

MINUTES OF THE HOUSING COMMITTEE
July 23, 2018
East Conference Room

Present: Councilmembers Anderson & Rader

Also: Assistant Law Director Swallow, Planning Director Sylvester, City Planner Michelle Nochta, Fire Chief Gilman, Law Director Butler, one member of the public (condo resident)

Call to Order: 6:01 p.m.

ORDINANCE NO. 2-18 – AN ORDINANCE amending various parts of Chapter 1306, Property Maintenance and Safety Code...(light pollution)

Ms. Swallow introduced the proposed Ordinance, noting that she consulted a sample ordinance from the International Dark Skies Association. The Ordinance requires all lighting to limit glare and light trespass and that a lighting plan be submitted to the City for any new lighting as part of a commercial property or development. A lighting plan is not required for replacement of fixtures. There is a criminal penalty for failure to comply with the regulations. The remaining sections of the Code amended by the Ordinance - outdoor patios, 24 hour operations, drive thrus, parking lots - are updated to reference these regulations.

It was further clarified that building inspectors will be empowered to follow up on complaints and violations will be handled the same way as other building violations are. Failure to comply could result in a court filing. Director Sylvester acknowledged that the Ordinance will necessitate nighttime/early morning inspections but that staff can adjust their schedules as needed. Also the Fire Department has also helped out in the past. Unlike other building violations the property owners would not need to be present for an inspection to take place.

The Committee discussed how this will apply to stadiums/sports fields. Schools are not exempt.

It was acknowledged that certain lighting is easier than others to alter but that some solution such as shields should be able to improve light trespass. The objective of the Ordinance is to equip the Building Department with additional resources and tools to follow up on complaints.

Director Sylvester stated that per the Charter the Ordinance automatically goes to the Planning Commission because it amends the Planning Code. He asked the Committee to also refer the Ordinance to ARB.

A motion was made and seconded to recommend Ordinance 2-18 back to Council to be referred to Planning Commission and ARB.
All members voted in favor.

It was noted that Planning Commission and ABR would be permitted to informally review the Ordinance in anticipation of a formal referral in September.

ORDINANCE NO. 18-18 – AN ORDINANCE amending Section 1306.43, Housing and Vacant Property License, and Section 1306.44, License Application Form and Fee, of the Codified Ordinances of the City of Lakewood in order to update the code with respect to the regulation of condominium associations and unit owners in the City.

Director Butler distributed a substitute version of Ordinance 18-18 which incorporates the changes suggested by City Architect Mike Molinski.

Amend Housing License Application

Mr. Molinski is proposing to eliminate a number of questions required to be asked of landlords on the housing license application. The rationale is that the City generally already knows this information and does not need to repeatedly ask for it.

Committee members weighed the value of continuing to ask about the number and type of smoke detectors, since this information may change over time. They tried to assess if lack of smoke detectors in rentals is a problem.

Chief Gilman recalled one fatal incident in which the victim did not have a detector. He also stated that landlords are supposed to have a form signed by their tenants certifying that smoke and carbon monoxide detectors are installed. Director Butler explained that the City maintains these certifications but does not actively follow up on them unless there is an issue or complaint.

The Committee weighed how specific Council needs to be regarding the housing license and considered if Council should allow more flexibility on the part of the administration.

Director Sylvester expressed support for such an approach but said that should the administration be granted such flexibility it would make the changes proposed in 18-18

Eliminate Posting of Paper Housing Licenses

Another change to 1306.45 recommended by Mr. Molinski is to eliminate the use of paper housing licenses since the Department has all of this information in a readily accessible mobile database.

Chief Gilman noted that first responders do not yet have access to this database and that they are reliant on the posting of paper licenses.

Director Sylvester responded that the obstacles to create access for LFD are not high and that the change reflects the direction toward which the Department is seeking to go.

Councilmember Anderson stated that he would be more comfortable tabling that particular change until first responders have access to the housing license database.

Consolidate Issuance of Housing Licenses

Section 4 of Ordinance 18-18 proposes to consolidate the process of issuing housing licenses so that it happens at one time during the year instead of two. This has been discussed within the administration and there has been no controversy. It is predicted that this change will simplify workflow.

The Committee discussed how this would impact current license holders. It was suggested that landlords who just recently renewed in July 2018 would be allowed to have their license effective until November 2019. This section of the ordinance is proposed to go into effect January 1, 2019.

Housing Licenses for Rental Condos

This portion of the Ordinance was previously discussed in Housing Committee. Councilmember Anderson asked for clarification about how this change will impact the ability of the Building Department to conduct its annual inspections before recommending adoption.

The Committee discussed the timeline for implementing this portion of the ordinance and how it will reach out to condo landlords.

The Committee considered recommending adoption minus Section 3 but decided to hold off on making a recommendation in order to give the administration additional time to work on Section 3. Housing Committee will hold an additional hearing in September to follow up.

The Committee discussed the rationale of the existing ordinance which does not require condo landlords to obtain a housing license and the resulting consequences.

Debra, a resident of Berkshire Condominiums remarked on the consequences she has observed from the failure to issue housing licenses to condo owners. She stated that investors come onto condo boards and make decisions to delay needed maintenance and the condo property suffers.

Director Butler and Chief Gilman expressed differing policy positions on the issue.

Housing Committee adjourned at 7:11 p.m.

Placed on first reading and referred to Housing Committee 2/5/18, second reading 2/20/18, deferred 6/18/18). Please substitute for the original.

