

ORDINANCE NO. 11-13

**AN ORDINANCE TO AMEND SECTIONS 1270.03(d)(1) & (2),
1274.03(f)(1) & (2), 1278.03(b)(1), 1280.05(a)(2), and 1280.06(a)(1) & (2) OF THE
CODIFIED ORDINANCES OF THE CITY OF AVON
TO REVISE ABOVE-GROUND FUEL STORAGE REQUIREMENTS**

WHEREAS, the Administration has recognized that more and more non-residential properties are in need of storing flammable and/or combustible liquids and liquified petroleum gases (propane and the like) for various dispensing purposes, such as refilling of propane tanks and non-dispensing purposes such as to fuel back-up power generators for use in emergencies when normal power is disrupted or for recycling purposes; and

WHEREAS, in many cases, the tanks used to store these products exceed the 250 gallon limit currently set forth in the Codified Ordinances and are, therefore, prohibited; and

WHEREAS, the Planning Commission authorized a Public Hearing on various amendments to the Planning and Zoning Code drafted by the Administration designed to address the appropriateness of the current size limitations. This hearing was duly publicized according to law and held on December 19, 2012; and

WHEREAS, at said Public Hearing, the Planning Commission reviewed the various sections of the Codified Ordinances, heard from members of the Administration, particularly the Assistant Fire Chief, and members of the public, on the subject of increasing the size of above-ground storage tanks from the current 250 gallons to an amount in excess of 1,000 gallons and found that increasing the size of these tanks will not present a serious health and safety risk if proper guidelines are utilized for said installations; and

WHEREAS, on January 16, 2013, by a vote of five (5) in favor and zero (0) opposed, Planning Commission recommended approval of the amendments to Sections 1270.03(d)(1) & (2), 1274.03(f)(1) & (2), 1278.03(b)(1), 1280.05(a)(2), and 1280.06(a)(1) & (2) of the Planning and Zoning Code; and

WHEREAS, Council, on January 22, 2013, announced a Public Hearing on said amendments to 1270.03(d)(1) & (2), 1274.03(f)(1) & (2), 1278.03(b)(1), 1280.05(a)(2) and 1280.06(a)(1) & (2); and

WHEREAS, said Public Hearing was duly publicized according to law and was held on February 25, 2013 at 7:25 PM; and

WHEREAS, Council, in considering the recommendation of Planning Commission, finds that amending Sections 1270.03(d)(1) and (2), 1274.03(f)(1) & (2), 1278.03(b)(1), 1280.05(a)(2) and 1280.06(a)(1) & (2) of the Code to high capacity above-ground fuel storage tanks under the specific conditions outlined in these amendments is reasonable and in the best interests of the safety, health and welfare of the citizens of Avon.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, STATE OF OHIO THAT:

Section 1 -That Section 1270.03(d) which currently reads as follows:

1270.03 SCHEDULE OF PERMITTED USES.

	<u>C-1</u> <u>Neighborhood</u> <u>Business</u>	<u>C-2</u> <u>Central</u> <u>Business/</u> <u>French Creek</u>	<u>C-3</u> <u>Planned</u> <u>Commercial</u> <u>Development</u>	<u>C-4</u> <u>General</u> <u>Business</u>
(d) <u>Outdoor Display/Storage</u>				
(1) Aboveground storage of flammable liquids & hazardous materials in excess of 250 gallons*	X	X	X	X
(2) Aboveground storage of flammable & combustible liquids in excess of 250 gallons for non-dispensing purposes and used solely for on-site power generation*	SU*	SU*	SU*	SU*
P = Principal Use Permitted by Right SU = Special Use A = Accessory Use Blank Cell = Use Not permitted X = Specifically prohibited * = Must comply with ACO Section 1610.17				

(Ord. 58-01. Passed 5-29-01; Ord. 78-05. Passed 6-13-05; Ord. 21-06. Passed 3-27-06; Ord. 94-07. Passed 9-10-07; Ord. 1-08. Passed 2-11-08; Ord. 169-08. Passed 1-12-09; Ord. 260-10. Passed 5-10-10; Ordinance No. 33-12. Passed 7-9-12.)

