any reason, a building becomes vacant, all signs, temporary and/or permanent, for the business using the building, must be removed within thirty days of vacancy. (Ord. 1977-56. Passed 5-24-77.)

1308.12 – SUPER GRAPHICS

A super graphic shall be subject to review of the Planning Commission.
(Ord. 1977-56. Passed 5-24-77.)

1308.13 - PROHIBITION OF SIGNS WITHIN THE RIGHT OF WAY

With the exception of hospital signs, church signs and safety-related signs as approved by the Mayor, no person shall attach or place any sign, advertisement or poster within the limits of the right of way of any public street, highway or alley within the City, nor shall there be permitted the posting of any signs, with the exception of hospital signs, church signs, and safety-related signs as approved by the Mayor, upon any and all utility poles within the City. With the exception of hospital signs, church signs and safety-related signs as approved by the Mayor, no person shall attach or place any sign, advertisement, or poster upon any lamp post, electric light, railway, telephone or telegraph pole, shade tree or any property belonging to the City.
(Ord. 1984-53. Passed 7-24-84.)

1308.14 - REAL ESTATE SIGNS

Any real estate sign erected within the City shall be on the offered property and not more than seven square feet per face for residential and twelve square feet for commercial and industrial property. (Ord. 1977-57. Passed 5-24-77.)

1308.15 - MISCELLANEOUS SIGNS

There is hereby prohibited the erection of any private, commercial, industrial and advertising signs on public property, within the City, excluding any church signs and hospital signs. Also prohibited is the placing of signs on utility poles. (Ord. 1977-59. Passed 5-24-77.)

1308.16 - ABATEMENT BY CITY

A sign found to be in violation of the provisions of this chapter which is not removed within the time period provided elsewhere in this chapter shall be deemed a public nuisance within the meaning of Section [1313.01](#)(a) which may be abated as follows. Should the nuisance not be abated within the period allowed by the Building Officer, the Mayor, or his agent, is authorized, at any time thereafter, to enter upon the premises to abate the nuisance by removal of the sign or by taking any other such action as may be required. No owner shall deny the Mayor or his agent the right of entry upon the premises for such purposes.

In abating the nuisance the Mayor may call upon any department of the City for whatever assistance may be necessary or may, by private contract, obtain the abatement thereof. The cost of such private contract shall be paid for from City funds specifically authorized by Council in order to abate such public nuisance.

In abating such nuisance the Mayor may go to whatever extent is necessary to complete abatement of the same and the cost of the abatement action shall be recovered from the owner as follows:

(a) The owner shall be billed directly by certified mail for the cost of the abatement. The bill for the cost of the abatement shall be paid within sixty days after receipt of the bill.

(b) If the cost is not so recovered then the City shall cause such cost to be levied as an assessment and recovered in accordance with Ohio R.C. 715.261.

(Ord. 1984-53. Passed 7-24-84.)

1308.99 - PENALTY

Whoever violates any provision of this chapter is guilty of a misdemeanor of the second degree. In the case of political signs, there is a rebuttable presumption that the sign was authorized by the candidate and/or his or her campaign committee. Each day's violation shall constitute a separate violation, and also each sign placed in violation of this chapter shall constitute a separate violation.

(Ord. 1984-53. Passed 7-24-84.)

CHAPTER 1309 - House Moving

[1309.01](#) Permit required; conditions and limitations.

CROSS REFERENCES

Power to license house movers - see Ohio R.C. 715.27

Permit fees - see BLDG. [1305.06](#)

1309.01 - PERMIT REQUIRED; CONDITIONS AND LIMITATIONS

No house of any kind or nature whatsoever shall be moved on, in or through any streets of the City except after written permission has been granted by the Building Officer. Before permission may be granted by the Building Officer, sufficient bond or public liability insurance must be posted with him to insure the protection of streets, utilities and private and public property during the moving of the house. The amount of such bond or insurance shall be determined by the Building Officer after consideration of the area involved, distance of move, amount of traffic congestion arising, width of streets, height and size of house and any other conditions which may increase the hazard to either public or private property.

All permits under this section shall be for a definite period of time and in no case longer than absolutely necessary to accomplish the move.

In order to insure that all conditions of the permit are performed the City shall at all times have an inspector present, at the cost of the mover, on a per diem basis.

In addition to the inspection fee provided in Chapter [1305](#), a fee for the use of the streets in the amount of fifty dollars (\$50.00) per day while moving shall be levied. This sum shall be used to insure the proper barricades, lights and police protection in the event it becomes necessary to leave the house on a street for an overnight period. (Ord. 1975-123. Passed 12-23-75.)

CHAPTER 1311 - Unsafe and Unsanitary Buildings

- [1311.01](#) Condemnation by Board of Health.
- [1311.02](#) Condemnation by Fire Officials.
- [1311.03](#) Condemnation by City or State Officials.
- [1311.04](#) Fire loss insurance proceeds.
- [1311.05](#) Occupying a condemned structure.
- [1311.99](#) Penalty.

CROSS REFERENCES

Removal of unsafe structures - see Ohio R.C. 715.26(b), 715.261

Condemnation - see BLDG. [1343.08](#)

1311.01 - CONDEMNATION BY BOARD OF HEALTH

(a) **Definitions.** For the purpose of this section the following shall apply unless the context clearly indicates or requires a different meaning.

- (1) "Board of Health" means the Board of Health of the City.
- (2) "Health Commissioner" means the Health Commissioner of the City or his duly authorized delegate or representative.
- (3) "Dwelling" means a structure all or part of which is designed for human habitation.
- (4) "Dwelling unit" means any room, group of rooms, or other interior area of a structure designed or used for human habitation.
- (5) "Occupant" means any person who is living, sleeping, cooking, eating in, working or actually having possession of a dwelling, dwelling unit or premises.
- (6) "Owner" means any person who along, jointly or severally with others:
 - A. Shall have legal title to any premises, dwelling or dwelling unit with or without accompanying actual possession thereof; or
 - B. Shall have charge, care or control of any premises, dwelling or dwelling unit as owner or agent of the owner, or an executor, administrator, trustee or guardian of the estate of the owner.
 - C. Any person having a legal or equitable interest in said property.
- (7) "Person" means any individual, firm, corporation, association or partnership.
- (8) "Premises" means a tract or plot of land occupied by a building or structure of any kind or nature, as well as the entire parcel of land surrounding such buildings or structure, including but not limited to, fences, walkways, walls and appurtenances.

(Ord. 1994-40. Passed 4-25-94.)

(b) **Inspections.** The Health Commissioner or his authorized representative, upon consent of the owner, occupant or other person in charge of the dwelling, is authorized to enter a dwelling, dwelling unit or any other premises and perform an inspection at any reasonable time, or at any other time agreed to by the owner, occupant or other person in charge of the dwelling, dwelling unit or premises. If the Health Commissioner determines that a dwelling, dwelling unit or premises presents an imminent hazard, the Health Commissioner is authorized to conduct an inspection at any time.

If the owner, occupant or other person in charge of the dwelling, dwelling unit or premises fails or refuses to permit free access and entry to the dwelling, dwelling unit or premises, the Health Commissioner or his authorized representative may petition and obtain an order or warrant to inspect from the Portsmouth Municipal Court or Scioto County Court of Common Pleas.
(Ord. 2014-31. Passed 7-28-14.)

(c) Violation Notice. Whenever the Health Commissioner determines that any dwelling, dwelling unit or premises are so constructed or so used that they are unsanitary, unhealthful or unsafe for occupancy, either to the occupants or to other residents of the City, the Health Commissioner shall issue a “violation notice” to the owner or person responsible for the maintenance of the dwelling, dwelling unit or premises in question.

If the violation/violations involve a dwelling, dwelling unit or premises occupied by someone other than the owner or person responsible for the violation/violations and the violation/violations expose the occupant to an actual or suspected health hazard the occupant shall also be notified that a “violation notice” has been issued and of the potential hazard to their health. All notices and orders under this section shall:

- (1) Be put in writing on an appropriate form.
- (2) Include a list of violations and order remedial action.
- (3) Specify a reasonable time in which to comply, giving due consideration to the immediacy of the threat to the health of the occupants. The time given to comply shall not exceed thirty days.
- (4) Be served on the owner or other person in charge and the occupant. Such notice and order shall be properly served on such owner, occupant or other person in charge if a copy thereof is sent by certified mail to his or her last known address or principal place of business. If said certified letter is not accepted it will be considered served if a copy of it is posted in a conspicuous place in or on the dwelling, dwelling unit or premises in question.
- (5) Include a statement of appeal rights.