ORDINANCE NO. 18-18

BY:

AN ORDINANCE to take effect on January 1, 2019, provided it receives the affirmative vote of at least two thirds of the members of Council, or otherwise to take effect at the earliest period allowed by law, amending Sections 1306.43, Housing and Vacant Property License, and Section 1306.44, License Application Form and Fee, Section 1306.45, Issuance of License, and Section 1306.47, License Expiration, of the Codified Ordinances of the City of Lakewood in order to update the code with respect to the regulation of condominium associations and unit owners and other housing license requirements in the City.

WHEREAS, various provisions within Chapter 1306 of the Code stand to be amended in order to update the code with respect to the regulation of condominium associations and unit owners and other housing license requirements in the City; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this ordinance is an emergency measure and that it shall take effect on January 1, 2019, because of the timing of the licensure applications granted herein; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 1306.43, Housing and Vacant Property License, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1306.43 HOUSING AND VACANT PROPERTY LICENSE.

(a) Application. This section applies to:

- (1) Any structure or portion of any structure in which there are one or more rental dwelling units or in which a rooming house is operated, whether occupied or not;
- (2) Condominium property as defined in Ohio R.C. Chapter 5311, whether occupied or not, in which case the owner of the condominium property or the unit owners association shall be required to obtain the housing license as provided herein; and
- (3) Vacant dwelling structures or commercial structures, whether rental property or not.

(b) Limitations. This section does not apply to lawful one- and two-family structures occupied in part or wholly by the owner as the owner's principal residence.

(c) In General.

(1) No person shall rent or cause to be rented a dwelling unit or a portion of a dwelling unit to another unless the person has been issued a housing license as provided for in this section.

(2) No owner of a structure shall maintain or cause to be maintained the structure in a vacant or abandoned status as defined in Section 1306.72 without having been issued a vacant property license as provided for in this section.

(3) No person in control of a property other than an owner, including but not limited to a mortgagee, property holding company, property manager or lienholder, shall maintain the property in a vacant or abandoned status as defined in Section 1306.72 without having been issued a vacant property license as provided for in this section.

(d) Required Licenses.

(1) A housing license is required for each dwelling unit in a structure.

(2) A vacant property license is required for each vacant residential or commercial structure.

(3) The Building Commissioner or his or her designee (as used in this section, "Building Commissioner") shall determine at his or her sole discretion the number of dwelling or commercial units existing within a structure.

(e) Issuance. The Building Commissioner shall issue the applicable license to each applicant meeting the requirements of this chapter.

(f) Scope. A license authorizes a licensee to rent a dwelling unit or a portion of a dwelling unit or permits a property to be maintained in a vacant status.

shall be repealed, and new Section 1306.43, Housing and Vacant Property License, shall be enacted to read as follows:

1306.43 HOUSING AND VACANT PROPERTY LICENSE.

(a) Application. This section applies to:

(1) Any structure or portion of any structure, including condominium property, in which there are one or more rental dwelling units or in which a rooming house is operated, whether occupied or not; and

~~(2) Condominium property as defined in Ohio R.C. Chapter 5311, whether occupied or not, in which case the owner of the condominium property or the unit owners association shall be required to obtain the housing license as provided herein; and~~

~~(3) Vacant dwelling structures or commercial structures, whether rental property or not.~~

(b) Limitations. This section does not apply to lawful one- and two-family structures occupied in part or wholly by the owner as the owner's principal residence.

(c) In General.

(1) No person shall rent or cause to be rented a dwelling unit or a portion of a dwelling unit to another unless the person has been issued a housing license as provided for in this section.

(2) No owner of a structure shall maintain or cause to be maintained the structure in a vacant or abandoned status as defined in Section 1306.72 without having been issued a vacant property license as provided for in this section.

(3) No person in control of a property other than an owner, including but not limited to a mortgagee, property holding company, property manager or lienholder, shall maintain the property in a vacant or abandoned status as de-

fined in Section 1306.72 without having been issued a vacant property license as provided for in this section.

(d) Required Licenses.

(1) A housing license is required for each dwelling unit in a structure.

(2) A vacant property license is required for each vacant residential or commercial structure.

(3) The Building Commissioner or his or her designee (as used in this section, "Building Commissioner") shall determine at his or her sole discretion the number of dwelling or commercial units existing within a structure.

(e) Issuance. The Building Commissioner shall issue the applicable license to each applicant meeting the requirements of this chapter.

(f) Scope. A license authorizes a licensee to rent a dwelling unit or a portion of a dwelling unit or permits a property to be maintained in a vacant status.

Section 2. Section 1306.44, License Application Form and Fee, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1306.44 LICENSE APPLICATION FORM AND FEE.

(a) In General. An applicant for a housing or vacant property license shall:

(1) Submit to the Building Commissioner or his or her designee (as used in this section, "Building Commissioner") an application on a form prescribed by the Building Commissioner; and

(2) Except as provided for in division (a)(3) of this section, in the case of an application for a housing license, certify that the applicant or an agent of the applicant has complied with at least two of the following requirements if the applicant has not had a housing license declared null and void pursuant to Section 1306.48:

A. That the applicant uses a written rental agreement as defined in Section 5321.01(D) of the Ohio Revised Code; or

B. That the applicant uses a reputable tenant screening agency for criminal and eviction background checks; or

C. That the applicant or agent of the applicant has within the past two years attended a landlord-tenant informational seminar approved by the Building Commissioner; and

(3) In the case of an application for a housing license, if the applicant has had a housing license declared null and void pursuant to Section 1306.48 in the previous two years, certify that the applicant or an agent of the applicant has complied with all three of the requirements in Section 1306.44(a)(2) and demonstrate compliance with all outstanding citations or correction notices issued pursuant to Chapter 1306 and with any outstanding fines or assessments issued pursuant to Chapter 510; and

(4) In the case of an application for a vacant property license, a copy of the declarations page for at least one policy of liability insurance covering the property and acknowledging that the property is vacant; and the combination to a Knox Box system or such other rapid-entry system of comparable quality authorized by the Chief of Fire containing keys necessary to aid the Division of Fire in obtaining access to the structure when responding to calls for an emergency service; and

(5) Pay to the Building Commissioner the application fee established by this section.