Shall be amended to read as follows: (new language in bold print)

(This section left intentionally blank)

1270.03 SCHEDULE OF PERMITTED USES.

	<u>C-1</u> <u>Neighborhood</u> <u>Business</u>	<u>C-2</u> <u>Central</u> <u>Business/</u> <u>French Creek</u>	<u>C-3</u> <u>Planned</u> <u>Commercial</u> <u>Development</u>	<u>C-4</u> <u>General</u> <u>Business</u>
(d) <u>Outdoor Display/Storage</u>				
(1) An aboveground storage container of flammable/combustible liquids, LPG (liquified petroleum gas), CNG (compressed natural gas) or hazardous materials in excess of 1,500 gallons.	X	X	X	X
(2) An aboveground storage container of flammable/combustible liquids, LPG (liquified petroleum gas), CNG (compressed natural gas) or hazardous materials in amounts not exceeding 25 gallons.*	P	P	P	P
(3) An aboveground storage container of flammable/combustible liquids, LPG (liquified petroleum gas), CNG (compressed natural gas) or hazardous materials in containers larger than 25 gallons but less than 1,500 gallons for sale or distribution.*			SU	SU
(4) An aboveground storage container of flammable/combustible liquids, LPG (liquified petroleum gas), CNG (compressed natural gas) or hazardous materials in any size, for the sole purpose of on-site power generation.*	SU	SU	SU	SU
P = Principal Use Permitted by Right SU = Special Use A = Accessory Use Blank Cell = Use Not permitted X = Specifically prohibited *= Must comply with ACO Section 1610.17. Refer to Ohio Fire Code for definitions.				

(Ord. 58-01. Passed 5-29-01; Ord. 78-05. Passed 6-13-05; Ord. 21-06. Passed 3-27-06; Ord. 94-07. Passed 9-10-07; Ord. 1-08. Passed 2-11-08; Ord. 169-08. Passed 1-12-09; Ord. 260-10. Passed 5-10-10; Ordinance No. 33-12. Passed 7-9-12.)

Section 2 - That Section 1274.03(f)(1) & (2) which currently reads as follows:

1274.03(f) SCHEDULE OF PERMITTED USES.

	<u>O-1</u> <u>Planned Office</u>	<u>O-2</u> <u>Planned Research</u> <u>Office Park</u>
(f) <u>Other</u>		
(1) Aboveground storage of inflammable liquids & hazardous materials in excess of 250 gallons.	X	X
(2) Aboveground storage of flammable and combustible liquids in excess of 250 gallons for non-dispensing purposes and used solely for on-site power generation*	SU*	SU*
P = Principal Use Permitted by Right SU = Special Use A = Accessory Use X = Specifically Prohibited Use Blank Cell = Use Not permitted * = Must comply with ACO Section 1610.17		

(Ord. 58-01. Passed 5-29-01; Ord. 169-08. Passed 1-12-09; Ord. 54-09. Passed 5-26-09.)

Shall be amended to read as follows: (new language in bold print)

1274.03(f) SCHEDULE OF PERMITTED USES.

	<u>O-1</u> <u>Planned Office</u>	<u>O-2</u> <u>Planned Research</u> <u>Office Park</u>
(f) <u>Other</u>		
(1) An aboveground storage container of flammable/combustible liquids, LPG (liquified petroleum gas), CNG (compressed natural gas) or hazardous materials in amounts exceeding 25 gallons.*	X	X
(2) An aboveground storage container of flammable/combustible liquids, LPG (liquified petroleum gas), CNG (compressed natural gas) or hazardous materials in any size, for the sole purpose of on-site power generation.*	SU*	SU*
P = Principal Use Permitted by Right SU = Special Use A = Accessory Use X = Specifically Prohibited Use Blank Cell = Use Not permitted * = Must comply with ACO Section 1610.17. Refer to Ohio Fire Code for definitions.		

(Ord. 58-01. Passed 5-29-01; Ord. 169-08. Passed 1-12-09; Ord. 54-09. Passed 5-26-09.)