(d) Condemnation of Premises. If the owner or person responsible for the maintenance of dwelling, dwelling unit or premises does not correct the violation/violations in the allotted time as expressed in the violation notice, the Health Commissioner can condemn and placard the dwelling, dwelling unit or premises as unfit for human habitation. This action shall not be taken however until subsection (e) of this section has been satisfied.

(e) Appeals Procedure.

(1) Any person affected by a “violation notice” as prescribed in subsection (c) of this section may request and shall be granted a hearing before the Health Commissioner, provided the request for such a hearing is made within the time limits specified in the “violation notice.”

(2) After such hearing, the Health Commissioner shall sustain, modify or withdraw the alleged violation/violations as listed on the “violation notice” depending upon his findings. Notice of the decision of the Health Commissioner shall be served on the person by certified mail.

(3) Any person affected by the decision of the Health Commissioner as provided in subsection (e)(2) hereof, shall be entitled to appeal the decision of the Health Commissioner to the Board of Health. Written notice of the appeal must be filed with the Health Commissioner within five days after the affected person has been duly served by certified mail. This notice of appeal shall state the alleged violation/violations appealed. The Board of Health shall hear the appeal at their next regular meeting, provided that no hearing shall be had sooner than five days from the date of the filing of the notice of the appeal. Notice of the Board of Health meeting, at which the appeal is to be heard, shall be given to the appellant by certified mail at the address shown in their notice of appeal. The appellant shall be entitled to appear personally and with counsel, at the meeting of the Board of Health. The Board of Health may, in its discretion, continue the hearing on the appeal from time to time until the hearing is completed.

(4) The Board of Health shall modify, withdraw or sustain the order of the Health Commissioner made pursuant to subsection (e)(2) hereof. The copy of the decision of the Board of Health shall be mailed by certified mail to the appellant at the address shown in the notice of appeal, and to his counsel of record.

(f) Emergency Situation. Whenever the Health Commissioner finds that an emergency exists which requires immediate action to protect the public health, he may, without advance notice or hearing, issue an order, stating the existence of such an emergency, and requiring that such action be taken as he deems necessary to meet the emergency. Such order shall be “effective immediately.” Any person to whom such order is directed shall comply therewith immediately, but shall be advised in writing at the time of the order that, within ten days, they may petition the Health Commissioner for a hearing and shall be afforded a hearing within three working days from the date of the request. After such hearing, depending on his findings as to whether or not an emergency condition exists, and, if so, whether the emergency condition has been abated, the Health Commissioner shall continue such order in effect or modify or revoke it. (Ord. 1994-40. Passed 4-25-94.)

1311.02 - CONDEMNATION BY FIRE OFFICIALS

Whenever the Fire Chief, the State Fire Marshal or any of their agents finds that any building used as a dwelling, for business purposes or for any other purpose within the City is unsafe for occupancy by reason of not having the necessary construction or location to make it safe against fire hazards or that the same in any measure does not comply with the City or State regulations pertaining to fire hazards, they shall order the same condemned and removed. On an order of condemnation from any of such officials or their agents, the property shall be immediately vacated and shall not be reoccupied until the same has been repaired or rebuilt in compliance with rules and regulations regarding the repair and construction of buildings under the orders of such officials.

1311.03 - CONDEMNATION BY CITY OR STATE OFFICIALS

Whenever it is apparent to the City or State officials or their agents, as referred to in Sections [1311.01](#) and [1311.02](#), that a building is unsafe for tenancy by reason of its unstable condition, the officials or their agents shall condemn such building and order it vacated immediately.

1311.04 - FIRE LOSS INSURANCE PROCEEDS

The City is hereby authorized to utilize the procedure described in Ohio R.C. 3929.86 (C) and (D) whereby no insurance company doing business in the State shall pay a claim of a named insured for fire damage to a structure located within the City where the amount recoverable for the fire loss to the structure under all policies exceeds five thousand dollars (\$5,000) unless there is compliance with the following procedures: (Ord. 1983-41. Passed 7-10-00.)

(a) When the loss agreed to between the named insured or insureds and the company or companies equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building or structure, the insurance company or companies in accordance with Ohio R.C. 715.26 (F) shall transfer from the insurance proceeds to the Fire Chief in the aggregate two thousand dollars (\$2,000) for each fifteen thousand dollars (\$15,000) and each fraction of that amount, of a claim, or if at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies the named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing or

securing the building or other structure, shall transfer from the insurance proceeds the amount specified in the estimate. Such transfer of proceeds shall be on a pro rata basis by all companies insuring the building or other structure. Policy proceeds remaining after the transfer to the City shall be disbursed in accordance with the policy terms. The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the designated officer shall return the amount of the fund in excess of the estimate to the named insured or insureds, provided that the City has not commenced to remove, repair or secure the building or other structure.

At the request of the owner/insured, the Chief Building Official will inspect the property after repair/demolition and authorize the Fire Department to return the deposit to the insured. Any subsequent inspection by the Engineer's Office or the Fire Department conducted to confirm compliance will result in a fee of one hundred fifty dollars (\$150.00) charged against the insurance proceeds for each occurrence. (Ord. 2000-78. Passed 7-10-00.)

(b) Upon receipt of the proceeds by the City as authorized by this section, the Fire Chief shall place the proceeds in the City Treasury in a separate sub-fund within Special State and County Fund No. 1700.83, entitled Special State Fire Loss Insurance, to be used solely as security against the total cost of removing, repairing or securing incurred by the City pursuant to Ohio R.C. 715.261. When transferring the funds as required in subsection (a) hereof an insurance company shall provide the City with the name and address of the named insured or insureds, whereupon the City shall contact the named insured or insureds, certify that the proceeds have been received by the City and notify them that the following procedures will be followed:

The fund shall be returned to the named insured or insureds when repairs or removal or securing of the building or other structure have been completed and the required proof received by the designated officer, if the City has not incurred any costs for such repairs, removal or securing. If the City has incurred any costs for repairs, removal or securing of the building or other structure, such costs shall be paid from the fund and if excess funds remain, the City of Portsmouth shall transfer the remaining funds to the named insured or insureds. Nothing in this section shall be construed to limit the ability of a municipal corporation to recover any deficiency under Ohio R.C. 715.261.

Nothing in this subsection shall be construed to prohibit the municipal corporation and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated.

(c) The Fire Chief is hereby designated as the officer authorized to carry out the duties of this section. The Fire Chief shall file a certified copy of this section with the Superintendent of Insurance of the State. (Ord. 1983-41. Passed 6-14-83.)

1311.05 - OCCUPYING A CONDEMNED STRUCTURE

Any occupied structure condemned and placarded by the City of Portsmouth or State of Ohio pursuant to Sections [1311.01](#), [1311.02](#) or [1311.03](#) shall be vacated as ordered by the condemnation official. Any person who enters a placarded premise, any owner or other person responsible for the premises who allows entrance into a placarded premise without a permit issued by the condemning official shall be subject to the penalties provided in Section [1311.99](#). (Ord. 2017-18. Passed 3-13-17.)

1311.99 - PENALTY

Any owner or his agent duly authorized to have supervision over any property of the owner, or any occupant of the buildings, who refuses to obey the orders of any of the officials heretofore designated or their agents, or who delays unreasonably in compliance therewith is guilty of a misdemeanor of the first degree.

Any person convicted of a second or subsequent offense under this chapter, the court shall not suspend the first five hundred dollars (\$500.00) of fine, nor suspend the first thirty days of incarceration. (Ord. 1994-40. Passed 4-25-94.)

CHAPTER 1313 - Nuisances

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| 1313.01 | Definitions. | 1313.06 | Abatement by City; costs. |
| 1313.03 | Service of notice. | 1313.07 | Interpretation. |
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| 1313.99 | Penalty. | | |

CROSS REFERENCES

Nuisances - see Ohio R.C. Ch. 3767

Noxious odors; filthy accumulations - see GEN. OFF. [521.09](#)

Notice to fill lots; remove putrid substances - see GEN. OFF. [521.05](#)

Unsafe and unsanitary buildings - see BLDG. Ch. [1311](#)

Maintenance of structural elements of dwellings - see BLDG. Ch. [1351](#)

1313.01 - DEFINITIONS

As used in this chapter:

(a) "Public nuisance" means any fence, wall, garage, shed, house, building, structure, tree, pole, shrubbery, smokestack, excavation, basement, cellar, well, cistern or sidewalk subspace, or part thereof, which, by reason of the condition in which the same is permitted to be or remain, shall or may endanger the health, life, limb or property of, or cause any hurt, harm, inconvenience, discomfort, damage or injury to, any one or more persons in the City in any one or more of the following particulars:

- (1) By reason of being detrimental to the general health of the community;
- (2) By reason of being a fire hazard;
- (3) By reason of being unsafe for occupancy or use on, in, upon, about or around any premises; or
- (4) By reasons of continued vacancy thereby resulting in lack of reasonable or adequate maintenance of structures and grounds and causing deterioration and blighting influence on nearby properties and thereby depreciating the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such structure is situated.