(b) Required Application Information. In addition to any other information required on an application form, the application form shall require:

(1) The applicant's name and the address of the applicant's principal place of business; and

(2) A description of the dwelling structure and the structure's address, including unit numbers; and

(3) The name and address of the property manager, resident agent or trustee, when applicable; and

(4) The name and address of an adult individual who is a resident of Ohio and is designated as the applicant's agent for receiving service of process, notices or any other papers from the City; and

(5) The type of structure as certified by the City, including the number of stories, in which the dwelling unit is located; and

(6) In the case of a housing license, the full names of all adult tenants and the number of minor tenants living in the residential unit as of the date the application is tendered to the City and, if applicable, the dwelling unit numbers in which the tenants reside; and

(7) The year the dwelling in which the dwelling unit is located was constructed; and

(8) The type and number of smoke detectors in the dwelling unit; and

(9) The type of heating system in the dwelling unit; and

(10) The type of hot water heating system in the dwelling unit; and

(11) The name and telephone number of the person or entity responsible for sidewalk snow removal, grass cutting, and the removal of garbage containers from the tree lawn; and

(12) A statement by the applicant certifying, for each dwelling unit in the structure, that the applicant has personally witnessed within the 12-month period immediately preceding the date of the application that:

A. Smoke and carbon monoxide detectors are present and operational pursuant to Chapter 1331; and

B. No visible electrical or other hazards are present; and

C. In the case of a housing license, there is hot and cold running water in the kitchen and each bathroom with no leaks below the sink area and all toilets flush; or in the case of a vacant property license, the plumbing has been winterized to prevent the freezing of pipes; and

D. In the case of a housing license, the heating system is operational; and

E. Railings are present on interior and exterior stairs as required by applicable code; and

F. No readily observable conditions exist that represent a threat to the health and safety of an occupant.

(13) In the case of a vacant property license, a statement by the applicant that all utilities to the structure have been disconnected, including electric service, which shall be disconnected at the utility pole, unless the applicant states that the structure is being actively marketed for sale.

(c) The issuance of a housing or vacant property license upon the satisfaction of the conditions in this section shall not in any way be construed as City approval or determination as to the condition or livability of the unit or structure.

(d) Fee Requirements.

(1) The housing license fee shall be as follows:

A. Owner-occupied condominium units: \$2.00.

B. Non-owner-occupied condominium units: \$6.00.

C. Rooming house containing two or more tenants: \$60.00 per rooming unit.

D. Non-owner-occupied one- or two-family structures: \$75.00 per dwelling unit.

E. Three-family dwellings: \$60.00 per non-owner-occupied unit.

F. All other occupied structures: \$45.00 per dwelling unit.

(2) There shall be a limit of \$2,000.00 for a condominium and \$3,500.00 for any other occupied structure.

(3) The vacant property license fee shall be as follows:

A. Vacant housing structures: \$200.00 per structure.

B. Vacant commercial or mixed-use building: \$200.00 per structure.

(e) Change of Information. The applicant shall inform the Building Commissioner in writing of any change in the information provided under subsection (b) of this section not more than 30 days after the change is made.

(f) Corporations and Limited Liability Companies. If the applicant is a corporation or a limited liability company, an officer of the corporation or managing member of the limited liability company shall provide the information required under subsections (a) and (b) of this section.

(g) Other Business Entities. If the applicant is an association or partnership, a member or partner shall provide the information required under subsections (a) and (b) of this section.

shall be repealed, and new Section 1306.44, License Application Form and Fee, shall be enacted to read as follows:

1306.44 LICENSE APPLICATION FORM AND FEE.

(a) In General. An applicant for a housing or vacant property license shall:

(1) Submit to the Building Commissioner or his or her designee (as used in this section, "Building Commissioner") an application on a form prescribed by the Building Commissioner; and

(2) Except as provided for in division (a)(3) of this section, in the case of an application for a housing license, certify that the applicant or an agent of the applicant has complied with at least two of the following requirements if the applicant has not had a housing license declared null and void pursuant to Section 1306.48:

A. That the applicant uses a written rental agreement as defined in Section 5321.01(D) of the Ohio Revised Code; or

B. That the applicant uses a reputable tenant screening agency for criminal and eviction background checks; or

C. That the applicant or agent of the applicant has within the past two years attended a landlord-tenant informational seminar approved by the Building Commissioner; and

(3) In the case of an application for a housing license, if the applicant has had a housing license declared null and void pursuant to Section 1306.48 in the previous two years, certify that the applicant or an agent of the applicant has complied with all three of the requirements in Section 1306.44(a)(2) and demonstrate compliance with all outstanding citations or correction notices issued pursuant to Chapter 1306 and with any outstanding fines or assessments issued pursuant to Chapter 510; and

(4) In the case of an application for a vacant property license, a copy of the declarations page for at least one policy of liability insurance covering the property and acknowledging that the property is vacant; and the combination to a Knox Box system or such other rapid-entry system of comparable quality authorized by the Chief of Fire containing keys necessary to aid the Division of Fire in obtaining access to the structure when responding to calls for an emergency service; and

(5) Pay to the Building Commissioner the application fee established by this section.