Section 3 - That Section 1278.03(b)(1) which currently reads as follows:

1278.03 SCHEDULE OF PERMITTED USES.

	<u>M-1</u> <u>General</u> <u>Industrial</u>	<u>M-2</u> <u>Light</u> <u>Industrial</u>
(b) <u>Storage and Distribution***</u>		
(1) Above-ground storage of gasoline, oil or alcohol in excess of 500 gallons*	SU*	
P = Principal Use Permitted by Right SU = Special Use A = Accessory Use Blank Cell = Use Not permitted *= Must comply with ACO Section 1610.17		

(Ord. 58-01. Passed 5-29-01; Ord. 111-04. Passed 7-12-04; Ord. 169-08. Passed 1-12-09.)

Shall be amended to read as follows: (new language in bold print)

1278.03 SCHEDULE OF PERMITTED USES.

	<u>M-1</u> <u>General</u> <u>Industrial</u>	<u>M-2</u> <u>Light</u> <u>Industrial</u>
(b) <u>Storage and Distribution</u>		
(1) An aboveground storage container of flammable/combustible liquids, LPG (liquified petroleum gas), CNG (compressed natural gas) or hazardous materials not exceeding 1,500 gallons.*	P	P
(2) An aboveground storage container of flammable/combustible liquids, LPG (liquified petroleum gas), CNG (compressed natural gas) or hazardous materials exceeding 1,500 gallons.*	SU	SU
P = Principal Use Permitted by Right SU = Special Use A = Accessory Use Blank Cell = Use Not permitted *= Must comply with ACO Section 1610.17. Refer to Ohio Fire Code for definitions.		

(Ord. 58-01. Passed 5-29-01; Ord. 111-04. Passed 7-12-04; Ord. 169-08. Passed 1-12-09.)

Section 4 - That Section 1280.05(a) which currently reads as follows:

1280.05 SCHEDULE OF PERMITTED USES.

<u>Special Use</u>	<u>Special Use in District</u>	<u>Minimum Lot Regulations</u>		<u>Also See Section:</u>
		<u>Area</u>	<u>Width</u>	
(a)(1) Aboveground storage of gasoline, oil or alcohol in excess of 500 gallons	M-1	(1)	(1)	1280.06(a)
(a)(2) Aboveground storage of flammable and combustible liquids in excess of 250 gallons for non-dispensing purposes. and used solely for on-site power generation	C-1C-2, C-3,C-4, O-1,O-2,			1280.06(a)
Notes to Schedule 1280.05: (1) Shall comply with district regulations. NA Not Applicable				

(Ord. 58-01. Passed 5-29-01; Ord. 30-05. Passed 3-28-05; Ord. 1-08. Passed 2-11-08; Ord. 169-08. Passed 1-12-09; Ord. 54-09. Passed 5-26-09; Ordinance No. 26-10. Passed 5-10-10; Ord. 35-12. Passed 6-11-12.)

Shall be amended to read as follows: (new language in bold print)

1280.05 SCHEDULE OF PERMITTED USES.

<u>Special Use</u>	<u>Special Use in District</u>	<u>Minimum Lot Regulations</u>		<u>Also See Section:</u>
		<u>Area</u>	<u>Width</u>	
(a)(1) An aboveground storage container of flammable/combustible liquids, LPG (liquefied petroleum gas), CNG (compressed natural gas) or hazardous materials exceeding 1,500 gallons.*	M-1 M-2	(1)	(1)	1280.06(a) 1280.06(w)(2-7)
(a)(2) An aboveground storage container of flammable/combustible liquids, LPG (liquefied petroleum gas), CNG (compressed natural gas) or hazardous materials in any size, for the sole purpose of on-site power generation.*	C-1, C-2, C-3, C-4, O-1,O-2,	(1)	(1)	1280.06(a) 1280.06(w)(2-7)

(a)(3) An aboveground storage container of flammable/combustible liquids, LPG (liquified petroleum gas), CNG (compressed natural gas) or hazardous materials larger than 25 gallons but less than 1,500 gallons for sale or distribution.*	C-3, C-4	(1)	(1)	1260.06(a) 1280.06(w)(2-7)
Notes to Schedule 1280.05: (1) Shall comply with district regulations. NA Not Applicable				

(Ord. 58-01. Passed 5-29-01; Ord. 30-05. Passed 3-28-05; Ord. 1-08. Passed 2-11-08; Ord. 169-08. Passed 1-12-09; Ord. 54-09. Passed 5-26-09; Ordinance No. 26-10. Passed 5-10-10; Ord. 35-12. Passed 6-11-12.)