(b) "Owner" means an owner of record of the premises in fee or of a lesser estate therein, a mortgagee or vendee in possession, an assignee of the rents, or a receiver, executor, administrator, trustee, lessee, or other person, firm or corporation in control of a building, or their duly authorized agents. Any such person thus representing the owner shall be bound to comply with the provisions of this chapter to the same extent as if he were the owner.

(c) "Vermin" means any animal, excluding human beings, with the potential of serving as a reservoir of disease or capable of causing physical injury to man. This definition includes but is not limited to, bats, rats, mice, pigeons, cockroaches and poisonous snakes.

(d) "Reservoir" means any animal, excluding human beings, or arthropod in which an infectious agent can live or multiply and on which it depends primarily for survival, reproducing itself in such manner that it can be transmitted to man. (Ord. 1992-59. Passed 6-22-92.)

1313.02 - INSPECTIONS; NOTICE TO ABATE

Whenever the Building Officer suspects the existence of a public nuisance in the City, he shall promptly cause to be inspected the premises on which he suspects such public nuisance to exist. Should the Building Officer find that a public nuisance does in fact exist on, upon, about or around such premises, he shall proceed with notification as provided for in Section [1313.03](#). Should the Building Officer find that a public nuisance does in fact exist on, in, upon, about or around such premises and he believes it to be a fire hazard or detrimental to community health, he shall promptly notify the Fire Chief and/or the City Board of Health or a duly authorized representative of the Board, whereupon the Fire Chief and/or an authorized representative of the Board shall cause such premises to be inspected. Written reports of such inspection and of the finding with respect to the existence of the public nuisance shall be filed with the Building Officer. (Ord. 1997-197. Passed 12-22-97.)

1313.03 - SERVICE OF NOTICE

The notice provided for in Section [1313.02](#) shall be served either personally or by leaving a copy at the usual place of residence of the owner or by mailing a copy to such owner at his usual place of residence, if such place of residence is outside of Scioto County, by United States certified mail with return receipt requested. If service of the written notice is not perfected by any of such methods, then the Building Officer shall cause such notice to be published in a newspaper of general circulation in the City once each week for two consecutive weeks and shall further cause a copy of the notice to be left with the person, if any, in possession of the premises on which it is alleged that the nuisance exists or, if there is no person in possession thereof, the Building Officer shall cause a copy of the notice to be posted on the premises. The Building Officer shall cause a return of service in the form of an affidavit to be made by the person who served it, which affidavit shall set forth the name and address of the person served, the manner of service and the date thereof. (Ord. 1975-27. Passed 3-25-75.)

1313.04 - RIGHT TO MAKE IMMEDIATE REPAIRS AND/OR REPLACEMENTS

(a) Upon being served notice, the owner of the premises may make immediate application in writing or in person to the Building Officer for a special building permit to undertake the repair and/or replacement of items found to constitute a public nuisance.

(b) Adequate plans and specifications as required by the Building Officer, covering the repairs and/or replacements, shall be furnished by the owner to the Building Officer within fifteen days after receipt of the notice or such additional time as the Building Officer may deem necessary to complete plans and specifications, not to exceed ninety days.

(c) The Building Officer shall, upon approval of the plans and specifications, cause a special building permit to be issued to the owner. The special building permit to be issued by the Building Officer shall be for a period of thirty days and within such thirty day period the owner shall effect and complete such repairs and/or replacements, or the Building Officer may grant an extension to the special building permit if the owner shows reason or cause for the requested extension and if such extension will more readily effect the repairs and/or replacements.

(Ord. 1975-27. Passed 3-25-75.)

1313.05 - HEARING

The owner of the premises may, within ten days after completion of service of the notice, make a demand in writing to the Building Officer for a hearing on the question of whether in fact a

public nuisance exists. The hearing shall be held within thirty days following receipt of the written demand and at least two days notice in writing of the hearing shall be given to the owner. The hearing shall be conducted by a Hearing Board composed of the Mayor, the President of Council, or in his absence the Vice-President of Council, and the City Solicitor. A majority of members of the Hearing Board must concur that a public nuisance exists before enforcement of the abatement is carried out. A copy of the decision of the hearing officers shall be promptly served upon the owner in the manner provided for in Section [1313.03](#) for the service of notices. (Ord. 2003-75. Passed 8-11-03.)

1313.06 - ABATEMENT BY CITY; COSTS

(a) Should the nuisance not be abated within the period allowed and stated on the special building permit issued by the Building Officer or within such additional time as the Hearing Board may grant, the Mayor is authorized, at any time thereafter, to enter upon the premises to abate the nuisance by demolition and removal of the structure or by taking any other such action as may be required. No owner shall deny the Mayor or his agent the right of entry upon the premises for such purposes.

(b) In abating the nuisance the Mayor may call upon any department of the City for whatever assistance may be necessary or may, by private contract, obtain the abatement thereof. The cost of such private contract shall be paid for from City funds specifically authorized by Council in order to abate such public nuisance.

(c) In abating such nuisance the Mayor may go to whatever extent is necessary to complete the abatement of the same and the cost of the abatement action shall be recovered from the owner as follows:

(1) The owner shall be billed directly by certified mail for the cost of the abatement. The bill for the cost of the abatement shall be paid within sixty days after receipt of the bill.

(2) If the cost is not so recovered, then the City shall cause such cost to be levied as an assessment and recovered in accordance with Ohio R.C. 715.261.

(Ord. 1975-27. Passed 3-25-75.)

1313.07 - INTERPRETATION

This chapter shall not be deemed to be a limitation or restriction on the authority of any department, division, official or employee of the City but shall be deemed to be an enlargement of any authority existing by virtue of the statutes of the State or any ordinance heretofore enacted by Council. (Ord. 1975-27. Passed 3-25-75.)

1313.08 - EXTERMINATION PERMIT

Prior to the demolition of any vacant building, structure, shed, outbuilding or barn located in the City, the owner, agent, custodian or tenant desiring such demolition shall procure an extermination permit and written statement from the City Board of Health stating that such building, structure, shed, outbuilding or barn appears to be vermin-free.

Application for an extermination permit shall be made on a form prescribed and furnished by the City Board of Health and submitted to the Health Department at least fourteen days prior to the demolition of said property. However, the Health Commissioner or his duly authorized representative shall have the authority to grant a variance to the time limit if such action does not compromise the intention of this section.

A fee of twenty-five dollars (\$25.00) shall be levied for the issuance of an extermination permit by the Board of Health to defray the cost of superintending the vermin eradication procedure and administration of the permit process. (Ord. 1994-76. Passed 8-22-94.)

1313.09 - COST OF EXTERMINATION

If the City demolishes and removes any vacant building, structure, shed, outbuilding or barn under those powers granted the City by Ohio R.C. 715.26, the costs of an extermination permit and the concomitant vermin eradication procedures shall be recovered from the owner as follows:

(a) The owner shall be billed directly by certified mail for the cost of extermination permit and vermin eradication. The bill shall be paid within sixty days after receipt of the bill.

(b) If the cost is not so recovered, then the City shall cause such cost to be levied as an assessment and recovered in accordance with Ohio R.C. 715.261.

(Ord. 1983-93. Passed 12-13-83.)

1313.99 - PENALTY

Whoever violates or fails to comply with Section [1313.08](#) is guilty of a misdemeanor of the first degree and shall be cited immediately and brought before the Municipal Court.

CHAPTER 1315 - Flood Damage Prevention

- [1315.01](#) Statutory authorization; findings of fact; purpose; and objectives.
- [1315.02](#) Definitions.
- [1315.03](#) General provisions.
- [1315.04](#) Administration.
- [1315.05](#) Provisions for flood hazard reduction.
- [1315.99](#) Penalty.

CROSS REFERENCES

- Flood control by soil conservation district supervisors -see Ohio R.C. 1515.08
- Marking flood areas - see Ohio R.C. 1521.14
- Flood insurance - see Ohio R.C. 3925.34 (C), 3941.02(A)(1)
- Conservancy districts, purpose - see Ohio R.C. 6101.04
- Flood defense - see GEN. OFF. [545.19](#) et seq.