(b) Required Application Information. In addition to any other information required on an application form, the application form shall require:

(1) The applicant's name and the address of the applicant's principal place of business; and

(2) A description of the dwelling structure and the structure's address, including unit numbers; and

(3) The name and address of the property manager, resident agent or trustee, when applicable; and

(4) The name and address of an adult individual who is a resident of Ohio and is designated as the applicant's agent for receiving service of process, notices or any other papers from the City; and

~~(5) The type of structure as certified by the City, including the number of stories, in which the dwelling unit is located; and~~

(6) In the case of a housing license, the full names of all adult tenants and the number of minor tenants living in the residential unit as of the date the application is tendered to the City and, if applicable, the dwelling unit numbers in which the tenants reside; and

~~(7) The year the dwelling in which the dwelling unit is located was constructed; and~~

~~(8) The type and number of smoke detectors in the dwelling unit; and~~

~~(9) The type of heating system in the dwelling unit; and~~

~~(10) The type of hot water heating system in the dwelling unit; and~~

~~(11) The name and telephone number of the person or entity responsible for sidewalk snow removal, grass cutting, and the removal of garbage containers from the tree lawn; and~~

~~(12) A statement by the applicant certifying, for each dwelling unit in the structure, that the applicant has personally witnessed within the 12-month period immediately preceding the date of the application that:~~

~~A. Smoke and carbon monoxide detectors are present and operational pursuant to Chapter 1331; and~~

~~B. No visible electrical or other hazards are present; and~~

~~C. In the case of a housing license, there is hot and cold running water in the kitchen and each bathroom with no leaks below the sink area and all toilets flush; or in the case of a vacant property license, the plumbing has been winterized to prevent the freezing of pipes; and~~

~~D. In the case of a housing license, the heating system is operational; and~~

~~E. Railings are present on interior and exterior stairs as required by applicable code; and~~

~~F. No readily observable conditions exist that represent a threat to the health and safety of an occupant.~~

~~(13) In the case of a vacant property license, a statement by the applicant that all utilities to the structure have been disconnected, including electric service, which shall be disconnected at the utility pole, unless the applicant states that the structure is being actively marketed for sale.~~

(c) The issuance of a housing or vacant property license upon the satisfaction of the conditions in this section shall not in any way be construed as City approval or determination as to the condition or livability of the unit or structure.

(d) Fee Requirements.

(1) The housing license fee shall be as follows:

~~A. Owner-occupied~~ Non-owner-occupied condominium units: \$245.00 per unit.

~~B. Non-owner-occupied condominium units: \$6.00.~~

~~C. Rooming house containing two or more tenants: \$60.00 per rooming unit.~~

~~D. Non-owner-occupied one- or two-family structures: \$75.00 per dwelling unit.~~

~~E. Three-family dwellings: \$60.00 per non-owner-occupied unit.~~

~~F. All other occupied structures: \$45.00 per dwelling unit.~~

(2) There shall be a limit of ~~\$2,000.00 for a condominium and \$3,500.00 for any other occupied structure for which a single license has been issued.~~

(3) The vacant property license fee shall be as follows:

A. Vacant housing structures: \$200.00 per structure.

B. Vacant commercial or mixed-use building: \$200.00 per structure.

(e) Change of Information. The applicant shall inform the Building Commissioner in writing of any change in the information provided under subsection (b) of this section not more than 30 days after the change is made.

(f) Corporations and Limited Liability Companies. If the applicant is a corporation or a limited liability company, an officer of the corporation or managing member of the limited liability company shall provide the information required under subsections (a) and (b) of this section.

(g) Other Business Entities. If the applicant is an association or partnership, a member or partner shall provide the information required under subsections (a) and (b) of this section.

Section 3. Section 1306.45, Issuance of License, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1306.45 ISSUANCE OF LICENSE.

The Building Commissioner shall issue the license applied for if the building and the uses to which it is intended to be put are found to comply in all respects with this Code and all other laws and ordinances. Such license shall be posted at the main entrance of the building for which it is issued. The Building Official may inspect and require compliance in all respects with this Code and all other laws or ordinances prior to the issuance of the Housing License.

shall be repealed, and new Section 1306.45, Issuance of License, shall be enacted to read as follows:

1306.45 ISSUANCE OF LICENSE.

The Building Commissioner shall issue the license applied for if the building and the uses to which it is intended to be put are found to comply in all respects with this Code and all other laws and ordinances. ~~Such license shall be posted at the main entrance of the building for which it is issued. The Building Official may inspect and require compliance in all respects with this Code and all other laws or ordinances prior to the issuance of the Housing License.~~

Section 4. Section 1306.47, License Expiration, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1306.47 LICENSE EXPIRATION.

(a) Term. Every housing or vacant property license shall be secured by and expire not later than the following:

(1) Single- and two-family units: secured by July 1, expiring on June 30 the following calendar year regardless of the date of issuance.

(2) Three-family, multiple-family, condominium, rooming units or commercial structures: secured by January 1, expiring December 31 the same calendar year regardless of the date of issuance.