Section 5 - That Section 1280.06(a) which currently reads as follows:

1280.06 SUPPLEMENTAL REGULATIONS FOR CERTAIN USES.

The following are specific conditions, standards and regulations for certain special uses and are in addition to the criteria and standards set forth in Sections 1280.02 through 1280.05.

- (a) (1) Aboveground Storage of Gasoline, Oil or Alcohol in Excess of 500 Gallons. The storage of above ground gasoline, oil or alcohol in excess of 500 gallons shall comply with state and national fire code regulations as well as Section 1610.17 of the ACO. The Fire Chief shall make a recommendation to the Planning Commission.
- (2) Aboveground Storage of Flammable and Combustible Liquids in Excess of 250 Gallons. Aboveground storage of flammable and combustible liquids in excess of 250 gallons for non-dispensing purposes and used solely for on-site power generation shall comply with state and national fire code regulations as well as Section 1610.17 of the ACO. The Municipal Fire Code Official shall make a recommendation to Planning Commission.

(Ord. 58-01. Passed 5-29-01; Ord. 30-05. Passed 3-28-05; Ord. 77-05. Passed 6-13-05; Ord. 147-07. Passed 1-14-08; Ord. 1-08. Passed 2-11-08; Ord. 169-08. Passed 1-12-09; Ordinance No. 26-10. Passed 5-10-10.)

Shall be amended to read as follows: (new language in bold print)

1280.06 SUPPLEMENTAL REGULATIONS FOR CERTAIN USES.

The following are specific conditions, standards and regulations for certain special uses and are in addition to the criteria and standards set forth in Sections 1280.02 through 1280.05.

- (a) (1) **Aboveground Storage of Flammable/Combustible Liquids, LPG (liquefied petroleum gas), CNG (compressed natural gas) or hazardous materials in excess of 1,500 gallons in M-1 or M-2.**
An aboveground storage container of flammable/combustible liquids, LPG (liquefied petroleum gas), CNG (compressed natural gas) or hazardous materials in excess of 1,500 gallons in M-1 or M-2 shall comply with state and national fire code regulations as well as Section 1610.17 of the ACO. The Fire Marshall shall make a recommendation to the Planning Commission.
- (2) **Aboveground Storage of Flammable/Combustible Liquids, LPG (liquefied petroleum gas), CNG (compressed natural gas) or hazardous materials in any size used solely for the purpose of on-site power generation in O-1 or O-2.** An aboveground storage container of flammable/combustible liquids, LPG (liquefied petroleum gas), CNG (compressed natural gas) or hazardous materials in O-1 or O-2 shall comply with state and national fire code regulations as well as Section 1610.17 of the ACO. The Fire Marshall shall make a recommendation to the Planning Commission.
- (3) **Aboveground storage of Flammable/Combustible Liquids, LPG (liquefied petroleum gas), CNG (compressed natural gas) or hazardous materials in containers larger than 25 gallons but less than 1,500 gallons for sale or distribution in C-3 and C-4.** An aboveground container storage of flammable/combustible liquids, LPG (liquefied petroleum gas), CNG (compressed natural gas) or hazardous materials larger than 25 gallons but less than 1,500 gallons for sale or distribution in C-3 and C-4 shall comply with state and national fire code regulations as well as Section 1610.17 of the ACO. The Fire Marshall shall make a recommendation to the Planning Commission.

(Ord. 58-01. Passed 5-29-01; Ord. 30-05. Passed 3-28-05; Ord. 77-05. Passed 6-13-05; Ord. 147-07. Passed 1-14-08; Ord. 1-08. Passed 2-11-08; Ord. 169-08. Passed 1-12-09; Ordinance No. 26-10. Passed 5-10-10.)

Section 6 - That 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 deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 7 - That this Ordinance shall take effect and be in force at the earliest date allowed by law.

First Reading: _____

Second Reading: _____

Third Reading: _____

PASSED: _____ DATE SIGNED: _____

By: _____
Daniel S. Zegarac, Council President

DATE APPROVED BY THE MAYOR: _____

James A. Smith, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Ellen R. Young
Clerk of Council

POSTED: _____
In Five Places as
Provided by Council

Prepared by:
John A. Gasior, Esq.
Law Director