1315.01 - STATUTORY AUTHORIZATION; FINDINGS OF FACT; PURPOSE; OBJECTIVES

(a) Statutory Authorization. Article XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, the City of Portsmouth, State of Ohio does ordain as follows.

(b) Findings of Fact.

(1) The flood hazard areas of the City of Portsmouth are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(c) Purpose. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(d) Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 1998-139. Passed 9-28-98.)

1315.02 - DEFINITIONS

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

(a) "Accessory structure" means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.

(b) "Appeal" means a request for review of the Building Officer's interpretation of any provision of this chapter or a request for a variance.

(c) "Area of special flood hazard" means the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Areas of special flood hazard are designated by the Federal Emergency Management Agency as Zone A, AE, AH, AO, A1-30, and A99.

(d) "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the one-hundred (100) year flood.

(e) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

(f) "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

(g) "Federal Emergency Management Agency" (FEMA) means the agency with the overall responsibility for administering the National Flood Insurance Program.

(h) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters, and/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(i) "Flood Insurance Rate Map" (FIRM) means an official map on which the Federal Emergency Management Agency has delineated the areas of special flood hazard.

(j) "Flood Insurance Study" means the official report in which the Federal Emergency Management Agency has provided flood profiles, floodway boundaries, and the water surface elevations of the base flood.

(k) "Floodway" means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

(l) "Historic Structure" means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered his historic district;

(3) Individually listed on a state inventory of the historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

A. By an approved state program as determined by the Secretary of the Interior or

B. Directly by the Secretary of the Interior in states without approved programs.

(m) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is built in accordance with the applicable design requirements specified in this chapter for enclosures below the lowest floor.

(n) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

(o) "Manufactured home park" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent. This definition shall exclude any manufactured home park as defined in Section 3733.01 of the Ohio Revised Code, for which the Public Health Council has exclusive rule making power.

(p) "Manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale. This definition shall exclude any manufactured home park as defined in Section 3733.01 of the Ohio Revised Code, for which the Public Health Council has exclusive rule making power.

(q) "New construction" means structures for which the "start of construction" commenced on or after the initial effective date of the City's Flood Insurance Rate Map, and includes any subsequent improvements to such structures.

(r) "Recreational vehicle" means a vehicle which is:

(1) Built on a single chassis,

(2) 400 square feet or less when measured at the largest horizontal projection,

(3) Designed to be self-propelled or permanently towable by a light duty truck, and

(4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(s) "Start of construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the

installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.

(t) "Structure" means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.

(u) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(v) "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

(2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure"; or

(3) Any improvement to a structure which is considered new construction.

(w) "Variance" means a grant of relief from the standards of this chapter consistent with the variance conditions herein. (Ord. 1998-139. Passed 9-28-98.)

1315.03 - GENERAL PROVISIONS

(a) Lands to Which This Chapter Applies. This chapter shall apply to all areas of special flood hazard within the jurisdiction of the City of Portsmouth as identified by the Federal Emergency Management Agency, including any additional flood hazard areas annexed by the City that are not identified on the effective Flood Insurance Rate Map.

(Ord. 1998-139. Passed 9-28-98.)

(b) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study Scioto County, Ohio and Incorporated Areas" dated April 18, 2011. This study, with accompanying "Flood Insurance Rate Map Scioto County, Ohio and Incorporated Areas" dated April 18, 2011, and any revisions thereto, are hereby adopted by reference and declared to be part of this chapter.

(Ord. 2010-74. Passed 12-27-10.)

(c) Compliance. No structure or land shall hereafter be located, erected, constructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of this chapter and all other applicable regulations which apply to uses within the jurisdiction of this chapter, unless specifically exempted from filing for a development permit as stated in Section [1315.04\(b\)](#), Exemption from Filing a Development Permit.

(d) Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and

other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(e) Interpretation. In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and,

(3) Deemed neither to limit nor repeal any other powers granted under state statutes. Where a provision of this chapter may be in conflict with a state law, such state law shall take precedence over the chapter.

(f) Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. This chapter shall not create liability on the part of the City of Portsmouth, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 1998-139. Passed 9-28-98.)

1315.04 - ADMINISTRATION

(a) Establishment of Development Permit. A Development Permit shall be obtained from the Building Officer before construction or development begins within any area of special flood hazard established in Section [1315.03\(b\)](#), Basis for Establishing the Areas of Special Flood Hazard. Application for a Development Permit shall be made on forms furnished by the Building Officer and may include, but not be limited to: site specific topographic plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. The following information is required:

(1) Elevation in relation to mean sea level of the lowest floor, including basement, of all proposed structures located in special flood hazard areas where base flood elevation data are utilized;

(2) Elevation in relation to mean sea level to which any proposed structure will be flood proofed in accordance with Section [1315.05\(b\)\(2\)](#) where base flood elevation data are utilized;

(3) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section [1315.05\(b\)\(2\)](#) where base flood elevation data are utilized;

(4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development and certification by a registered professional engineer that the flood carrying capacity of the watercourse will not be diminished.

(b) Exemption from Filing a Development Permit. An application for a development permit shall not be required for maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$1,000. Any proposed action exempt from filing for a development permit is also exempt from the standards of this chapter.

(c) Designation of the Flood Damage Prevention Administrator. The Building Officer is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(d) Duties and Responsibilities of the Building Officer. The duties and responsibilities of the Building Officer shall include but are not limited to:

(1) Permit review.

A. Review all development permits to determine that the permit requirements of this chapter have been satisfied.

B. Review all development permits to assure that all necessary permits have been received from those federal, state or local governmental agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the Department of the Army under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.

C. Review all development permits to determine if the proposed development is located within a designated floodway. Floodways are delineated in the Flood Boundary and Floodway Map or the Flood Insurance Rate Map of the Flood Insurance Study. Floodways may also be delineated in other sources of flood information. If the proposed development is located within a designated floodway, assure that the encroachment provision of Section [1315.05\(c\)\(1\)](#) is met.

(2) Use of other base flood elevation and floodway data. Areas of special flood hazard where base flood elevation data have not been provided by the Federal Emergency Management Agency in accordance with Section [1315.03\(b\)](#), Basis for Establishing the Areas of Special Flood Hazard, are designated as Zone A on the community's Flood Insurance Rate Map. Within these areas, the Building Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal state, or other source, including data obtained under Section [1315.05\(b\)\(6\)](#), Subdivisions and Large Developments, in order to administer Section [1315.05\(b\)\(1\)](#), Specific Standards, Residential Construction; [1315.05\(b\)\(2\)](#), Specific Standards, Nonresidential Construction; and [1315.05\(c\)](#) Floodways.

(3) Information to be obtained and maintained. Where base flood elevation data are utilized within areas of special flood hazard on a community's Flood Insurance Rate Map, regardless of the source of such data, the following provisions apply:

A. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and record whether or not such structures contain an enclosure below the lowest floor;

B. For all new or substantially improved flood proofed nonresidential structures:

1. Verify and record the actual elevation (in relation to mean sea level) to which the structure was flood proofed; and,

2. Maintain the flood proofing certifications required in subsection (a)(3) hereof.

C. Maintain for public inspection all records pertaining to the provisions of this chapter.

(4) Alteration of watercourses.

A. Notify adjacent communities and the Ohio Department of Natural Resources, Division of Water, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency. A watercourse is considered to be altered if any change occurs within its banks.

B. Maintain engineering documentation required in subsection (a)(3) hereof that the flood carrying capacity of the altered or relocated portion of said watercourse will not be diminished.

C. Require that necessary maintenance will be provided for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished.

(5) Interpretation of flood boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears

to be a conflict between a mapped boundary and actual field conditions). Where a map boundary and field elevations disagree, the elevations delineated in the flood elevation profile shall prevail. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection (e), Variance Procedure.

(e) Variance Procedure.

(1) Appeal Board.

A. The Zoning Board of Appeals as established by the City of Portsmouth, Ohio shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Building Officer in the enforcement or administration of this chapter.

C. Those aggrieved by the decision of the Zoning Board of Appeals or any taxpayer, may appeal such decision to the Scioto County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.

D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
6. The necessity to the facility of a waterfront location, where applicable;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

E. Upon consideration of the factors of subsection (e)(1)D. hereof and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

F. The Building Officer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(2) Conditions for variances.

A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

C. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items 1. to 11. in subsection (e)(1)D. hereof have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

D. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

E. Variances shall only be issued upon:

1. A showing of good and sufficient cause;
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in this chapter, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (e)(1)D. hereof, or conflict with existing local laws or ordinances.

F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 1998-139. Passed 9-28-98.)