(b) Application for Renewal. Before a housing or vacant license expires, the licensee may renew it for an additional one-year term if:

(1) The licensee otherwise is entitled to be licensed;

(2) The licensee submits a renewal application on a form pre-scribed by the Building Commissioner or his or her designee (as used in this section, "Building Commissioner");

(3) The licensee pays to the Building Commissioner the fee established by Section 1306.44(d);

(4) The property is not subject to any outstanding fines or assessments issued pursuant to Chapter 510.

(c) Issuance of Renewal. The Building Commissioner shall renew the license of each licensee that meets the requirements of this section.

(d) Notification of Change of Ownership. Within 15 days after a change in ownership or ownership status of the dwelling unit, the new property owner or agent shall notify the Building Commissioner of the change in ownership.

(e) Transfer. Any license issued or renewed under this chapter is nontransferable and immediately becomes void whenever the interest of the licensee in the structure for which the license was issued shall cease, or when such building shall have undergone a change of principal use. When the property for which a license is required is sold, the new owner shall secure such license within 15 days after acceptance of title. A license favoring the licensee's legal representative and heirs at law shall be valid for 30 days from the date of the licensee's death, except that if the licensee's death occurs within 30 days of the end of the calendar year during which it was issued, the license shall expire at the end of the calendar year.

shall be repealed, and new Section 1306.47, License Expiration, shall be enacted to read as follows:

1306.47 LICENSE EXPIRATION.

(a) Term. Every housing or vacant property license shall be secured by ~~November 1~~ of each year and expire not later than ~~October 31~~ the following year.:

(1) ~~Single and two-family units: secured by July 1, expiring on June 30 the following calendar year regardless of the date of issuance.~~

(2) ~~Three-family, multiple-family, condominium, rooming units or commercial structures: secured by January 1, expiring December 31 the same calendar year regardless of the date of issuance.~~

(b) Application for Renewal. Before a housing or vacant license expires, the licensee may renew it for an additional one-year term if:

(1) The licensee otherwise is entitled to be licensed;

(2) The licensee submits a renewal application on a form pre-scribed by the Building Commissioner or his or her designee (as used in this section, "Building Commissioner");

(3) The licensee pays to the Building Commissioner the fee established by Section 1306.44(d);

(4) The property is not subject to any outstanding fines or assessments issued pursuant to Chapter 510.

(c) Issuance of Renewal. The Building Commissioner shall renew the license of each licensee that meets the requirements of this section.

(d) Notification of Change of Ownership. Within 15 days after a change in ownership or ownership status of the dwelling unit, the new property owner or agent shall notify the Building Commissioner of the change in ownership.

(e) Transfer. Any license issued or renewed under this chapter is nontransferable and immediately becomes void whenever the interest of the licensee in the structure for which the license was issued shall cease, or when such building shall have undergone a change of principal use. When the property for which a license is required is sold, the new owner shall secure such license within 15 days after acceptance of title. A license favoring the licensee's legal representative and heirs at law shall be valid for 30 days from the date of the licensee's death, except that if the licensee's death occurs within 30 days of the end of the calendar year during which it was issued, the license shall expire at the end of the calendar year.

Section 5. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were passed in an open meeting of this Council and

that all deliberations of this Council and any of its committees that resulted in such actions were in meetings open to the public and in compliance with legal requirements.

Section 6. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in its preamble, and provided it receives the affirmative vote of at least two thirds of the members of Council this ordinance shall take effect and be in force on January 1, 2019, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor

Placed on first reading and referred to the Housing Committee 1/2/18, 2nd reading 1/16/18, deferred 6/18/18. Please substitute for the original.

ORDINANCE NO. 2-18

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council, or otherwise to take effect at the earliest period allowed by law, enacting Section 1306.311, Outdoor Lighting, of the Codified Ordinances of the City of Lakewood in order to create regulations prohibiting outdoor light nuisances and for the installation of new lighting fixtures.

WHEREAS, Lakewood properties are unique in that residential and commercial uses often abut each other; and

WHEREAS, commercial properties can sometimes create light nuisances on abutting residential, commercial or mixed use properties; and

WHEREAS, this Council has determined that these outdoor lighting provisions shall be established in the Code as a matter of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments, in that construction season is upon us and these regulations should be applied to all new lighting installations immediately; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 1306.311, Outdoor Lighting, shall be enacted to read as follows:

1306.311 OUTDOOR LIGHTING.

(a) Definitions. As used herein:

- (1) "Area light" means lighting fixture intended to illuminate a significant parking or pedestrian area, such as a parking lot or walkway.

- (2) "Cutoff" means a lighting fixture from which no more than 2.5 percent of its lamp's intensity is emitted at or above horizontal plane drawn through the bottom of the fixture and no more than 10 percent of its lamp's intensity is emitted between 80 degrees and that horizontal plane.
 - (3) "Footcandle" means a unit of incident light stated in lumens per square foot and measurable with an illuminance meter, a.k.a. footcandle or light meter.
 - (4) "Full cutoff" means a lighting fixture from which none of its lamp's intensity is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than 10 percent of the lamp's intensity is emitted between 80 degrees and that horizontal plane.
 - (5) "Fully shielded" means a lighting fixture, from which, in the installed position, none of its light output, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture (excepting only incidental reflections from supporting brackets or arms), is projected above a horizontal plane through the fixture's lowest light-emitting part, as determined by photometric test or certified by the manufacturer. Any structural part of the fixture providing this shielding shall be permanently affixed.
 - (6) "Glare" means the sensation produced by lighting that causes an annoyance, discomfort or loss in visual performance and visibility to the eye.
 - (7) "Illuminance" means the quantity of incident light measured in footcandles.
 - (8) "Light trespass" means light emitted by a lighting installation, which extends beyond the boundaries of the property on which the installation is sited.
 - (9) "Lumen" means the light-output rating of a lamp (light bulb), as used in the context of this section.
 - (10) "Luminaire" means a complete lighting unit
 - (11) "Shielded" means the description of a luminaire from which no direct glare is visible at normal viewing angles, by virtue of its being properly aimed, oriented, and located and properly fitted with such devices as shields, barn doors, baffles, louvers, skirts or visors.
 - (12) "Commercial property" means property used for commercial purposes as defined in C1, C2, C3, C4, Planned Development, Mixed Use Overlay Districts, and multi-family properties of four or more units.
- (b) Lighting Fixture Design and Control. The following regulations are required on commercial property:
- (1) Luminaires shall be of a type and design appropriate to the lighting application.
 - (2) For the lighting of predominantly horizontal surfaces such as, but not limited to parking areas, and pedestrian passage areas, merchandising and storage areas automotive-fuel dispensing facilities, automotive sales areas, loading docks, active and passive recreational areas, building entrances, and site entrances, luminaires shall be aimed straight down, have no upright and shall meet IESNA full-cutoff/fully shielded criteria.

- (3) For the lighting of predominantly non-horizontal tasks or surfaces such as, but not limited to, facades, landscaping, fountains, displays and statuary, when their use is specifically permitted, luminaires shall be shielded and shall be installed and aimed so as to not project their output into the windows of neighboring residences, adjacent uses, past the object being illuminated, skyward or onto a public roadway.
 - (4) Area light shall not be permitted where visible during hours of darkness from a residential use, unless fitted with a reflector or other shielding device to block direct viewing of the light source from the adjacent use.
 - (5) All lighting shall be aimed, located, designed, fitted and maintained so as not to present a hazard and so as not to create a light trespass by projecting or reflecting objectionable light onto a neighboring use or property.
 - (6) Directional luminaires such as floodlights and spotlights shall be so shielded, installed and aimed that they do not project their output onto the properties of neighboring residences, adjacent uses, past the object being illuminated, or skyward. Floodlights installed above grade on residential properties shall not be aimed out more than 45 degrees from straight down. When a floodlight creates glare as viewed from an adjacent residential property, the floodlight shall be required to be re-aimed and/or fitted with a shielding device to block the view of the glare source from that property.
 - (7) All exterior property areas shall maintain all exterior lighting so that it complies with the following:
 - A. All luminaire fixtures should be installed at a height appropriate for the use.
 - B. All luminaire fixtures should be placed in the area of use or as near to the area of use as is reasonably possible.
 - C. All luminaire fixtures should be angled such that it reasonably reduces horizontal glare.
 - D. The luminaire should be aimed at the subject property of the horizontal plane and all reasonable efforts made to reduce glare and light trespass from the neighboring properties.
 - E. Full cutoff, fully shielded and internal baffling is required on all luminaire fixtures to reduce or eliminate glare and light trespass to the extent reasonably possible.
 - (8) Glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.
 - (9) The level of illumination projected onto a residential use from an adjacent property shall not create a light trespass or glare as determined by reasonable person.
- (c) Plan Submission. For all commercial properties where site lighting is proposed or otherwise required by the City, lighting plans shall be submitted to the Commissioner for review and approval with any preliminary development plan application or with any conditional use application. The Commissioner may also require that lighting plans be submitted for Building Permit applications or referred to Architectural

Review Board for review. [LAW NOTE: Building Commissioner to review this requirement.] Lighting plans shall include:

- (1) A site plan, complete with all structures, parking spaces, building entrances, traffic areas (both vehicular and pedestrian), vegetation that might interfere with lighting, and adjacent uses that might be adversely impacted by the lighting, containing a layout of all proposed fixtures by location, mounting height and type. The submission shall include, in addition to area lighting, exterior architectural, building entrance, landscape lighting, etc.
- (2) A point-by-point illuminance-grid plot on 10-foot-by-10-foot centers (or as necessary for suitable legibility) of footcandles overlaid on the site plan, plotted out to 0.0 maintained footcandles, which demonstrate compliance with the light trespass, illuminance and uniformity requirements as set forth in this Section or as otherwise required by the City.
- (3) Description of the proposed equipment, including fixture catalog cuts, photometrics, glare reduction devices, lamps, on/off control devices, mounting heights, pole wind-loading conformance, foundation pole details and mounting methods.
- (4) Landscaping plans shall contain lighting fixture locations and shall demonstrate that the site lighting and landscaping have been coordinated to minimize conflict between vegetation and intended light distribution, both initially and at vegetation maturity.
- (5) Post-approval alterations to lighting plans or intended substitutions for specified lighting equipment on the approved plan shall be submitted to the Commissioner for review and approval prior to installation. Requests for substitutions shall be accompanied by catalog cuts of the proposed equipment that demonstrate the proposed substitution is equal to or exceeds the optical quality and maintainability of the specified luminaires; and accompanied by a lighting plan, including a point-by-point plot, which demonstrates that proposed substitutions will result in a lighting design that equals or exceeds the quality of the lighting on the approved plan.