1315.05 - PROVISIONS FOR FLOOD HAZARD REDUCTION

(a) General Standards. In all areas of special flood hazard the following standards are required:

(1) Anchoring.

A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. All manufactured homes, not otherwise regulated by the Ohio Revised Code pertaining to manufactured home parks, shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(2) Construction materials and methods.

A. All new construction and substantial improvements shall be constructed with materials resistant to flood damage;

B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage; and

C. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:

A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;

B. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

C. On site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision Proposals.

A. All subdivision proposals, including manufactured home subdivisions, shall be consistent with the need to minimize flood damage;

B. All subdivision proposals, including manufactured home subdivisions, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

C. All subdivision proposals, including manufactured home subdivisions, shall have adequate drainage provided to reduce exposure to flood damage; and

D. All subdivision proposals, including manufactured home subdivisions, shall meet the specific standards of subsection (b) (6), Subdivisions and Large Developments.

(5) Standards in areas of special flood hazard without base flood elevation data. In all areas of special flood hazard identified as Zone A on the Flood Insurance Rate Map where base flood elevation data are not available from any source, the following provisions apply:

New construction and substantial improvement of any residential, commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated to at least two feet above the highest adjacent natural grade.

(b) Specific Standards. In all areas of special flood hazard where base flood elevation data have been provided as set forth in Section [1315.03](#)(b), Basis for Establishing the Areas of Special Flood Hazard; Section [1315.04](#)(d)(2), Use of Other Base Flood Elevation and Floodway Data; or subsection (b)(6) hereof, Subdivisions and Large Developments, the following provisions are required:

(1) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to the base flood elevation.

(2) Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

A. Be flood proofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the base flood elevation. In order to be eligible for lower flood insurance rates, the structure should be flood proofed at least one foot above the base flood elevation.

B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

C. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the standards of this subsection. Such certification shall be provided to the official as set forth in Section [1315.04](#)(a) (3).

(3) Accessory structures. A relief to the elevation or dry flood proofing standards may be granted for accessory structures (e.g., sheds, detached garages) containing 576 square feet or less in gross floor area. Such structures must meet the encroachment provisions of subsection

(c)(1)A. hereof and the following additional standards:

- A. They shall not be used for human habitation;
- B. They shall be designed to have low flood damage potential;
- C. They shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters;
- D. They shall be firmly anchored to prevent flotation; and,
- E. Service facilities such as electrical and heating equipment shall be elevated or flood proofed.

(4) Manufactured homes and recreational vehicles.

A. The following standards shall apply to all new and substantially improved manufactured homes not subject to the manufactured home requirements of Section 3733.01, Ohio Revised Code:

1. Manufactured homes shall be anchored in accordance with subsection (a)(1)B. hereof.
2. Manufactured homes shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at the base flood elevation.

B. These standards also apply to recreational vehicles that are either:

1. Located on sites for 180 days or more, or
2. Are not fully licensed and ready for highway use.

(5) Enclosures below the lowest floor. The following standards apply to all new and substantially improved residential and nonresidential structures which are elevated to the base flood elevation using pilings, columns, or posts. Fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must:

- A. Be certified by a registered professional engineer or architect; or,
- B. Must meet or exceed the following criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
2. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other openings provided that they permit the automatic entry and exit of floodwaters.

(6) Subdivisions and large developments. In all areas of special flood hazard where base flood elevation data have not been provided in accordance with Section [1315.03\(b\)](#), Basis for Establishing the Areas of Special Flood Hazard, or Section [1315.04\(d\)\(2\)](#), Use of Other Base Flood Elevation Data, the following standards apply to all subdivision proposals, including manufactured home subdivisions, and other proposed developments containing at least 50 lots or 5 acres (whichever is less):

A. The applicant shall provide base flood elevation data performed in accordance with standard engineering practices;

B. If subsection (b)(6)A. hereof is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsection (a), General Standards, and subsection (b), Specific Standards.

(c) Floodways.

(1) Areas with floodways. The Flood Insurance Study referenced in Section [1315.03\(b\)](#) identifies a segment within areas of special flood hazard known as a floodway. Floodways may also be delineated in other sources of flood information as specified in Section [1315.04\(d\)\(2\)](#). The floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential. The following provisions apply within all delineated floodway areas:

A. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a hydrologic and hydraulic analysis performed in accordance with standard engineering practices demonstrates that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

B. If subsection (c)(1)A. hereof is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsection (b), Specific Standards.

C. Any encroachment within the floodway that would result in an increase in base flood elevations can only be granted upon the prior approval by the Federal Emergency Management Agency. Such request must be submitted by the Building Officer to the Federal Emergency Management Agency and must meet the requirements of the National Flood Insurance Program.

(2) Areas without floodways. In all areas of special flood hazard where FEMA has provided base flood elevation data as set forth in Section [1315.03\(b\)](#), but FEMA has not delineated a floodway, the following provisions apply:

A. New construction, substantial improvements, or other development (including fill) shall only be permitted if it is demonstrated that the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.

B. If subsection (c)(2)A. hereof is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section [1315.05](#), Provisions for Flood Hazard Reduction. (Ord. 1998-139. Passed 9-28-98.)

1315.99 - PENALTY

Violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor of the third degree. Any person who violates this chapter or fails to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Portsmouth. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Portsmouth from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Portsmouth shall prosecute any violation of this chapter in accordance with the penalties stated herein. (Ord. 1998-139. Passed 9-28-98.)

CHAPTER 1317 - Historic Preservation Districts

- [1317.01](#) Establishment.
- [1317.02](#) Declaration of public policy and purpose.
- [1317.03](#) Definitions.
- [1317.04](#) City designated preservation districts.
- [1317.041](#) City-identified historic buildings.
- [1317.05](#) Design Review Board.
- [1317.06](#) Organization and procedure of the Board.
- [1317.07](#) Duties of Board.
- [1317.08](#) Limitations on issuance of building, demolition and sign permits.
- [1317.09](#) Issuance of certificate of appropriateness.
- [1317.10](#) Evaluating applications for certificate of appropriateness.
- [1317.11](#) Exclusions.
- [1317.12](#) Designation criteria for additional preservation districts and listed properties.
- [1317.13](#) Procedure for establishing preservation districts and listing properties.
- [1317.99](#) Penalty.

CROSS REFERENCES

- Council may amend districting or zoning - see Ohio R.C. 713.10
- Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261
- Power to regulate signs - see Ohio R.C. 715.27
- Board of Zoning Appeals - see P. & Z. [1131.03](#)

1317.01 - ESTABLISHMENT

(a) In recognition of the need for legislation creating an institution that will provide for the protection and enhancement of the distinctive character of the historic preservation districts of Portsmouth and for the objective study of alternatives to the proposed alteration or demolition of certain notable structures, works of art, objects or areas within the City, Council hereby establishes the City Designated Preservation Districts.

(b) The "Historic District Design Guidelines: Portsmouth, Ohio," is hereby adopted by the City and incorporated by reference as if fully set out herein, save and except such portions as may be hereinafter amended, modified or deleted.
(Ord. 1984-74. Passed 10-9-84.)

1317.02 - DECLARATION OF PUBLIC POLICY AND PURPOSE

Council being mindful, during the national bicentennial, of the proud history of this City, and of the importance of a measure of beauty in the everyday lives of the residents hereby declares as a matter of public policy that the preservation, restoration, rehabilitation and overall aesthetic improvement of certain areas, structures, objects and works of art within the City are matters of public necessity involving the health, safety, prosperity and welfare of the people. The purpose of this chapter is to:

(a) Maintain and enhance the distinctive character of historic preservation districts by safeguarding the architectural integrity of the various period structures within them which together create a rare panorama of Americana, and to prevent intrusions and alterations within the districts that would be incompatible with this established character;

(b) Protect, and compliment the singular historic and architectural quality of the Boneyfiddle District which is essentially devoid of a random mixture of older and contemporary structures and their modifications;

(c) Provide for the establishment of procedures whereby certain areas, structures, objects and works of art of historic, architectural or cultural importance to the City shall be safeguarded and allowed that measure of protection afforded by a thorough study of alternatives to incompatible alterations or demolition before such acts are performed;

(d) Contribute to the economic, recreational, cultural and educational development of the City by:

- (1) Stimulating business and attracting industry;
- (2) Protecting and enhancing attractions to residents, tourists and visitors;
- (3) Stabilizing and improving property values;
- (4) Improving the quality of life by enhancing the visual and aesthetic character, diversity and interest of the City;
- (5) Fostering civic pride in the beauty and notable accomplishments of the past;
- (6) Promoting the use and preservation of historic locations, architecturally significant structures and other notable objects and sites for the education, enrichment and general welfare of the people of the City and the State.

(Ord. 1976-134. Passed 10-26-76.)

1317.03 - DEFINITIONS

(a) "Alter" or "alteration" means any material change in external architectural features of any property which lies within an historic preservation district or has been listed under the provisions of this chapter, not including demolition, removal or construction.

(b) "Applicant" means any owner, owners, person, persons, association, partnership or corporation who applies for a certificate of appropriateness in order to undertake any environmental change on property subject to this chapter.

(c) "Board" means the Portsmouth Design Review Board established under the provisions of this chapter.

(d) "Commission" means the Planning Commission.

(e) "Environmental change" or "change" means any alteration, demolition, removal or construction involving any property subject to the provisions of this chapter, including signs.

(f) "Property" means any place, building, structure, work of art, or similar object constituting a physical betterment of real property, or any part of such betterment, but not including real property unless expressly identified as such.

(g) "Landscaping" means the design and arrangement by planting or removal, of the effects of natural scenery, including trees, flowers, shrubs and grass, together with man-made materials or other nonliving materials or objects over a given tract of land for the purpose of creating the best practicable appearance to the land considering the use to which the land is to be put. For the purposes of this chapter, landscaping includes the design and arrangement of parks, parking lots, vacant lots and other open areas, but shall not include the incidental planting and arrangement of flowers and shrubs as they relate to any single property.

(h) "Listed property" means any property which has special character, historical, aesthetic or architectural value as part of the heritage, development or cultural characteristics of the City, State or the United States and which has been designated as a listed property pursuant to the provisions of this chapter.

(i) "Preservation District" means the Boneyfiddle Preservation District as designated by this chapter, or any other district established by Council for the purpose of maintaining and fostering a distinctive historical, architectural, cultural or environmental character.

(j) "Member" means any member of the Board.

(k) "Commissioner" means any member of the Planning Commission.

(l) "Owner" means the owner of record and includes the plural as well as the singular.

(m) "Sign" means any object or device or part thereof situated outdoors which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, figures, designs, symbols, fixtures, colors, motion, illumination or projected images. Signs do not include the following:

(1) Flags of nations, or an organization of nations, states and cities, fraternal, religious and civic organizations;

(2) Merchandise, pictures or models of products or services incorporated in a window display;

(3) Time and temperature devices not related to a product;

(4) National, state, religious, fraternal, professional and civic symbols and crests;

(5) Works of art which in no way identify a product.

(n) "User" means any applicant legally using any property subject to the terms of this chapter that is not owned by the user. (Ord. 1976-134. Passed 10-26-76.)

1317.04 - CITY DESIGNATED PRESERVATION DISTRICT

(a) The boundary of the Boneyfiddle Preservation District shall be the area bounded on the north by both sides of Ninth Street, on the east by the west side of Washington Street, on the south and southwest by the old and new floodwall, and on the west by the Scioto River.

(b) The Second Street National Register District shall consist of all properties facing Second Street, starting with the two houses west of Gay Street (837 Second Street) on the north side of Second Street, and at Bond Street on the south side of Second Street, and extending eastwardly to Offnere Street. (Ord. 1984-55. Passed 7-24-84; Ord. 1993-79. Passed 7-26-93.)

1317.041 - CITY-IDENTIFIED HISTORIC BUILDINGS

(a) The Sears Building located at 301 Chillicothe St.

(b) The Custom Carpet Building located at 307 Chillicothe St.

(c) The BancOhio National Bank Building located at 428 Chillicothe St.

(d) The Emporium located at 607 Chillicothe St.

(Ord. 2002-128. Passed 12-9-02.)

1317.05 - DESIGN REVIEW BOARD

The Portsmouth Design Review board, hereinafter referred to as the "Board", shall consist of five members. The five members shall be appointed by the President of Council with the approval of Council. All members should have to the highest extent possible a recognized knowledge of and a known interest in architectural preservation and design together with a determination to work for the overall improvement of the quality of the City's physical environment. Of the membership, an effort should be made to nominate and appoint persons having such knowledge and interest and, in addition, some special expertise that may be of assistance in the efficient operation of the Board. Consideration should be given to the

appointment of an architect and/or other design professionals, an attorney, a licensed real estate broker, an architectural historian or any other person having special knowledge or relevance to the Board's purposes and duties. Each appointed member shall serve a term of two years and may be reappointed for a second term, except that of the initial appointments, three members shall be appointed for a one-year term and may be reappointed for a second term of two years. The members shall serve without compensation from the City. (Ord. 1976-134. Passed 10-26-76.)

1317.06 - ORGANIZATION AND PROCEDURE OF THE BOARD

As soon as convenient following their appointment to the Design Review Board the members shall meet and organize by election of a chairman and secretary. The Board may adopt its own rules of procedure and provide for regular and special meetings to accomplish the purpose of this chapter. A majority of the members of the Board shall constitute a quorum; however, no application for approval shall be recommended for denial except by the affirmative vote of a majority of the entire Board. (Ord. 1976-134. Passed 10-26-76.)

1317.07 - DUTIES OF THE BOARD

The Board shall have the following duties in addition to those otherwise specified in this chapter:

- (a) The Board shall function to improve the quality of life in this City by striving to further and achieve the spirit and purpose of this chapter.
- (b) The Board shall conduct or cause to be conducted or assist the conduct of a continuing survey of all structures, works of art, objects or areas of architectural, historic or aesthetic interest in the City which the Board, on the basis of information available or presented to it, has reason to believe are or will be eligible for designation as a listed property or preservation district. A property may be listed by the Board acting on its own behalf under the provisions of this chapter, but no preservation district shall be established except upon the approval of Council.
- (c) The Board shall work for the continuing education of the residents of the City with respect to the architectural and historic heritage of the Boneyfiddle District, the City, listed properties and any other preservation district designated under the provisions of this chapter, and shall make every effort to improve the overall design and environmental awareness of the people. The Board shall keep current a register of all listed properties, and all listed properties shall be given a number and a description accompanied by a photograph. The reasons for listing a property or recommending the establishment of additional preservation districts shall be set forth in writing. This register shall be made available to Council, the Planning Commission, the City Planner, the Board of Zoning Appeals, the Department of Engineering and the Building Officer.
- (d) The Board shall have authority to establish, within the interest, spirit and purpose of this chapter, criteria, rules and regulations not otherwise included in this chapter for evaluating applications for certificates of appropriateness submitted to it and the manner in which they shall be processed.
- (e) The Board shall determine within the interest, spirit and purpose of this chapter what legislation, if any, would best serve to preserve, restore and develop the City or any part thereof and recommend such legislation to the Planning Commission. Toward these ends, the Board shall work with the appropriate City officials, employees and departments, and joint meetings with such officials, employees and departments may be held for this purpose.

(f) The Board may upon its own determination make recommendations to the Planning Commission for additions or revisions to this chapter. (Ord. 1976-134. Passed 10-26-76.)

1317.08 - LIMITATIONS ON ISSUANCE OF BUILDING, DEMOLITION AND SIGN PERMITS

No permit shall be issued by the Building Officer, Division of Building Inspection, Department of Engineering, for the construction, reconstruction, alteration or demolition of any structure, work of art, object or area within a preservation district or for any listed property except in cases coming under Section [1317.11](#), unless the application for such permit is approved by the Review Board through the issuance of a certificate of appropriateness in the manner prescribed herein. No sign permit shall be issued by the Building Officer or through otherwise established procedures for any sign to be erected or placed within a preservation district or for any sign to be attached to or erected upon any listed property unless a certificate of appropriateness has been issued for that sign in the manner prescribed herein.

(Ord. 1976-134. Passed 10-26-76.)

1317.09 - ISSUANCE OF CERTIFICATE OF APPROPRIATENESS

(a) The procedure for the issuance of a certificate of appropriateness is as follows: When the owner or user of a property within a preservation district or the owner or user of an otherwise listed property desires to make any environmental change, including the construction, reconstruction, demolition or alteration of a property or object or the erection of a sign he shall first obtain a certificate of appropriateness from the Design Review Board. A certificate of appropriateness shall also be obtained for landscaping as prescribed herein and for proposed tree removal within a preservation district. A certificate of appropriateness shall not be required for removal by the City of trees within street or alley rights of way.

(b) If the proposed work requires a building permit or sign permit, the owner or user shall file an application through the Building Officer who then refers the matter to the Review Board. If the change, sign or proposed landscaping is not incompatible with and does not adversely affect any historic, architectural or environmental feature of the property or physically related properties which are also within a preservation district or otherwise listed and does not violate the spirit and purpose of this chapter, then the Review Board shall issue a certificate of appropriateness and the owner or user may proceed.

(c) If the change, sign or landscaping would have an adverse effect on properties subject to the provisions of this chapter or be otherwise incompatible or inappropriate to the spirit and purpose of this chapter, the Review Board shall not issue a certificate of appropriateness and shall make every effort for a period not to exceed six weeks, by working with the applicant, to develop a proposal for such change, sign or landscaping that will be compatible with the terms of this chapter so that a certificate of appropriateness can be issued by the Board. Any time during this period the Board may refer the application to the Planning Commission, or, if no satisfactory alternative has been worked out by the end of the six-week period, then the Review Board shall refer the matter to the Planning Commission together with the Board's recommendations concerning the application. The owner or user may be required to delay his proposed construction, reconstruction or alteration for up to one year by the Planning Commission. If the application involves demolition, the owner or user may be required to delay his work for up to two years by the Planning Commission. Sign applications may be permanently denied by the Planning Commission.

(d) In the case of an inappropriate change, sign or landscaping proposal the Review Board shall, during this waiting period, attempt to work out an alternative plan with the owner or user or his representative that is acceptable to all parties. In the case of a proposed demolition, the Review Board shall attempt to find practicable alternatives to demolition.

(e) If the Review Board is unable to work out an alternative plan that conforms to the spirit and purpose of this chapter and the waiting period expires, the owner or user, if still desiring to execute his proposal, shall make application to the Zoning Board of Appeals. The Zoning Board of Appeals, functioning under its own and otherwise prescribed rules of procedure, shall consider the positions of the owner or user and the Design Review Board and may approve or deny the issuance of a certificate of appropriateness.

(f) In the event the certificate is denied by the Zoning Board of Appeals, the owner or user may appeal to Council. He may not proceed until Council has made a determination on the matter. The Council, functioning under its own rules of procedure, shall give due consideration to the findings and recommendations of the Design Review Board, the Zoning Board of Appeals, the owner or user, the views expressed by persons participating in public hearings which Council may hold, together with the recommendations of the Planning Commission. Upon its conclusion, Council shall determine whether a certificate of appropriateness shall be issued. No further appeal shall be initiated upon denial by Council for twelve months. After twelve months the process of application and appeal may be repeated.

(g) Where the position of the Zoning Board of Appeals is overruled by Council, a certificate of appropriateness shall automatically issue upon such action.

(h) Within thirty days after the filing of an application for a certificate of appropriateness, the Review Board shall decide whether the proposed change, sign or landscaping is appropriate. The Review Board is obligated to act as quickly as possible on all applications so as to cause as little inconvenience to the owner or user as is possible and shall attempt, where the proposed change, sign or landscaping is inappropriate, to keep the waiting period as brief as it may be. Where a recommendation of disapproval is made to the Planning Commission, the reasons shall be set forth in writing. (Ord. 1976-134. Passed 10-26-76.)

1317.10 - EVALUATING APPLICATIONS FOR CERTIFICATE OF APPROPRIATENESS

(a) In considering the appropriateness of any environmental changes, including signs and landscaping, the Review Board shall take into account, in addition to any other pertinent factors, the historical and architectural style and general design, arrangement, texture, material and color of the proposed change as they relate to the property in its present condition and shall also consider the relation thereof to the same or related factors in other properties, objects and areas in the immediate vicinity.

(b) Attention shall be taken to avoid the environmentally harmful effect often created by the clash of undisguised contemporary materials with those of older origin, such as aluminum or other metals, plastic, fiberglass and glass improperly used with brick, stone, masonry and wood.

(c) The Review Board shall refer to the criteria and guidelines for architectural, sign and design review established by the Board pursuant to the terms of this chapter.

(d) The Review Board shall consider the advice of those consultants whose opinion is sought by the Board with respect to any application for a certificate of appropriateness. (Ord. 1976-134. Passed 10-26-76.)

1317.11 - EXCLUSIONS

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any property, area or object within a preservation district or otherwise listed under the provisions of this chapter, 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 environmental change, including the construction, reconstruction, alteration or demolition of any feature which in the view of the proper authority acting lawfully is required for the public safety because of an unsafe or dangerous condition. However, no demolition permit shall issue except upon the certification of a registered professional engineer that the structure of a building is unsound or would need major reinforcement to be brought under Building Code structural requirements, considering a use that the building would reasonably lend itself to. (Ord. 1976-134. Passed 10-26-76.)

1317.12 - DESIGNATION CRITERIA FOR ADDITIONAL PRESERVATION DISTRICTS AND LISTED PROPERTIES

In considering the designation of any area, structure, work of art or similar object in the City as a preservation district or listed property, the Board shall apply, in addition to any other available information, the following criteria:

- (a) The character, interest or value of the area or property as part of the development, heritage or cultural characteristics of the City, the State or the United States;
- (b) The location as a site of a significant historic event;
- (c) The identification with a person or persons who significantly contributed to the culture and development of the City;
- (d) The exemplification by the area or property of the cultural, economic, social or historic heritage of the City;
- (e) The portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
- (f) The embodiment of distinguishing characteristics of an architectural type or specimen;
- (g) Identification as the work of an architect or notable builder whose individual work has influenced the development of the City;
- (h) The embodiment of elements of architectural design, detail, materials or craftsmanship which represent architecture of significant character, charm or grandeur;
- (i) The relationship to other distinctive areas or structures which are eligible for preservation according to a plan based on an historic, environmental, cultural, educational or architectural theme;
- (j) A unique location or singular physical characteristic representing an established and familiar visual feature of a neighborhood, community or the City.

(Ord. 1976-134. Passed 10-26-76.)

1317.13 - PROCEDURE FOR ESTABLISHING PRESERVATION DISTRICTS AND LISTING PROPERTIES

(a) When a proposal to establish an historical district or to list an individual property, structure, object or work of art for protection is received by the Design Review Board or initiated by the Design Review Board, the owner or owners shall be notified by the Design Review Board and the owner's written consent obtained where possible.

(b) The Design Review Board shall consider the proposal in terms of the criteria provided in Section [1317.12](#) and make a recommendation to the Planning Commission.

(c) The Planning Commission shall review the proposal and the recommendation of the Design Review Board in terms of the critical provisions of Section [1317.12](#), the City plan and the projected development of the community and shall make a recommendation to Council as required by Section [115](#) of the City Charter.

(d) Council shall give due consideration to the findings and recommendations of the Design Review Board and the Planning Commission in making its determination with respect to the proposed designation of any areas, places, buildings, structures, works of art and other similar objects as listed property. Council may, in its discretion, hold public hearings on any such proposed designation. Upon its conclusion, Council may designate such areas, places, buildings, structures, works of art and other similar objects as listed properties.

(e) After the decision by Council, the Review Board shall notify any owner or any person having a legal or equitable interest in such property of the decision.
(Ord. 1976-134. Passed 10-26-76.)

1317.99 - PENALTY

(a) Whoever constructs, reconstructs, alters, changes or demolishes any exterior feature of any structure, work of art, object or area in violation of this chapter, or whoever maintains, changes or installs a sign in violation of this chapter, or performs any landscaping in violation of this chapter, shall be deemed in violation of the Planning and Zoning Code and such violation shall be punishable under Section [1131.99](#) of the Planning and Zoning Code. Each day of violation shall constitute a separate and distinct violation for as long as one year with respect to alterations and for as long as two years with respect to demolition. These periods correspond to those during which the Board may delay a proposed alteration or demolition.

(b) Notwithstanding the provisions of subsection (a) hereof, in the event any environmental change is made in any property which has been designated a listed property or which is situated in a preservation district, in violation of the provisions of this chapter, the City may institute appropriate proceedings to prevent such unlawful environmental change.
(Ord. 1976-134. Passed 10-26-76.)

CHAPTER 1319 - Property Maintenance Code

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|-------------------------|--|-------------------------|---|
| 1319.01 | Established. | 1319.09 | Unregistered vehicles in nonresidential areas. |
| 1319.02 | Vacant structures and land. | 1319.10 | General. |
| 1319.03 | Sanitation. | 1319.11 | Exterior surfaces, foundations, walls and roof. |
| 1319.04 | Grading and drainage. | 1319.12 | Foundation walls. |
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CROSS REFERENCES

Refuse accumulations - see GEN. OFF. [521.08](#)

Sidewalk maintenance - see GEN. OFF. [521.06](#)

Notice to fill lots, etc. - see GEN. OFF. [521.05](#)

1319.01 - ESTABLISHED

There is hereby enacted a Property Maintenance Code, with the adoption of the International Property Maintenance Code 2003, edition or as amended, for the purpose of establishing minimum standards governing the condition and maintenance of all structures and dwellings; and fixing penalties for violation. (Ord. 2004-11. Passed 2-23-04.)

1319.02 - VACANT STRUCTURES AND LAND

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety. (Ord. 1981-12. Passed 2-10-81.)

1319.03 - SANITATION

All exterior property areas and premises shall be maintained in a clean, safe and sanitary condition free from any accumulation of rubbish or garbage. (Ord. 1981-12. Passed 2-10-81.)

1319.04 - GRADING AND DRAINAGE

(a) Objective. It shall be the objective of grading regulations to provide grading which will divert surface water away from buildings and dispose of such water without harmful effects on neighboring property, to preserve desirable site features and to provide grades and gradients for safe and convenient access to and around buildings and lots for their normal use and maintenance. The final grade at the building shall not be closer than eight inches to the wood or other corrodible siding or exterior trim.

(b) Surface Drainage. Positive drainage shall be provided for each lot or plot by proper draining so that a nuisance will not be created. Catch basins or properly connected under-drains shall be installed, or other approved provisions made where water may pocket, to preclude the accumulation of surface water. Re-grading shall be done so that existing natural ground drainage of the surrounding area is not impeded.

The Building Official may adopt rules or plans for the drainage of lots or plots, which rules or plans shall be followed by the owner unless permission for deviation is given by the Nuisance

Board of Appeals. When a lot or plot is graded to a higher or lower level than the natural grade on an adjacent property, the owner of such lot or plot shall provide suitable slopes or retaining walls or other protection approved by the Building Official on his own property to preserve the natural slope or surface elevation of such adjacent property.

(c) Footing Drains. When a floor is below the adjoining ground and subsoil conditions are such as to permit groundwater to accumulate adjacent to the foundation, footing drains shall be installed alongside the outside face of the base of the foundation. Such drains shall be not less than four-inch diameter pipe of a type and construction to intercept and carry groundwater without permitting the infiltration of soil into the pipe. Footing drains shall have a continuous slope of not less than one-sixteenth inch per foot, discharging into the building storm sewer or other outlet approved by the Building Official.

(d) Backfill Over Footing Drains. The backfill over footing drains shall be pervious material of the type, size and gradation required for the particular type of drain construction being used and shall be carried up at least eight inches over drain tile but not closer than twelve inches of the established surface grade. The top twelve inches of the backfill shall consist of six inches of an impervious (clay) soil, topped with six inches of a clay topsoil if the surface is to be covered with lawn or shrubs. If the surface adjacent to the foundation wall is to be paved or have some similar treatment, then the backfill near the top may be a suitable base for such construction.

(e) Roof and Yard Drainage. Unless otherwise specifically approved by the Building Official, roof drainage shall be handled by suitable collectors and downspouts which shall discharge into a sealed-jointed storm drain of not less than four-inch diameter with a slope of one-fourth inch or more per foot. Where a storm sewer or other storm drainage outlet is not available, downspouts may discharge onto splash blocks or into other devices provided that no excess water will flow onto adjoining property or over sidewalks. The storm drain outlet, carrying roof water or yard drainage shall be not less than six-inch diameter, and shall not connect to the footing drain, but may intercept and receive the outlet of the footing drain by a wye connection above the spring line. Connection of any pipe, carrying roof water or yard drainage to a sanitary sewer is prohibited. (Ord. 1992-61. Passed 6-22-92.)

1319.05 - LOADING AREAS

All loading areas, automobile service stations and drive-in food establishments shall be paved with bituminous, concrete or equivalent surfacing and shall be free from dirt and other litter and kept in good repair. When lighted for nighttime use, lights shall not be permitted to cast directly upon dwellings nearby. (Ord. 1981-12. Passed 2-10-81.)

1319.06 - STORAGE AREAS

All open salvage yards and open storage areas shall be completely obscured from surrounding property by a solid screen not less than six feet in height. (Ord. 1981-12. Passed 2-10-81.)

1319.07 - ACCESSORY STRUCTURES

All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound. (Ord. 1981-12. Passed 2-10-81.)

1319.08 - UNREGISTERED VEHICLES IN RESIDENTIAL AREAS

(a) Except as provided in other regulations, not more than one currently unregistered and/or uninspected motor vehicle shall be parked on any property in a residential district, and such

vehicle shall not at any time be in a state of major disassembly or disrepair, nor shall it be in the process of being stripped or dismantled. A vehicle shall not at any time undergo major overhaul.

(b) Nothing in this section shall be applicable to either historical vehicles or to collector's vehicles. As used in this section, "historical vehicle" means any motor vehicle which is over twenty-five years old, and which is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades and similar uses, but in no event to be used for general transportation.

(c) As used in this section, "collector's vehicle" means any motor vehicle which is not yet twenty-five years old, and which is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades and similar uses, but in no event to be used for general transportation. (Ord. 1981-12. Passed 2-10-81.)

1319.09 - UNREGISTERED VEHICLES IN NONRESIDENTIAL AREAS

Except as provided in other regulations and approved by the Building Officer, not more than two currently unregistered and/or uninspected motor vehicles shall be permitted on any property in a nonresidential district, and no vehicle shall at any time be in a state of major disassembly or disrepair, nor shall it be in the process of being stripped or dismantled. (Ord. 1981-12. Passed 2-10-81.)

1319.10 - GENERAL

The exterior of a structure shall be maintained structurally sound and sanitary so as not to pose a threat to the health and safety of the occupants and so as to protect the occupants from the environment. (Ord. 1981-12. Passed 2-10-81.)

1319.11 - EXTERIOR SURFACES, FOUNDATIONS, WALLS AND ROOF

Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair and shall be kept in such condition as to exclude rats. (Ord. 1981-12. Passed 2-10-81.)

1319.12 - FOUNDATION WALLS

All foundation walls shall be maintained so as to carry the safe design and operating dead and live loads and shall be maintained plumb and free from open cracks and breaks, so as not to be detrimental to public safety and welfare. (Ord. 1981-12. Passed 2-10-81.)

1319.13 - EXTERIOR WALLS

Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other conditions which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All exterior surface material, including wood, composition, or metal siding, shall be maintained weatherproof and shall be properly surface coated when required to prevent deterioration. (Ord. 1981-12. Passed 2-10-81.)

1319.14 - OPENABLE WINDOWS

Every window, other than a fixed window, shall be capable of being easily opened. (Ord. 1981-12. Passed 2-10-81.)

1319.15 - INSECT SCREENS

Every door and window or other outside opening used for ventilation purposes shall be supplied with approved screening, and every swinging screen door shall have a self-closing device in good working condition, except that such screens shall not be required for areas on a floor above the fifth floor and screen doors shall not be required on nonresidential structures or structures where the doors are required to swing out as required in the Building Code. (Ord. 1981-12. Passed 2-10-81.)

1319.16 - LEAD-BASED PAINT

Lead-based paint with a lead content of more than five-tenths of one percent shall not be applied to any interior or exterior surface of a dwelling, dwelling unit or child care facility, including fences and outbuildings at these locations. Existing interior and exterior painted surfaces of dwelling units and child care facilities that contain an excess of five-tenths of one percent lead shall be removed or covered with paneling or other suitable covering approved by the Building Officer. (Ord. 1981-12. Passed 2-10-81.)

1319.99 - PENALTY

Whoever violates any provision of this chapter is guilty of a second degree misdemeanor. (Ord. 1981-12. Passed 2-10-81.)

CHAPTER 1321 - Swimming Pools

[1321.01](#) Enclosure of swimming pool.

CROSS REFERENCES

Swimming pools - see OAC Ch. 3701-31

1321.01 - ENCLOSURE OF SWIMMING POOL

(a) Every outdoor swimming pool or family pool shall be completely surrounded by a fence or wall not less than four feet in height, which shall be so constructed as not to have openings, holes or gaps larger than four inches in any dimension, except for doors and gates; and if a picket fence is erected or maintained, the horizontal opening dimension shall not exceed four inches. A dwelling house or accessory building may be used as part of such enclosure.

All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.

These requirements shall be applicable to all new swimming pools or family pools hereafter constructed, other than indoor pools, and shall apply to all existing pools that are not enclosed which have a depth in any part of the pool that measures twenty-four inches or more. No person or persons in possession of land within the City, either as an owner, purchaser, lessee, tenant or a licensee, upon which is situated a swimming pool or family pool having a depth in any part of the pool that measures twenty-four inches or more shall fail to provide and maintain such a fence or wall as specified herein.

(b) Whoever violates any provision of this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. (Ord. 1988-60. Passed 7-12-88.)