Section 2. Subsection (b)(9) of Section 775.02, Permits and Conditions, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

775.02 PERMITS AND CONDITIONS.

...

- (b) Notwithstanding Section 901.18 of these Codified Ordinances, issuance of permits as provided in subsection (a) hereof shall be upon forms provided by the Director of Public Works and submitted for approval to both the Director of Public Works and the Director of Public Safety.

...

- (9) Adequate lighting shall be provided so that all objects are sufficiently visible to ensure the safety of onlookers, pedestrians and passersby.

...

is hereby repealed, and new Subsection (b)(9) of Section 775.02, Permits and Conditions, of the Codified Ordinances of the City of Lakewood, to read as follows:

775.02 PERMITS AND CONDITIONS.

- ...
- (b) Notwithstanding Section 901.18 of these Codified Ordinances, issuance of permits as provided in subsection (a) hereof shall be upon forms provided by the Director of Public Works and submitted for approval to both the Director of Public Works and the Director of Public Safety.
- ...
- (9) Adequate lighting shall be provided pursuant to Section 1306.311 so that all objects are sufficiently visible to ensure the safety of onlookers, pedestrians and passersby.
- ...

Section 3. Subsection (t)(10) of Section 1161.03, Supplemental Regulations for Specific Uses, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1161.03 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.

In addition to the general standards established in Section 1161.02, the following specific conditions shall apply to each use or class of uses listed in this Section, 1161.03. Nothing in this Section shall prohibit the Commission from prescribing supplementary conditions and safeguards in addition to these requirements, or where no specific conditions are stated.

- ...
- (t) Outdoor/Seasonal Dining Facility. Any person operating a restaurant, bar, tavern, or nightclub use (as used in this section, a "Restaurant Use") in the C1 Office, C2 Retail, C3 General Business, C4 Public School, ML and MH Multiple-Family Residential, PD Planned Development or I Industrial District (as used in this section, and together with any successors or assigns, an "Applicant") may be permitted to operate an Outdoor/Seasonal Dining Facility as a conditionally permitted accessory use subject to the following:

- ...
- (10) The Outdoor/Seasonal Dining Facility must have adequate illumination during evening hours in accordance with the Outdoor Dining Design Guidelines. All lighting will be designed to minimize the intrusive effect of glare and illumination upon abutting areas, especially residential properties.
- ...

is hereby repealed, and new Subsection (t)(10) of Section 1161.03, Supplemental Regulations for Specific Uses, of the Codified Ordinances of the City of Lakewood, is hereby enacted to read as follows:

1161.03 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.

In addition to the general standards established in Section 1161.02, the following specific conditions shall apply to each use or class of uses listed in this Section 1161.03. Nothing in this Section shall prohibit the Commission from prescribing supplementary conditions and safeguards in addition to these requirements, or where no specific conditions are stated.

...

(t) Outdoor/Seasonal Dining Facility. Any person operating a restaurant, bar, tavern, or nightclub use (as used in this section, a "Restaurant Use") in the C1 Office, C2 Retail, C3 General Business, C4 Public School, ML and MH Multiple-Family Residential, PD Planned Development or I Industrial District (as used in this section, and together with any successors or assigns, an "Applicant") may be permitted to operate an Outdoor/Seasonal Dining Facility as a conditionally permitted accessory use subject to the following:

...

(10) The Outdoor/Seasonal Dining Facility must have adequate illumination during evening hours in accordance with the Outdoor Dining Design Guidelines. All lighting will be designed to minimize the intrusive effect of glare and illumination upon abutting areas, especially residential properties pursuant to Section 1306.311.

...

Section 4. Subsection (u)(5) of Section 1161.03, Supplemental Regulations for Specific Uses, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1161.03 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.

In addition to the general standards established in Section 1161.02, the following specific conditions shall apply to each use or class of uses listed in this Section 1161.03. Nothing in this Section shall prohibit the Commission from prescribing supplementary conditions and safeguards in addition to these requirements, or where no specific conditions are stated.

...

(u) 24-Hour Operation. In the C1 Office, C2 Retail and C3 General Business Districts a 24-hour operation may be permitted as a conditionally permitted use subject to all or any of the following:

...

- (5) All exterior site and building lighting, which shall be provided, is approved by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code, and such design shall minimize the intrusive effect of glare and illumination upon any abutting areas especially residential.

...

is hereby repealed, and new Subsection (u)(5) of Section 1161.03, Supplemental Regulations for Specific Uses, of the Codified Ordinances of the City of Lakewood, is hereby enacted to read as follows:

1161.03 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.

In addition to the general standards established in Section 1161.02, the following specific conditions shall apply to each use or class of uses listed in this Section 1161.03. Nothing in this Section shall prohibit the Commission from prescribing supplementary conditions and safeguards in addition to these requirements, or where no specific conditions are stated.

...

- (u) 24-Hour Operation. In the C1 Office, C2 Retail and C3 General Business Districts a 24-hour operation may be permitted as a conditionally permitted use subject to all or any of the following:

...

- (5) All exterior site and building lighting, which shall be provided, is approved by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code, and such design shall minimize the intrusive effect of glare and illumination upon any abutting areas especially residential pursuant to Section 1306.311.

...

Section 5. Subsection (w)(5) of Section 1161.03, Supplemental Regulations for Specific Uses, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1161.03 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.

In addition to the general standards established in Section 1161.02, the following specific conditions shall apply to each use or class of uses listed in this Section 1161.03. Nothing in this Section shall prohibit the Commission from prescribing supplementary conditions and safeguards in addition to these requirements, or where no specific conditions are stated.

...

- (w) Extended Hours of Operation. In the C1 Office District, C2 Retail District, C3 General Business and C4 Public School District, a business may be permitted as a conditionally permitted use with

extended hours of operation after 12:00 a.m. or before 6:00 a.m. subject to all or any of the following:

...

- (5) All exterior site and building lighting, which shall be provided, is approved by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code, and such design shall minimize the intrusive effect of glare and illumination upon any abutting areas, especially residential.

is hereby repealed, and new Subsection (w)(5) of Section 1161.03, Supplemental Regulations for Specific Uses, of the Codified Ordinances of the City of Lakewood, is hereby enacted to read as follows:

1161.03 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.

In addition to the general standards established in Section 1161.02, the following specific conditions shall apply to each use or class of uses listed in this Section 1161.03. Nothing in this Section shall prohibit the Commission from prescribing supplementary conditions and safeguards in addition to these requirements, or where no specific conditions are stated.

...

- (w) Extended Hours of Operation. In the C1 Office District, C2 Retail District, C3 General Business and C4 Public School District, a business may be permitted as a conditionally permitted use with extended hours of operation after 12:00 a.m. or before 6:00 a.m. subject to all or any of the following:

...

- (5) All exterior site and building lighting, which shall be provided, is approved by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code, and such design shall minimize the intrusive effect of glare and illumination upon any abutting areas, especially residential pursuant to Section 1306.311.

Section 6. Subsection (x)(5) of Section 1161.03, Supplemental Regulations for Specific Uses, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1161.03 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.

In addition to the general standards established in Section 1161.02, the following specific conditions shall apply to each use or class of uses listed in this Section 1161.03. Nothing in this Section shall prohibit the Commission from prescribing supplementary conditions and safeguards in addition to these requirements, or where no specific conditions are stated.

...

- (y) Drive-Through Facility. In a C1 Office, C2 Retail, C3 General Business or PD Planned Development District, a drive-through facility may be conditionally permitted as an accessory use provided that:

- ...
- (6) A photometric study shall be required and the lighting design shall be approved by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code, all lights shall be full cutoff fixtures and spotlights shall be projected down; all lighting shall be designed in a manner to minimize the intrusive effect of glare and illumination upon abutting properties, especially residential properties;
- ...

is hereby repealed, and new Subsection (x)(5) of Section 1161.03, Supplemental Regulations for Specific Uses, of the Codified Ordinances of the City of Lakewood, is hereby enacted to read as follows:

1161.03 SUPPLEMENTAL REGULATIONS FOR SPECIFIC USES.

In addition to the general standards established in Section 1161.02, the following specific conditions shall apply to each use or class of uses listed in this Section 1161.03. Nothing in this Section shall prohibit the Commission from prescribing supplementary conditions and safeguards in addition to these requirements, or where no specific conditions are stated.

- ...
- (y) Drive-Through Facility. In a C1 Office, C2 Retail, C3 General Business or PD Planned Development District, a drive-through facility may be conditionally permitted as an accessory use provided that:
 - (6) A photometric study shall be required and the lighting design shall be approved by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code, all lights shall be full cutoff fixtures and spotlights shall be projected down; all lighting shall be designed in a manner to minimize the intrusive effect of glare and illumination upon abutting properties, especially residential properties pursuant to Section 1306.311;
- ...

Section 7. Subsection (f) of Section 1325.08, Parking and Vacant Lot Design, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1325.08 PARKING AND VACANT LOT DESIGN.

The following design standards shall apply to off-street parking spaces except in the R-1H, R-1L and R-1M Districts and vacant and unimproved lots in all districts.

- ...
- (f) Lighting may be required for parking lots to be used after sunset. The light fixtures shall be arranged to reflect light away from adjacent residential property to reduce any annoyance the lights may cause.

is hereby repealed, and new Subsection (f) of Section 1325.08, Parking and Vacant Lot Design, of the Codified Ordinances of the City of Lakewood, is hereby enacted to read as follows:

1325.08 PARKING AND VACANT LOT DESIGN.

The following design standards shall apply to off-street parking spaces except in the R-1H, R-1L and R-1M Districts and vacant and unimproved lots in all districts.

- ...
- (f) Lighting may be required for parking lots to be used after sunset. The light fixtures shall be arranged to reflect light away from adjacent residential property to reduce any annoyance the lights may cause pursuant to Section 1306.311.

Section 8. Subsection (a) of Section 1329.06, Illumination of Signs, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

1329.06 ILLUMINATION OF SIGNS.

- (a) Light sources to illuminate signs shall be shielded from all adjacent buildings and streets and shall not be of such brightness so as to cause glare hazardous to pedestrians or motorists or so as to cause reasonable objection from adjacent residential districts.

...

is hereby repealed, and new Subsection (a) of Section 1329.06, Illumination of Signs, of the Codified Ordinances of the City of Lakewood, is hereby enacted to read as follows:

1329.06 ILLUMINATION OF SIGNS.

- (a) Light sources to illuminate signs shall be shielded from all adjacent buildings and streets and shall not be of such brightness so as to cause glare hazardous to pedestrians or motorists or so as to cause reasonable objection from adjacent residential districts pursuant to Section 1306.311.

...

Section 9. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 10. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in its preamble, and provided it receives the affirmative vote of at least two thirds of the members of Council this ordinance shall take effect and be in force immediately, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR