

**CODIFIED
ORDINANCES
OF THE
CITY OF
MARTINS FERRY
OHIO**

Complete to July 12, 2017

CERTIFICATION

We, Robert Krajnyak, Mayor and Lee Ann Cleary, Council Clerk of the City of Martins Ferry, Ohio, pursuant to Ohio Revised Code 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of Martins Ferry, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of the City of Martins Ferry, Ohio, 1972, as amended to July 12, 2017.

/s/ Robert Krajnyak
Mayor

/s/ Lee Ann Cleary
Council Clerk

The preparation of these Codified Ordinances was financially aided and made possible through a Federal grant from the U.S. Department of Housing and Urban Development under Title I of the Demonstration Cities and Metropolitan Development Act of 1966. Grant ME 34-008.

Codified, edited and prepared for
publication by
THE WALTER H. DRANE COMPANY
Cleveland, Ohio

CITY OF MARTINS FERRY

ROSTER OF OFFICIALS

(2017)

COUNCIL

Kristine Davis	Council President
Robert Hunker	First Ward
Bruce Shrodes	Second Ward
John Davies	Third Ward
Rick Rodgers	Fourth Ward
Ben Neiman	Council at Large
Jim Schramm	Council at Large
Jack Regis	Council at Large
Lee Ann Cleary	Council Clerk

ADMINISTRATIVE OFFICIALS

Robert Krajnyak	Mayor
Chris Cleary	Service Director
Rita Randall	Auditor
Rhonda Bernardo	Treasurer
Paul Stecker	Law Director

The publisher
expresses his appreciation
to

DANIEL P. FRY
Director of Law

BETTY PRESLIN
Clerk of Council

and all the other officers
and employees who gave their time and
counsel to this 1972 codification and
the preparation of current replacement pages.

ORDINANCE NO. 6202

AN ORDINANCE TO APPROVE, ADOPT AND ENACT THE CODIFIED ORDINANCES; TO REPEAL ORDINANCES IN CONFLICT THEREWITH; TO PUBLISH THE ENACTMENT OF NEW MATTER, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Martins Ferry, Ohio, has had the matter of recodification and general revision of the ordinances before it for some time, and

WHEREAS, the Model Cities Department of the City has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such recodification, and

WHEREAS, the recodification of such ordinances, together with the new matter to be adopted, the matters to be amended and those to be repealed are before the Council,

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MARTINS FERRY, STATE OF OHIO:

Section I. That the ordinances of the City of Martins Ferry, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections are hereby approved, adopted and enacted as the Codified Ordinances of Martins Ferry, Ohio, 1972.

One book-form copy of the Codified Ordinances shall be certified as correct by the Mayor and the Clerk of Council, attached to this Ordinance as a part hereof, and filed with the permanent ordinance records of the City of Martins Ferry, Ohio.

Section II. That the provisions of this Ordinance, including all provisions of the Codified Ordinances, shall be in full force and effect from and immediately after passage of this Ordinance and its approval by the Mayor. All ordinances and resolutions or parts thereof enacted prior to May 18, 1972, which are inconsistent with any provision of the Codified Ordinances, are hereby repealed as of the effective date of this Ordinance, except as follows:

- (a) The enactment of the Codified Ordinances shall not be construed to affect a right or liability accrued or incurred under any legislative provision prior to the effective date of such enactment, or an action or proceeding for the enforcement of such right or liability. Such enactment shall not be construed to relieve any person from punishment for an act committed in violation of any such legislative provision, nor to affect an indictment or prosecution therefor. For such purposes, any such legislative provision shall continue in full force notwithstanding its repeal for the purpose of revision and recodification.

- (b) The repeal provided above shall not affect:
- (1) The grant or creation of a franchise, license, right, easement or privilege;
 - (2) The purchase, sale, lease or transfer of property;
 - (3) The appropriation or expenditure of money or promise or guarantee of payment;
 - (4) The assumption of any contract or obligation;
 - (5) The issuance and delivery of any bonds, obligations or other instruments of indebtedness;
 - (6) The levy or imposition of taxes, assessments or charges;
 - (7) The establishment, naming, vacating or grade level of any street or public way;
 - (8) The dedication of property or plat approval;
 - (9) The annexation or detachment of territory;
 - (10) Any legislation enacted subsequent to May 17, 1972.

Section III. That the Clerk of Council, pursuant to Ohio R.C. 731.23, shall cause to be published in a manner required by law a summary of the new matter contained in the Codified Ordinances. All sections of the Codified Ordinances without a previous ordinance or resolution history at the end thereof indicate that the section contains new matter ordained by this Adopting Ordinance.

Section IV. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the residents of the City of Martins Ferry, Ohio, and for the further reason that there exists an imperative necessity for the earliest publication and distribution of the Codified Ordinances to the officials and residents of the City, so as to facilitate administration, daily operation and avoid practical and legal entanglements. Therefore, provided this Ordinance receives the affirmative vote of 2/3 of the elected or appointed members of Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest time allowed by law.

PASSED: August 17, 1972 /s/ Ernest Hill
President of Council

ATTEST: /s/ William D. Mitchell

APPROVED: August 17, 1972 /s/ John Laslo
Mayor of the City of Martins Ferry, Ohio

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EDITOR'S NOTE

The arrangement and numbering of the Codified Ordinances into component codes, titles, chapters and sections are based on an adaptation of the decimal numbering system which is similar to that used in the Ohio Revised Code, and in accord with the best accepted practice in instituting a codification. Each section is self-identifying as to code, chapter and section number. For example, 305.06 indicates that the code number is 3, the chapter number is 305 (or the 5th chapter within code 3), and the section number is .06. The code and chapter numbers appear left of the decimal, with the code number preceding the first two digits left of the decimal, and the chapter number being all digits left of the decimal. The section number appears right of the decimal. As another example, 113.10 indicates the code number is 1, the chapter number is 113 (or the 13th chapter within code 1), and the section number is .10.

This numbering system has the advantage of inherent flexibility in allowing for an almost endless amount of expansion. Codes, titles and chapters initially are odd-numbered, thus reserving the use of even numbers for future legislation. Sections within chapters are consecutively numbered, except that penalty provisions are usually assigned the number .99 as used in the Revised Code. Newly created sections subsequent to the original codification may be indicated by three digits right of the decimal in the event the law properly belongs between two consecutively numbered sections. For example, newly created 575.061, 575.062 and 575.063 follow 575.06 and precede 575.07 to be placed in their logical position.

Section histories enable a user to trace the origin of the law contained in the section. The history indicates the derivation by reference to either its passage date and the ordinance number originally assigned to it at that time, or to its inclusion in any prior code. Sections without histories indicate that the section contains new matter which was ordained by the Adopting Ordinance which enacts the Codified Ordinances.

The Comparative Section Table is included to show the disposition of every ordinance included in the Codified Ordinances. It indicates whether a given ordinance was consolidated with another into one section or split into two or more sections. Cross references direct the user to subject matter reasonably related to material contained within a given chapter.

GENERAL INDEX

EDITOR'S NOTE: References are to individual code sections. As additional aids for locating material, users are directed to:

- (a) The Comparative Section Table, which indicates in the Codified Ordinances the disposition of the ordinances or resolutions integrated therein.
- (b) The Table of Contents preceding each component code, and the sectional analysis preceding each chapter.
- (c) The cross references to related material following the chapter analysis.

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See sectional histories for similar State law

Codification in book form - see Ohio R.C. 731.23

Imprisonment until fine and costs are paid - see Ohio R.C. 1905.30,
2947.20

Statute of limitations on prosecutions - see Ohio R.C. 1905.33

Ordinances and resolutions - see ADM. Ch. 113

Attempts, aider or abettor - see GEN.OFF. 501.01 et seq.

Anything of value defined - see GEN. OFF. 537.01

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Martins Ferry, Ohio, 1972, for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances. (ORC 1.01)

(b) All references to codes, titles, chapters and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 101.01".

101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless otherwise expressly provided or the context otherwise requires:

- (a) And may be read or, and or may be read and, if the sense requires it. (ORC 1.02(H))
- (b) Another or person, when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property. (ORC 1.02(B), (C))
- (c) Council means the legislative authority of the Municipality.
- (d) County means Belmont County, Ohio.
- (e) Keeper or proprietor includes all persons, whether acting by themselves or as a servant, agent or employee.
- (f) Land or real estate includes rights and easements of incorporeal nature. (ORC 701.01(F))
- (g) Municipality or City means the City of Martins Ferry, Ohio.
- (h) Oath includes an affirmation. (ORC 701.01(C))
- (i) Owner, when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.
- (j) Person or whoever includes all persons, natural and artificial, and includes but is not limited to private corporations, partners, principals, agents and employees, and all officials, public or private. (ORC 1.02(A))
- (k) Premises, as applied to property, includes land and buildings.
- (l) Property includes real, personal, mixed estates and interests. (ORC 701.01(E))
Personal property includes all property except real. Real property include lands, tenements and hereditaments.
- (m) Public authority includes boards of education; the Municipal, County, State or Federal government, its officers or an agency thereof; or any duly authorized public official.
- (n) Public place includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.
- (o) Registered mail includes certified mail. (ORC 1.02(I))
- (p) Sidewalk means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.
- (q) State means the State of Ohio, or any department, division, commission, board, educational or other institution of the State of Ohio.
- (r) Street includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.
- (s) Tenant or occupant, as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.
- (t) Writing includes printing. (ORC 1.02(D))

101.03 RULES OF CONSTRUCTION.

(a) General Rule. All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

- (b) As used in the Codified Ordinances, unless the context otherwise requires:
- (1) Tense. Words in the present tense include the future tense.
 - (2) Gender. Words in the masculine gender include the feminine and neuter genders.
 - (3) Plural. Words in the plural number include the singular number, and words in the singular number include the plural number.
(ORC 1.10)

(c) Calendar - Computation of Time. The time within which an act is required by law to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday.

When a public office, in which an act required by law is to be performed, is closed to the public for the entire day which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Sunday or a legal holiday. If any legal holiday falls on Sunday, the next succeeding day is a legal holiday. (ORC 1.14)

When an act is to take effect or become operative from and after a day named, no part of that day shall be included. (ORC 1.15)

In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

(d) Authority. When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(e) Joint Authority. All words purporting to give joint authority to three or more municipal officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority or inconsistent with State statute or Charter provisions.

(f) Exceptions. The rules of construction shall not apply to any law which shall contain any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

(a) When a law which repealed a former law is repealed, the former law is not thereby revived. (ORC 1.19)

(b) When a provision of the Codified Ordinances is repealed or amended, such repeal or amendment does not affect pending actions, prosecutions or proceedings, civil or criminal. When the repeal or amendment relates to the remedy, it does not affect pending actions, prosecutions or proceedings, unless so expressed, nor does any repeal or amendment affect causes of such action, prosecution or proceeding, existing at the time of such amendment or repeal, unless otherwise expressly provided in the amending or repealing law.
(ORC 1.20)

- (c) When a provision of the Codified Ordinances is repealed, such repeal does not:
- (1) Affect any rights or liabilities which exist, have accrued or have been incurred by virtue of such repealed provision;
 - (2) Affect an action or proceeding for the enforcement of any rights or liabilities existing or arising thereunder;
 - (3) Relieve any person from punishment for an act committed in violation of such repealed provision;
 - (4) Affect an indictment or prosecution for a violation of such repealed provision.

For the purposes of this section, such repealed provision shall continue in full force and effect notwithstanding such repeal, provided this does not affect the limitation of actions, prosecutions or proceedings imposed by any State statute. (ORC 1.21)

101.05 CONSTRUCTION OF SECTION REFERENCES.

When reference is made to any section or group of sections of the Codified Ordinances, such reference shall extend to and include any amendment of or supplement to the section or group of sections so referred to or any section or sections hereafter enacted in lieu thereof; and unless otherwise provided, whenever a reference to a section or group of sections is made in any amendment or supplement to any section of the Codified Ordinances hereafter enacted, such reference shall be deemed to refer to the section or sections as the same shall then stand or as thereafter amended.

Whenever in a penalty section reference is made to a violation of a section or an inclusive group of sections, such reference shall be construed to mean a violation of any provision of the section or sections included in such reference.

References in the Codified Ordinances to action taken or authorized under designated sections of the Codified Ordinances include, in every case, action taken or authorized under the applicable legislative provision which is superseded by the Codified Ordinances. (ORC 1.23)

101.06 CONFLICTING PROVISIONS.

If the provisions of different codes, chapters or sections of the Codified Ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

101.07 SEPARABILITY.

Each section of the Codified Ordinances and every part of each section is an independent section and part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause does not affect the validity or constitutionality of any other section or part thereof. (ORC 1.13)

101.08 NUMBERING.

No ordinance amending or supplementing the Codified Ordinances shall be passed by Council until it has been submitted to the Director of Law, who shall assign to such ordinance a section number or numbers corresponding to its logical position in the Codified Ordinances. He shall further determine if such amendment or supplemental section conflicts with any provision of the Codified Ordinances, and if so, prepare and insert a clause in the proposed ordinance to repeal the conflicting provisions. (1941 Code, Sec. 1-79.)

101.09 KEEPING CODIFICATION UP TO DATE.

The Clerk of Council shall maintain in his office one constantly revised copy of the Codified Ordinances and shall certify to the Law Director and the Mayor copies of each amendment or supplement to the Codified Ordinances.
(1941 Code, Sec. 1-80.)

101.10 DISTRIBUTION OF CODIFIED ORDINANCES; FEE.

(a) The Clerk of Council is hereby authorized and directed to establish and maintain an inventory control system to control the distribution and recovery of the volumes of the Codified Ordinances of the City.

(b) Elected officials and department heads of the City shall be furnished a volume of the Codified Ordinances for and during their term of office or employment, but shall return to the Clerk of Council their volume upon leaving office or employment. The Auditor is hereby authorized and directed to withhold the last paycheck of any elected official or department head who fails to return their volume upon leaving office or employment.

(c) The Clerk of Council shall provide, place and maintain a current volume of the Codified Ordinances at the Martins Ferry Public Library.

(d) Bound volumes of the Codified Ordinances shall be sold for the supplier's cost charged to the City, plus shipping, handling and tax.
(Ord. 92-6. Passed 1-16-92.)

101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be punished by a fine not exceeding one hundred dollars (\$100.00). A separate offense shall be deemed committed on each day during or on which a continuing violation occurs.

CHAPTER 103
Official Standards

103.01 Datum line; grade levels.
103.02 City flag.

103.03 City flower.

CROSS REFERENCES

State standard of time - see Ohio R.C. 1.04

State legal holidays - see Ohio R.C. 1.14, 5.20 et seq.

103.01 DATUM LINE; GRADE LEVELS.

All grade levels within the Municipality shall be measured from the nearest United States Geological Survey marker.
(Ord. 4871. Passed 11-6-58.)

103.02 CITY FLAG.

The official flag of the City shall be of rectangular shape, consisting of three equal horizontal stripes, the top and bottom stripes to be of a light shade of mauve purple and the center stripe to be of white. A circle of light cadmium yellow in the center of the flag shall extend halfway into the purple stripe at the top and bottom. In the middle of the yellow circle shall be a light brown flintlock rifle and powder horn with the date 1787 in black. The words "Ohio's First Settlement", printed in black, shall circle the gun and horn inside the yellow circle. The words, "Martins Ferry" shall be printed in white letters on the purple stripe at the top of the flag. In the purple stripe at the bottom shall be printed the words "The Pride of the Valley" in white letters. All words shall be printed in plain capital block letters.
(Res. 5701. Passed 3-21-68.)

103.03 CITY FLOWER.

The rose is hereby adopted as the official flower of the City.
(Res. 5707. Passed 4-18-68.)

CHAPTER 105 Wards and Elections

105.01	Establishment.	105.04	Third Ward.
105.02	First Ward.	105.05	Fourth Ward.
105.03	Second Ward.	105.06	Voter registration.

CROSS REFERENCES

Division of cities into wards - see Ohio R.C. 731.06
Voting precincts - see Ohio R.C. 3501.18

105.01 ESTABLISHMENT.

There shall be four wards in the City located within the boundary lines provided in this chapter. (1941 Code, Sec. 1-4.)

105.02 FIRST WARD.

The First Ward shall comprise the territory bounded by the corporation line on the south, by the Ohio River on the east, by the center line of Jefferson Street on the north and by the corporation line on the west.
(1941 Code, Sec. 1-4.)

105.03 SECOND WARD.

The Second Ward shall comprise the territory bounded by the center line of Jefferson Street on the south, by the Ohio River on the east, by the center line of Walnut Street on the north and by the corporation line on the west.
(1941 Code, Sec. 1-4.)

105.04 THIRD WARD.

The Third Ward shall comprise the territory bounded on the south by the center line of Walnut Street, on the east by the Ohio River, on the north by the center line of Lombard Street to a point where Lombard Street intersects Ellett Street if extended; thence with the center line of Ellett Street extended to the center line of North 10th Street; thence in a northerly direction to the center line of North 10th Street to the center line of Liberty Avenue; thence with the center line of Liberty Avenue in a westerly direction to the corporation line and on the west by the corporation line.
(Ord. 83-21. Passed 4-14-83.)

105.05 FOURTH WARD.

The Fourth Ward shall comprise the territories bounded on the south by the center line of Lombard Street to a point where Lombard Street intersects Ellett Street if extended; thence with the center line of Ellett Street if extended to the center line of North 10th Street; thence in a northerly direction with the center line of North 10th Street to the center line of Liberty Avenue; thence with the center line of Liberty Avenue in a westerly direction to the corporation line, on the east by the Ohio River, on the north by the corporation line and on the west by the corporation line.

(Ord. 83-21. Passed 4-14-83.)

105.06 VOTER REGISTRATION.

No person residing in the City shall be entitled to vote at any election, or to sign any declaration of candidacy or any nominating, initiative, referendum or recall petition, unless he is registered as an elector.

(Ord. 4827. Passed 3-6-58.)

CHAPTER 107 Public Meetings

107.01	Definitions.	107.05	Notification of discussion
107.02	Notice of regular and		of specific types of public
	organizational meetings.		business.
107.03	Notice of special meetings.	107.06	General.
107.04	Notice to news media of special	107.07	Minutes.
	meetings.		

CROSS REFERENCES

Notice of public meetings - see Ohio R.C. 121.22

107.01 DEFINITIONS.

As used in this chapter:

- (a) "Clerk" means the Clerk of Council.
- (b) " Day" means calendar day.
- (c) "Meeting" means any prearranged discussion of the public business of the Municipal body by a majority of the members of the Municipal body.
- (d) "Municipal body" means each of the following: Council; Board of Control; Assessment Equalization Boards; Planning Commission; Board of Zoning Appeals; Civil Service Commission; Committees of Council; Treasury Investment Board; Health Board; all other boards or commissions created by ordinance and committees of the above Municipal bodies comprised of members of such bodies if such committees are comprised of a majority of the members of the main Municipal body, or are decision-making committees.
- (e) "Oral notification" means notification given orally either in person or by telephone, directly to the person for whom such notification is intended, or by leaving an oral message for such person at the address, or if by telephone at the telephone number, of such person as shown on the records kept by the Clerk under these rules.
- (f) "Post" means to post in an area accessible to the public during the usual business hours at the Office of the Clerk and at the following location: On the wall outside of the Police Department in the City Building.

A notice identifying the locations at which notifications will be posted pursuant to these rules shall be published by the Clerk within ten calendar days after the adoption of these rules.

- (g) "Published" means published once in a newspaper having a general circulation in the Municipality, as defined in Ohio R.C. 7.12, except that no portion of such newspaper need be printed in the Municipality.
- (h) "Special meeting" means a meeting which is neither a regular meeting nor an adjournment of a regular or special meeting to another time or day to consider items specifically stated on the original agenda of such regular or special meeting.
- (i) "Written notification" means notification in writing mailed, telegraphed or delivered to the address of the person for whom such notification is intended as shown on the records kept by the Clerk under these rules, or in any way delivered to such person. If mailed, such notification shall be mailed by first-class mail, deposited in a U.S. Postal Service mailbox no later than the second day preceding the day of the meeting to which such notification refers, provided that at least one regular mail delivery day falls between the day of mailing and the day of such meeting.
(Ord. 6778. Passed 1-8-76.)

107.02 NOTICE OF REGULAR AND ORGANIZATIONAL MEETINGS.

(a) The Clerk shall post a statement of the times and places of regular meetings of each Municipal body for each calendar year not later than the second day preceding the day of the first regular meeting, other than the organizational meeting, of the calendar year of that Municipal body. The Clerk shall check at reasonable intervals to ensure that such statement remains so posted during such calendar year. If at any time during the calendar year the time or place of regular meetings, or of any regular meeting, is changed on a permanent or temporary basis, a statement of the time and place of such changed regular meetings shall be so posted by the Clerk at least twenty-four hours before the time of the first changed regular meeting.

(b) The Clerk shall post a statement of the time and place of any organizational meeting of a Municipal body at least twenty-four hours before the time of such organizational meeting.

(c) Upon the adjournment of any regular or special meeting to another day, the Clerk shall promptly post notice of the time and place of such adjourned meeting.
(Ord. 6778. Passed 1-8-76.)

107.03 NOTICE OF SPECIAL MEETINGS.

Except in the case of a special meeting referred to in Section 107.04(d), the Clerk shall, no later than twenty-four hours before the time of a special meeting of a Municipal body, post a statement of the time, place and purposes of such special meeting.

The statement under this section and the notifications under Section 107.04 shall state such specific or general purpose or purposes then known to the Clerk to be intended to be considered at such special meeting and may state, as an additional general purpose, that any other business as may properly come before such Municipal body at such meeting may be considered and acted upon.
(Ord. 6778. Passed 1-8-76.)

107.04 NOTICE TO NEWS MEDIA OF SPECIAL MEETINGS.

(a) Any news medium organization that desires to be given advance notification of special meetings of a Municipal body shall file with the Clerk a written request therefor.

Except in the event of an emergency requiring immediate official action as referred to in subsection (d) hereof, a special meeting shall not be held unless at least twenty-four hours advance notice of the time, place and purposes of such special meeting is given to the news media that have requested such advance notification in accordance with subsection (b) hereof.

(b) News media requests for such advance notification of special meetings shall specify: the Municipal body that is the subject of such request; the name of the medium; the name and address of the person to whom written notifications to the medium may be mailed, telegraphed or delivered; and the names, addresses and telephone numbers (including addresses and telephone numbers at which notifications may be given either during or outside of business hours) of at least two persons to either one of whom oral notifications to the medium may be given; and at least one telephone number which the request identifies as being manned, and which can be called at any hour for the purpose of giving oral notification to such medium.

Any such request shall be effective for one year from the date of filing with the Clerk or until the Clerk receives written notice from such medium canceling or modifying such request, whichever is earlier. Each requesting news medium shall be informed of such period of effectiveness at the time it files its request. Such requests may be modified or extended only by filing a complete new request with the Clerk. A request shall not be deemed to be made unless it is complete in all respects, and such request may be conclusively relied on by the City, the Municipal body that is the subject of such request and the Clerk.

(c) The Clerk shall give such oral notification or written notification, or both, as the Clerk determines, to the news media that have requested such advance notification in accordance with subsection (b) hereof, of the time, place and purposes of each special meeting, at least twenty-four hours prior to the time of such special meeting.

(d) In the event of an emergency requiring immediate official action, a special meeting may be held without giving twenty-four hours advance notification thereof to the requesting news media. The persons calling such meeting, or any one or more of such persons or the Clerk on their behalf, shall immediately give oral notification or written notification, or both, as the person or persons giving such notification determine, of the time, place and purposes of such special meeting to such news media that have requested such advance notification in accordance with subsection (b) hereof. The minutes or the call, or both, of any such special meeting shall state the general nature of the emergency requiring immediate official action.

(Ord. 6778. Passed 1-8-76.)

107.05 NOTIFICATION OF DISCUSSION OF SPECIFIC TYPES OF PUBLIC BUSINESS.

(a) Any person, upon written request and as provided herein, may obtain reasonable advance notification of all meetings at which any specific type of public business is scheduled to be discussed.

Such person may file a written request with the Clerk specifying: the person's name, and the addresses and telephone numbers at or through which the person can be reached during and outside of business hours; the specific type of public business the discussion of which the person is requesting advance notification; the Municipal body that is the subject of such request; and the number of calendar months (not to exceed six) which the request covers. Such request may be canceled by request from such person to the Clerk.

Each such written request must be accompanied by cash, or a check or money order payable to the City in the amount of three dollars (\$3.00) for each month covered by the request, which amount has been determined by Council to represent a reasonable fee to cover costs of providing such advance notification.

Such requests may be modified or extended only by filing a complete new request with the Clerk. A request shall not be deemed to be made unless it is complete in all respects, and such request may be conclusively relied on by the Municipal body that is the subject of such request and the Clerk.

(b) The Clerk shall give such advance notification under this section by written notification, or by oral notification, or both, as the Clerk determines.

The contents of written notification under this subsection may be a copy of the agenda of the meeting. Written notification under this subsection may be accomplished by giving advance written notification, by copies of the agendas, of all meetings of the Municipal body that is the subject of such request.

(Ord. 6778. Passed 1-8-76.)

107.06 GENERAL.

(a) Any person may visit or telephone the office of the Clerk of Council or the Mayor's Clerk during that office's regular office hours to determine, based on information available at that office: the time and place of regular meetings; the time, place and purposes of any then known special meetings; and whether the available agenda of any such future meeting states that any specific type of public business, identified by such person, is to be discussed at such meeting.

(b) Any notification provided herein to be given by the Clerk may be given by any person acting in behalf of, under the authority of, or at the direction of the Clerk.

(c) A reasonable attempt at notification shall constitute notification in compliance with these rules.

(d) A certificate by the Clerk as to compliance with these rules shall be conclusive upon this City and the Municipal body involved.

(e) The Clerk shall maintain a record of the date and manner, and time if pertinent under these rules, of all actions taken with regard to notices and notifications under Sections 107.03 to 107.05 and shall retain copies of proofs of publication of any notifications or notices published thereunder.

(f) To better insure compliance with these rules as to notice and notification, it shall be the responsibility of the chairman or secretary of a Municipal body other than Council, or the person or persons calling the meetings, to timely advise the Clerk of future meetings, and the subject matters to be discussed thereat, of such Municipal body.
(Ord. 6778. Passed 1-8-76.)

107.07 MINUTES.

Minutes of regular and special meetings of public bodies shall be maintained and open to public inspection.
(Ord. 6778. Passed 1-8-76.)

CHAPTER 109
City Property

109.01 Uses restricted.

CROSS REFERENCES

Vandalism - see GEN. OFF. 541.04

Trespass - see GEN. OFF. 541.05, 541.08

109.01 USES RESTRICTED.

The policy of the City shall be that any property owned by the City including all motor vehicles shall not be used for any purpose other than Municipal purposes, with the following exceptions.

- (a) Mutual aid to other communities.
- (b) Installation of Christmas decorations, American flags, and purple and white school flags in the business district.
- (c) Use of City fire equipment in parades.
- (d) Use of sewer equipment in aid to residents within the limits of the City for purposes of clearing clogged sewer lines.

All motor vehicles are not permitted to go outside of the City limits unless on City business, or at the discretion of the Chief Executive Officer.

Further, the foregoing provisions do not apply to those vehicles owned by the City and which are provided to the Police Department, and to Chief 1 and Chief 2 of the Martins Ferry Volunteer Fire Department.

(Res. 90-11. Passed 3-1-90.)

TITLE THREE - Legislative
 Chap. 111. Council.
 Chap. 113. Ordinances and Resolutions.

CHAPTER 111
 Council

- | | |
|---|---|
| 111.01 Meetings.
111.02 Attendance at meetings.
111.03 Rules of Council.
111.04 Presenting legislation to members. | 111.05 Smoking prohibited in City Building.
111.06 Duties of Clerk regarding legislation.
111.07 Speaking time limit. |
|---|---|

CROSS REFERENCES

Release of Treasurer's liability from loss of funds - see Ohio R.C. 131.18 et seq.
 General powers - see Ohio R.C. 715.03, 731.47
 Establishes sewerage rates - see Ohio R.C. 729.49
 Composition - see Ohio R.C. 731.01, 731.06
 Qualifications - see Ohio R.C. 731.02, 731.44
 Election and term - see Ohio R.C. 731.03, 733.09
 President pro tempore - see Ohio R.C. 731.04, 733.08
 Legislative powers - see Ohio R.C. 731.05
 Powers as to salaries and bonds - see Ohio R.C. 731.07 et seq., 731.49 et seq.
 Vacancy - see Ohio R.C. 731.43
 Meetings - see Ohio R.C. 731.44, 731.46
 Rules and journal - see Ohio R.C. 731.45
 President - see Ohio R.C. 733.07 et seq.
 Hearings against delinquent officers - see Ohio R.C. 733.35 et seq.
 Misconduct - see Ohio R.C. 733.72
 Interest in contracts - see Ohio R.C. 733.78, GEN. OFF. 525.10
 Approves urban renewal plans - see ADM. 181.08

111.01 MEETINGS.

The City Council shall meet in Council Chambers at 6:00 p.m. on the first and third Wednesday of each month. (Ord. 2012-25. Passed 9-5-12.)

111.02 ATTENDANCE AT MEETINGS.

Each member of Council shall be present at all regular and special meetings. A proportionate reduction in salary shall be made for the nonattendance of any member at any regular or special meeting of Council. However, two-thirds of the members elected to Council may excuse any member from attendance at any regular or special meeting, and when so excused, no reduction in his salary shall be made for such nonattendance.
 (1941 Code, Sec. 1-41.)

111.03 RULES OF COUNCIL.

The following standing rules are hereby prescribed for the government of Council:

- (a) Procedure. The order of proceedings at the meetings of Council shall be as follows:
- (1) Roll call;
 - (2) Reading the minutes;
 - (3) Receiving petitions and reading of correspondence;
 - (4) Report from any officer of the City;
 - (5) Unfinished business appearing upon the record;
 - (6) Reports from committees in the following order: Finance, Streets, Ordinances, Sewers, Sidewalks, Safety, Service and Special Committees;
 - (7) Hearing any residents relative to any matter which may properly be brought to the attention of Council;
 - (8) Reading and consideration of resolutions and ordinances;
 - (9) Miscellaneous business.
- The order of proceedings may be suspended or changed at any regular meeting by a majority of the members present.
(1941 Code, Sec. 1-46; Ord. 80-125. Passed 11-20-80.)
- (b) Adoption of Ordinances and Resolutions.
- (1) The following procedures shall apply to the passage of ordinances and resolutions:
 - A. Each ordinance and resolution shall be read by title only, provided Council may require any reading to be in full by a majority vote of its members.
 - B. Each ordinance or resolution shall be read on three different days, provided Council may dispense with this rule by a vote of at least three-fourths of its members.
 - C. The vote on the passage of each ordinance or resolution shall be taken by yeas and nays and entered upon the journal.
 - D. Each ordinance or resolution shall be passed, except as otherwise provided by law, by a vote of at least a majority of all the members of Council.
 - (2) Action by Council, not required by law to be by ordinance or resolution, may be taken by motion approved by at least a majority vote of the members present at the meeting when the action is taken.
(ORC 731.17)
- (c) Questions of Order. All questions of order shall be decided by the President of Council subject to appeal to Council.
- (d) Appeals. An appeal from the President of Council upon a question of order shall be allowed upon the demand of any member. The question upon an appeal shall be put in the following form: "Shall the decision of the chair be sustained?" The vote upon the appeal shall be taken by "yeas" and "nays".
- (e) Who Shall Vote. When a question is put, every member present shall vote, unless Council excuses him.
- (f) Debate. No motion shall be debated until it is seconded and stated by the chair. Members must be recognized by the chair before commencing to speak and when speaking shall confine themselves to the question under debate and shall avoid any references to personalities or indecorous language, as well as reflections upon

Council or its members. No member shall speak more than ten minutes at a time on any question without permission from Council. The member making a motion or second or speaking may arise and address the chair. All motions, when seconded, shall be stated by the President of Council previous to debate, and if in writing, shall be read by the Clerk of Council.
(Ord. 93-44. Passed 5-20-93.)

- (g) Reconsideration. A motion to reconsider shall be made only by a member who voted with the majority or a controlling minority and such motion shall not be debatable.
- (h) Previous Question. Any member may demand the previous question upon the passage of any ordinance, motion or resolution, and thereupon the President of Council shall ask, "Shall the main question be now put?", and if a majority of Council votes in the affirmative, the previous question shall be put; first, upon the pending amendments in accordance with their priority, and then upon the original ordinance, motion or resolution, and no debate or amendment shall be in order until the previous question is exhausted.
- (i) Protest. Any member may protest against any ordinance or resolution passed by Council, which he may think injurious to the public or an individual, and he may have his protest entered upon the journal.
- (j) Decorum. No member shall engage in private discussion or walk about the room while the chair is putting a question or while a member is speaking.
(1941 Code, Sec. 1-46.)
- (k) Committees. There shall be the following standing committees of Council, each committee to consist of three members: Annexation, Code Administration, Department of Development, Enterprise Zone, Finance, Firemens' Dependency Board, Territorial Park, Ordinances, Public Relations, Revolving Loan Fund, Safety, Service, Sewers, Sidewalks and Streets. There shall be the following Council liaisons: Administration Supervisors, Chamber of Commerce, Health Board and Recreation Board.
Appointment to all standing and special committees and all liaisons shall be at the direction of the President of Council.
(Ord 92-7. Passed 1-16-92.)
- (l) Robert's Rules. In all cases not provided for in the foregoing rules or by law, Robert's Rules of Order, Revised, shall be received as a rule.
(Ord. 86-67. Passed 12-30-86.)

111.04 PRESENTING LEGISLATION TO MEMBERS.

All legislation presented to Council by the various agencies of the City shall be presented to each individual Council member at least seventy-two hours prior to the meeting upon which such legislation is to be formally presented to Council. Furthermore, this legislation shall have been approved by the City Director of Law prior to its presentation at the Council meeting.
(Res. 6336. Passed 6-21-73.)

111.05 SMOKING PROHIBITED IN CITY BUILDING.

(a) Council hereby declares the City Building and all City vehicles to be tobacco free, effective immediately upon passage of this subsection.
(Ord. 2003-22. Passed 4-24-03.)

(b) Council hereby authorizes the Director of Public Service to be the designating officer charged with communicating this section to all City office holders and department heads. (Ord. 97-66. Passed 11-20-97.)

(c) The designation in the City Building and all City vehicles shall be made by the placement of "tobacco free" signs that are clearly visible, and said signs shall not be removed. (Ord. 2003-22. Passed 4-24-03.)

(d) Whoever violates or fails to comply with any of the provisions of this section is guilty of a minor misdemeanor, and shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues. (Ord. 97-66. Passed 11-20-97.)

111.06 DUTIES OF CLERK REGARDING LEGISLATION.

With regard to all legislation passed by Council from and after the effective date of this section, to include all ordinances and resolutions, the Council Clerk shall do the following:

- (a) That within three days of passage ensure that all required signatures have been executed on the legislation and that same has been properly numbered and filed in the permanent ordinance/resolution books for the City;
- (b) That within five days of passage submit all legislation which is required to be published to the newspaper for publication.
Further, that within three days after the last date of publication enter onto each ordinance or resolution the dates of publication thereof in the lower righthand corner or, alternatively, if the legislation is such that publication is not required, stamp "Publication Not Required" in the lower righthand corner of the legislation immediately upon passage;
- (c) That within seven days of passage provide signed and numbered copies of all legislation to the Mayor, Auditor, Director of Law, Director of Public Service, and Director of Public Safety;
- (d) That within thirty days of the passage of this section, secure the necessary locking device(s) for the cabinet within which the ordinance/resolution books for the City are maintained and provide keys for same to the Mayor and Auditor only, with one to be retained by the Clerk;
- (e) That from and after the effective date of this section, maintain a log for the ordinance/resolution books for the City, with entries to be entered reflecting the name(s) of anyone who requests access to the legislation, along with the date and time of each request. The Mayor's office and Auditor's office shall also maintain a log for same in the event their keys are used for access to the legislation;
- (f) That from and after the effective date of this section, create and maintain an index to be placed at the beginning of each calendar year's legislation which clearly sets forth the ordinance or resolution number, along with the caption for same. This index shall be maintained at the beginning of each calendar year's legislation, and shall be in addition to any indexing system currently in existence and being utilized; and
- (g) That from and after the effective date of this section, maintain each and every ordinance/resolution book for the City in proper order and comply with the provisions set forth herein. (Ord. 97-56. Passed 9-18-97.)

111.07 SPEAKING TIME LIMIT.

Any person requesting to speak at Council meetings shall be limited to a period not to exceed five (5) minutes at each meeting. Excepted from this limitation are all City officers and elected officials.

(Ord. 2007-22. Passed 7-5-07.)

CHAPTER 113
Ordinances and Resolutions

**113.01 Application to City property
beyond City limits.**

CROSS REFERENCES

Newspaper publication - see Ohio R.C. 7.12, 701.04, 731.21 et seq.
Zoning ordinances - see Ohio R.C. 713.12; P. & Z. 1111.57
Adoption and style - see Ohio R.C. 715.03, 731.17 et seq.
Subject and amendment - see Ohio R.C. 731.19
Authentication and recording - see Ohio R.C. 731.20
Publication, times required - see Ohio R.C. 731.22
Publication in book form - see Ohio R.C. 731.23
Adoption of technical codes - see Ohio R.C. 731.231
Certification as to publication - see Ohio R.C. 731.24 et seq.
Mayor's veto - see Ohio R.C. 731.27
Initiative and referendum - see Ohio R.C. 731.28 et seq.
Emergency measures - see Ohio R.C. 731.30
Certified copies as evidence - see Ohio R.C. 731.42
Codified ordinances - see ADM. Ch. 101

113.01 APPLICATION TO CITY PROPERTY BEYOND CITY LIMITS.

All ordinances and resolutions which have been or are hereafter passed by Council shall apply to all property owned by the City beyond the corporate limits.
(Ord. 5363. Passed 8-20-64.)

TITLE FIVE - Administrative

- Chap. 121. Mayor.
- Chap. 123. Auditor.
- Chap. 125. Treasurer.
- Chap. 127. Director of Law.
- Chap. 129. Department of Public Safety.
- Chap. 131. Police Department.
- Chap. 133. Fire Department.
- Chap. 135. Department of Public Service.
- Chap. 136. Department of Relocation.
- Chap. 139. Division of Development.
- Chap. 145. Civil Service Commission.
- Chap. 147. Civil Defense.
- Chap. 155. Board of Control.
- Chap. 159. Employment Provisions.
- Chap. 161. Investment of Funds.
- Chap. 163. Borrowing of Funds.

CHAPTER 121

Mayor

- | | | | |
|--------|-------------------------|--------|-------------------------------------|
| 121.01 | Term of office, duties. | 121.02 | State of emergency; Mayor's powers. |
| | | 121.03 | Tag Day Weekends. |

CROSS REFERENCES

- Veto power - see Ohio R.C. 731.27
- Election and term - see Ohio R.C. 733.02
- General powers and duties - see Ohio R.C. 733.03, 733.30 et seq.
- Appointment of municipal officers - see Ohio R.C. 733.04
- Meetings with department directors - see Ohio R.C. 733.05
- Attending Council meetings; recommendations - see Ohio R.C. 733.06
- Council President as acting Mayor - see Ohio R.C. 733.07
- Vacancy in office of Mayor - see Ohio R.C. 733.08
- Power to fill vacancies - see Ohio R.C. 733.31
- Reports to Council - see Ohio R.C. 733.32, 733.41
- Protest of excessive expenditures - see Ohio R.C. 733.33
- Charges against delinquent officers - see Ohio R.C. 733.34 et seq.
- Disposition of fines and other moneys - see Ohio R.C. 733.40

Annual report to Council - see Ohio R.C. 733.41
Approval of Mayor's bond - see Ohio R.C. 733.70
Appoints Civil Service Commission members - see ADM. 145.01
Appoints Civil Defense Director - see ADM. 147.01
Mayor's Court - see ADM. Ch. 171
Serves on Taxicab Board of Appeals - see BUS. REG. 757.09
Appoints members of Planning Commission - see P. & Z. 1101.01

121.01 TERM OF OFFICE, DUTIES.

The Mayor shall be elected for a term of four years and shall serve until his successor is elected and qualified. He shall be an elector of the City. He shall perform all duties prescribed by the ordinances of the City and statutes of the State, and shall have all the powers conferred upon him by such laws.

121.02 STATE OF EMERGENCY; MAYOR'S POWERS.

(a) The Mayor may, in case of riot, looting, insurrection or other civil disturbance, or when there is clear and present danger of riot, looting, insurrection or other civil disturbance, proclaim in writing a state of emergency.

(b) As part of the proclamation or by subsequent written order after the proclamation is issued, the Mayor may, in his discretion as he believes necessary for public safety:

- (1) Delineate the boundaries of any area threatened by riot, looting, insurrection or other civil disturbance and restrict or prohibit the movement of persons or vehicles into, from or within such area;
- (2) Establish a curfew within such area and prohibit persons from being out of doors during such curfew;
- (3) Prohibit the sale, offering for sale, dispensing and transportation of firearms and other deadly weapons, ammunition, dynamite and other dangerous explosives, incendiary devices and any necessary ingredient thereof; and
- (4) Issue reasonable regulations to suppress such riot, looting, insurrection or other civil disturbance or to protect persons or property from harm by reason of such riot or insurrection.

(c) When the danger from riot, looting, insurrection or other civil disturbance has passed, the Mayor shall forthwith make proclamation that the emergency has ended and any proclamation, order or regulation issued pursuant to this section shall then become void.

(d) The powers conferred by this section are in addition to any other powers which may be conferred by law and nothing in this section shall be construed to modify or limit such authority, powers, duties or responsibilities of any officer or public official, as may be provided by law. Nothing in this section shall be construed to permit suspension of the right to a writ of habeas corpus.

121.03 TAG DAY WEEKENDS.

(a) The Mayor is hereby authorized to set “Tag Day Weekends”, with a required license to be issued by the Mayor’s Office only as provided herein.

(b) “Tag Day Weekend” solicitations shall occur in the City without first obtaining a license from the Mayor. No fee shall be charged for said license. One license only for each weekend may be issued, on a first come, first served basis.

(c) “Tag Day Weekend” shall be defined as being from 12:00 noon until 6:00 p.m. Friday, and from 9:00 a.m. until 3:00 p.m. on Saturday.

(d) “Tag Day Weekend” licenses may only be issued to Martins Ferry area non-profit or charitable organizations. Said organizations may sponsor not more than two (2) “Tag Day Weekends” in any calendar year. As used herein, non-profit or charitable organization means an organization that has received from the Internal Revenue Service a currently valid ruling or determination letter recognizing the tax-exempt status of the organization pursuant to Section 501(c)(3) of the “Internal Revenue Code”.

(e) “Tag Day Weekend” solicitations may occur only at businesses or locations with the express permission of the owner/operator. The passage of pedestrians shall not be impeded at any time. No “Tag Day Weekend” solicitations may occur in any City street.

(f) The penalty for a violation of this section shall be a fine not to exceed fifty dollars (\$50.00) for each violation.
(Ord. 2005-34. Passed 8-18-05.)

CHAPTER 123

Auditor

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|--|---|
| <p>123.01 Election, term and duties.</p> <p>123.02 Perpetual care funds.</p> | <p>123.03 Reports by property owners of rental or leased residential property required.</p> <p>123.04 Paying bills only within 15 days of their due date.</p> |
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CROSS REFERENCES

Uniform Bond Law - see Ohio R.C. Ch. 133

Uniform Depository Act - see Ohio R.C. Ch. 135

Election, term and qualifications - see Ohio R.C. 733.10

Books and accounts - see Ohio R.C. 733.11

Auditing accounts - see Ohio R.C. 733.12

Overdrawing appropriation, proof of claims - see Ohio R.C. 733.13

Detailed statements and receipts - see Ohio R.C. 733.14

Duty as to receiving bids - see Ohio R.C. 733.18

Deputy Auditor - see Ohio R.C. 733.19

Seal - see Ohio R.C. 733.20

Appropriation and expenditure - see Ohio R.C. 5705.41

Investment of funds - see ADM. Ch. 161

123.01 ELECTION, TERM AND DUTIES.

The Auditor shall be elected for a term of four years and shall serve until his successor is elected and qualified. He shall be an elector of the City. He shall perform all duties prescribed by the ordinances of the City and statutes of the State, and shall have all the powers conferred upon him by such laws. (Ord. 4871. Passed 11-6-58.)

123.02 PERPETUAL CARE FUNDS.

(a) All perpetual care funds received by the City from this date forward shall be deposited with the Auditor and properly invested by him.

(b) All perpetual care funds currently held by and on deposit with the Clerk of Council shall be transferred immediately to the Auditor and properly invested by him.

(c) All interest earned on such invested funds shall be paid semi-annually by the Auditor to the Director of Public Service for the perpetual care of the applicable cemetery lot as agreed by the Director of Public Service.

(d) The purpose and intent of this section is to formally declare and designate the Auditor as the sole City official who shall receive and invest all current and future perpetual care funds on behalf of the City.
(Ord. 88-24. Passed 6-16-88.)

123.03 REPORTS BY PROPERTY OWNERS OF RENTAL OR LEASED RESIDENTIAL PROPERTY REQUIRED.

(a) On or before February 1, 2009, all property owners of rental or leased property who rent to tenants of residential premises shall file with the Auditor a report showing the names and addresses of each such tenant who occupies residential premises within the corporate limits of the City as of January 1, 2009.

(b) Beginning January 1, 2009, and thereafter, within thirty days after a new tenant occupies residential rental property of any kind within the City, all property owners of rental or leased residential property who rent to tenants shall file with the Auditor a report showing the names and addresses of each such tenant who occupies residential premises within the corporate limits of the City.

(c) Beginning January 1, 2009, and thereafter, within thirty days after a tenant vacates a rental or leased residential property located within the City, the property owner of such vacated rental or leased property shall file with the Auditor a report showing the date of vacating from the rental or leased residential property and identifying such vacating tenant.

(d) For purposes of this section, "tenant" means:

- (1) If there is a written lease or rental agreement, the person or persons who signed the written lease or rental agreement with the owner, or
- (2) If there is an oral lease or rental agreement, the person or persons with whom the owner enters into the oral lease or rental agreement.

(e) Whoever violates any provision of this section shall:

- (1) For a first offense: Pay a fine of not more than twenty-five dollars (\$25.00);
 - (2) For a second offense: Pay a fine of not more than fifty dollars (\$50.00); and
 - (3) For a third and all subsequent offenses: Pay a fine of not more than one hundred dollars (\$100.00).
- (Ord. 2008-12. Passed 5-15-08.)

123.04 PAYING BILLS ONLY WITHIN 15 DAYS OF THEIR DUE DATE.

(a) The City establishes a policy of paying all bills within 15 days of their due date, and not before such a time. For purposes of this section, due date is defined as the latest date on which a bill can be paid before any penalty or interest would be incurred. The purpose of this section is to help the City better manage its cash flow.

(b) If the Auditor or another department manager or head deems it necessary to pay a bill prior to the due date, then they may petition counsel to do so and such bill will be paid earlier than the required time only upon the affirmative vote of Council.
(Ord. 2015-11. Passed 4-1-15.)

CHAPTER 125

Treasurer

125.01 Election, term and duties.

125.02 Collection service fee.

CROSS REFERENCES

Loss of funds, release of liability - see Ohio R.C. 131.18 et seq.

Uniform Depository Act - see Ohio R.C. Ch. 135

Election, term and qualifications - see Ohio R.C. 733.42

Accounts - see Ohio R.C. 733.43

Powers and duties - see Ohio R.C. 733.44

Quarterly account and annual report - see Ohio R.C. 733.45

Receipt and disbursement of funds - see Ohio R.C. 733.46

Duty to deliver money and property - see Ohio R.C. 733.47

125.01 ELECTION, TERM AND DUTIES.

The Treasurer shall be elected for a term of four years and shall serve until his successor is elected and qualified. He shall be an elector of the City. He shall perform all duties prescribed by the ordinances of the City and statutes of the State, and shall have all the powers conferred upon him by such laws.

125.02 COLLECTION SERVICE FEE.

(a) Council hereby established a collection fee of up to thirty-three percent (33%) of the balance owed to be assessed for unpaid utility bills, property maintenance bills, hazardous waste bills, rescue bills, capital improvement bills, delinquent municipal income tax bills, and any and all other legal obligations owed to the City, which have been turned over to a collection agency.

(b) The referenced collection service fee shall be automatically assessed once any bill/account is turned over to a collection agency.
(Ord. 2012-29. Passed 10-3-12.)

CHAPTER 127
Director of Law

127.01 Election, term and duties.

CROSS REFERENCES

Election, term and qualifications - see Ohio R.C. 733.49 et seq.
Powers and duties generally - see Ohio R.C. 733.51 et seq.
Duties as to suits - see Ohio R.C. 733.53
To give opinions - see Ohio R.C. 733.54
To pay over moneys - see Ohio R.C. 733.55
Application for injunction - see Ohio R.C. 733.56
Specific performance - see Ohio R.C. 733.57
Writ of mandamus - see Ohio R.C. 733.58
Suit by taxpayer - see Ohio R.C. 733.59
Annual report to Council - see Ohio R.C. 733.62
Preparing bonds - see Ohio R.C. 733.70
Numbering of ordinances - see ADM. 101.08
Serves on Taxicab Board of Appeals - see BUS. REG. 757.09

127.01 ELECTION, TERM AND DUTIES.

The Director of Law shall be elected for a term of four years and shall serve until his successor is elected and qualified. He shall be an elector of the City and an attorney duly admitted to practice in the State of Ohio. He shall perform all duties prescribed by the ordinances of the City and statutes of the State, and shall have all the powers conferred upon him by such laws.

CHAPTER 129

Department of Public Safety

129.01	Subdepartments established.	129.04	School guards. (Repealed)
129.02	Director of Public Safety.	129.05	Code Administrator.
129.03	Powers and duties.	129.06	Residential Land Disposition Program.

CROSS REFERENCES

Merger of Service and Safety Departments - see Ohio R.C. 733.03

Contracts - see Ohio R.C. 733.22 et seq., 737.07 et seq.

Appointment - see Ohio R.C. 737.01

General duties and records - see Ohio R.C. 737.02 et seq.

Police Department - see Ohio R.C. 737.05 et seq.; ADM. Ch. 131

Fire Department - see Ohio R.C. 737.08 et seq.; ADM. Ch. 133

Classification of police and fire personnel - see Ohio R.C.

737.10, 737.13

To appoint and remove auxiliary police officers - see ADM. 131.06

Traffic control - see TRAF. Ch. 305

Director serves on Taxicab Board of Appeals - see BUS. REG. 757.09

129.01 SUBDEPARTMENTS ESTABLISHED.

The following subdepartments are hereby established within the Department of Public Safety:

- (a) Police Department.
 - (b) Fire Department.
- (Ord. 4871. Passed 11-6-58.)

129.02 DIRECTOR OF PUBLIC SAFETY.

The Department of Public Safety shall be administered by a Director of Public Safety who shall be appointed by the Mayor and shall serve until his successor is appointed and qualified. (1941 Code, Sec. 2-140.)

129.03 POWERS AND DUTIES.

Under the direction of the Mayor, the Director of Public Safety shall be the executive head of the Police and Fire Departments. He shall have all regulation powers and duties connected with and incident to the appointment, regulation and government of these departments, except as otherwise provided by law. He shall keep a record of his proceedings. (1941 Code, Sec. 2-141.)

129.04 SCHOOL GUARDS. (REPEALED)

EDITOR'S NOTE: Former Section 129.04 was repealed by Ordinance 2006-11, passed March 16, 2006.

129.05 CODE ADMINISTRATOR.

(a) There is hereby created the position of Code Administrator to enforce the provisions of the adopted Codes of the City.

(b) The Director of Public Safety, with the approval and confirmation of Council, is hereby authorized to choose and employ a person as Code Administrator.
(Ord. 92-27. Passed 3-5-92.)

129.06 RESIDENTIAL LAND DISPOSITION PROGRAM.

(a) The Director of Public Service/Safety, on behalf of the City of Martins Ferry, is authorized and directed to establish and administer a program for the disposition to qualifying abutting property owners, of certain City-owned parcels of residential land, which are no longer needed for any municipal purpose and which have no potential use by virtue of their size or location for new residential construction or commercial or industrial development.

(b) The program shall be known as the Residential Land Disposition Program. Further, the Director of Public Service/Safety is authorized to approve regulations for said programs, and to amend same from time to time as deemed necessary. A copy of the proposed administrative regulations for the program are attached to Ordinance 2005-49 and made a part hereof.

(c) The Auditor is hereby authorized and directed to draw her warrants upon receipt of vouchers duly approved by the proper departmental authority.
(Ord. 2005-49. Passed 10-6-05.)

CHAPTER 131 Police Department

131.01	Members; duties; compensation.	131.05	Age for original appointment.
131.02	Bonds.	131.06	Auxiliary police.
131.03	Work week.	131.07	Additional credit on the
131.04	Emergency duties.		Civil Service Exam to Auxiliary Police Officers.

CROSS REFERENCES

Reductions, suspensions and removals - see Ohio R.C. 124.34 et seq., 737.12
 Sick leave - see Ohio R.C. 124.38
 Police Chief suspension - see Ohio R.C. 124.34, 124.40
 Age and promotions - see Ohio R.C. 124.31, 124.41, 124.44
 Executive head - see Ohio R.C. 737.02
 Police protection contracts - see Ohio R.C. 737.04
 Composition and control - see Ohio R.C. 737.05
 Chief of Police - see Ohio R.C. 737.06
 Hours and leave - see Ohio R.C. 737.07
 Emergency patrolmen - see Ohio R.C. 737.10
 Civil service application - see Ohio R.C. 737.11
 General duties - see Ohio R.C. 737.11
 Classification - see Ohio R.C. 737.13
 Recovered property and disposition - see Ohio R.C. 737.29 et seq.
 Police and Firemen's Disability and Pension Fund - see Ohio R.C. Ch. 742
 Clothing allowance - see ADM. 159.08
 Compliance with police order - see TRAF. 303.01
 Impounding vehicles - see TRAF. 303.08
 Impersonating an officer - see GEN. OFF. 525.03, 545.16
 False reports to law officers - see GEN. OFF. 525.02
 Reports of wounds inflicted by deadly weapons - see GEN. OFF. 525.05

131.01 MEMBERS; DUTIES; COMPENSATION.

In the Police Department there shall be authorized one (1) Chief of Police, one (1) lieutenant, three (3) sergeants, nine (9) patrolmen, and four (4) civil desk persons who shall perform such duties relative to the Police Department as shall from time to time be assigned to them. Their compensation shall be paid bi-weekly.
 (Ord. 2005-3. Passed 3-3-05.)

131.02 BONDS.

The Chief of Police, Lieutenants, Patrolmen, Juvenile Officers and civilian desk men in the Police Department shall each furnish bond in the sum of one thousand dollars (\$1,000).

131.03 WORK WEEK.

The regular schedule of work of the officers, members and employees of the Police Department shall be five consecutive eight-hour days out of each week. Eight consecutive hours each day for five consecutive days shall constitute a week's work.

The Chief of Police, under the direction of the Director of Public Safety, shall arrange the schedule of working hours to comply with the provisions of this chapter.
(Ord. 4220. Passed 4-21-51.)

131.04 EMERGENCY DUTIES.

In the event of an emergency, as determined by the Chief of Police under the direction of the Director of Public Safety, all officers, members and employees of the Police Department shall be subject to call and shall perform emergency duties in addition to the duties required by the regular schedule of work. They shall receive no additional compensation for such emergency duties.

(Ord. 4220. Passed 4-71-51.)

131.05 AGE FOR ORIGINAL APPOINTMENT.

No person is eligible to receive an original appointment to the Police Department, as a policeman or policewoman, unless he has reached the age of twenty-one years of age. No person is eligible to receive an original appointment when he is thirty-five years of age or older, and no person can be declared disqualified as over age prior to that time.

These provisions shall not be construed to eliminate any other requirements established by law for original appointments.
(Ohio R.C. 124.41)

131.06 AUXILIARY POLICE.

The Director of Public Service/Safety is hereby authorized to employ, at any one time, no more than ten (10) auxiliary police, in accordance with Ohio R.C. 737.051. The employment of said auxiliary police shall be for emergency purposes only, to be determined by the Director of Public Service/Safety. Members of the auxiliary police unit are not eligible for membership in the Police and Firemen's Disability and Pension Fund. Members of the auxiliary police unit shall not be in the classified service of the Municipality.
(Ord. 2010-08. Passed 5-20-10.)

**131.07 ADDITIONAL CREDIT ON THE CIVIL SERVICE EXAM TO
AUXILIARY POLICE OFFICERS.**

(a) Any person who is serving as an Auxiliary Police Officer for the City of Martins Ferry, has completed more than one hundred eighty days of service, has not received any formal reprimands and registers to take the civil service exam in order to apply to become a full time officer for the City, upon receiving a passing grade on the exam, will receive an additional credit of 10 points added to the person's examination grade. A person who receives an additional credit under Ohio R.C. 124.23(C)(1) or (C)(2) will not receive an additional credit under this section.

(b) The Chief of Police will provide a certification to the Civil Service Commission stating that the Auxiliary Police Officer has served for more than one hundred eighty days and has not received any formal reprimands for any Auxiliary Police Officer that registers to take the civil service exam and meets those requirements.

(Ord. 2014-12. Passed 5-21-14.)

CHAPTER 133 Fire Department

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|---|---|
| 133.01 Volunteer fire companies;
emergency squad.
133.02 Personnel.
133.03 Emergency squad membership.
(Repealed) | 133.04 Volunteer Firemen's Dependents
Fund Board.
133.05 Compensation.
133.06 Charges for the time, equipment
and material/supply usage at fire
calls. |
|---|---|

CROSS REFERENCES

Reductions, suspensions and removals - see Ohio R.C. 124.34 et seq. 737.12
 Fire Chief suspension - see Ohio R.C. 124.34, 124.40
 Age and promotions - see Ohio R.C. 124.31, 124.42, 124.45 et seq.
 Schooling, buildings and equipment - see Ohio R.C. 715.05, 737.23 et seq.
 Executive head - see Ohio R.C. 737.02
 Civil service application - see Ohio R.C. 737.11
 General duties - see Ohio R.C. 737.11
 Classification - see Ohio R.C. 737.13
 Firemen's Pension and Disability Fund - see Ohio R.C. Ch. 742
 False fire alarm - see GEN. OFF. 509.07
 False reports - see GEN. OFF. 509.06
 Fire prevention - see Part Fifteen - Fire Prevention Code

133.01 VOLUNTEER FIRE COMPANIES; EMERGENCY SQUAD.

There is hereby established a Volunteer Fire Department consisting of three engine companies to be known as the "Liberty Engine Company", the "Alert Engine Company" and the "Vigilant Engine Company"; one ladder company to be known as the "Hook and Ladder Company" and one company to be known as the "Emergency Squad", the latter of which shall be composed of citizens residing within the corporate limits of the City of Martins Ferry. The locations of the Companies and the Emergency Squad shall be determined by Council.
 (Ord. 98-4. Passed 2-5-98.)

133.02 PERSONNEL.

There shall be a Chief I of the Fire Department and a Chief II and the following list of volunteers:

- (a) The Alert Engine Company shall consist of twenty-five members and five cadets.
- (b) The Hook and Ladder Company shall consist of twenty-five members and five cadets.
- (c) The Liberty Engine Company shall consist of twenty-five members and five cadets.

- (d) The Vigilant Engine Company shall consist of twenty-five members and five cadets.
- (e) The Emergency Squad shall consist of thirty members, plus Chief I and Chief II.
(Ord. 98-5. Passed 2-5-98.)

133.03 EMERGENCY SQUAD MEMBERSHIP.

(EDITOR'S NOTE: Former Section 133.03 was repealed by Ordinance 98-3, passed February 5, 1998.)

133.04 VOLUNTEER FIREMEN'S DEPENDENTS FUND BOARD.

There is established a Volunteer Firemen's Dependents Fund Board which shall be composed of such members and perform such duties as provided under Ohio R.C. Chapter 146. (Ord. 4871. Passed 11-6-58.)

133.05 COMPENSATION.

The members of the Fire Department shall be paid one dollar (\$1.00) per year for their services to the City. The Chief of the Fire Department shall certify to the Auditor the names and addresses of the members in good standing, and of any new persons that from time to time may become members of the Department. The Auditor shall then issue a pay check to such members for services rendered.
(Ord. 4811. Passed 11-21-57.)

133.06 CHARGES FOR TIME, EQUIPMENT AND MATERIAL/SUPPLY USAGE AT FIRE CALLS.

(a) The Martins Ferry Volunteer Fire Department is hereby authorized to begin billing insurance companies for time, equipment and material/supply usage at fire calls. Any resident(s) unable to pay will not be charged. Inability to pay shall be determined in the sole discretion of the Director of Public Service/Safety.

(b) The Director of Public Service/Safety is hereby authorized to establish all applicable billing rates, which shall be as follows:

Chief Vehicles-	\$75.00 per hour
Engine/Pumpers-	\$175.00 per hour
Ladder Truck-	\$225.00 per hour
Rescue Truck-	\$75.00 per hour
Emergency Squad Truck-	\$100.00 per hour

Additionally, billing for any materials or supplies used, or for damaged or destroyed equipment, is also authorized herein, and shall be charged at full replacement cost.

(c) All billing will be handled internally within the Fire Department.

(d) All funds collected shall be deposited with the Auditor, and shall be placed in a separate line item. The Director of Public Service/Safety shall have authorization to disburse the collected funds for equipment and needs of the Fire Department, subject to appropriation by City Council. (Ord. 2008-11. Passed 4-2-08.)

CHAPTER 135

Department of Public Service

135.01	Subdepartments established.	135.06	Billings for water and sanitation collections.
135.02	Appointment and term of Director.	135.07	Collection agents.
135.03	Powers and duties of Director.	135.08	Contracts for City-owned Recreational Facilities.
135.04	Organization.		
135.05	Engineer's services.		

CROSS REFERENCES

Engineer to approve plats; inspection of streets and acceptance - see Ohio R.C. 711.08, 711.191

Compulsory service connections - see Ohio R.C. 729.06, 743.23, 743.37

Engineer devises and forms plan of sewerage - see Ohio R.C. 729.31

Management and control of sewerage system - see Ohio R.C. 729.50 et seq.

Merger of Service and Safety Departments - see Ohio R.C. 733.03

Contracts - see Ohio R.C. 733.22 et seq., 735.05 et seq.

Civil Engineer - see Ohio R.C. 733.80

Appointment of Director of Public Service - see Ohio R.C. 735.01

Director's general duties and records - see Ohio R.C. 735.02

Assistants to Director - see Ohio R.C. 735.04

Public building supervision - see Ohio R.C. 735.10 et seq.

General duties of Engineer - see Ohio R.C. 735.32

Assistant to Engineer - see Ohio R.C. 735.33

Management and control of waterworks - see Ohio R.C. 743.02 et seq.

Management and control of cemeteries - see Ohio R.C. 759.09 et seq.

Registration as a professional engineer - see Ohio R.C. Ch. 4733

135.01 SUBDEPARTMENTS ESTABLISHED.

The following subdepartments are hereby established within the Department of Public Service:

- (a) Street Department;
- (b) Sanitation Department;
- (c) Water Department;
- (d) Cemetery Department;
- (e) Park Department;
- (f) Utility Electric Department. (Ord. 6202. Passed 8-17-72.)
- (g) Urban Renewal Department. (Ord. 82-121. Passed 12-22-82.)
- (h) Water and Sanitation Office. (Ord. 82-120. Passed 12-22-82.)

135.02 APPOINTMENT AND TERM OF DIRECTOR.

The Department of Public Service shall be administered by a Director of Public Service who shall be appointed by the Mayor, and shall serve until his successor is appointed and qualified. (1941 Code, Sec. 2-110.)

135.03 POWERS AND DUTIES OF DIRECTOR.

The Director of Public Service shall manage municipal water, lighting, heating, garbage, rubbish, sewage, cemeteries and other undertakings of the City. He shall supervise the construction and have charge of the maintenance of public buildings and other property of the City. He shall have the management of all other matters authorized by Council in connection with the public service of the City.
(1941 Code, Sec. 2-113.)

135.04 ORGANIZATION.

The Director of Public Service may establish such divisions within his Department as may be necessary and determine the number of superintendents, inspectors, engineers, clerks, laborers and other persons necessary for the execution of the work and the performance of duties of the Department.
(1941 Code, Sec. 2-115.)

135.05 ENGINEER'S SERVICES.

The Director of Public Service is authorized to employ the services of a civil engineer as needed. (Ord. 4653. Passed 3-2-56.)

135.06 BILLINGS FOR WATER AND SANITATION COLLECTIONS.

The Director of Public Service is authorized to set up the tenth, twentieth and thirtieth days of the month as billing dates for the City.
(Ord. 5132. Passed 1-20-62.)

135.07 COLLECTION AGENTS.

(a) Agents for the collection of water and sanitation accounts for the City, for the territory in which the various utilities of the City serve customers, are hereby created and established. Such agents shall furnish, at their own expense, suitable quarters, and they shall be and are hereby authorized and directed to collect and to receipt water and sanitation bills of such City utility customers as may desire to take advantage thereof. Such agents shall account for all moneys received at such intervals and when called upon to do so by the Chief Clerk of the Water and Sanitation Office or by his duly authorized representative. The collection records of the agents shall be open to inspection by the Chief Clerk of the Water and Sanitation Office or his duly authorized representative at all reasonable times.

(b) Such agents shall deliver to the Chief Clerk of the Water and Sanitation Office any and all moneys collected and held, together with the stubs representing payments received on a daily basis and at such times as may be mutually agreed upon.
(Ord. 82-119. Passed 12-22-82.)

(c) Such agents hereby appointed are the Citizens Savings Bank, the Peoples Banking Company and the Fidelity Savings and Loan Company, a division of Metropolitan Savings Bank together with the branch offices of each financial institution designated herein. The Peoples Banking Company and the Fidelity Savings and Loan Company shall receive as compensation for making such collections a sum equivalent to ten cents (10¢) for each utility bill represented by a City utility bill stub. The Citizens Savings Bank shall receive as compensation for making such collections a sum equivalent to five cents (5¢) for each utility bill represented by a City utility bill stub. The aggregate sum to be paid each agent for such service shall be paid monthly by the Auditor of the City, which compensation is so allowed for the reason that the amount of work involved in collections and the responsibility incurred warrants and justifies compensation for the service so rendered.
(Ord. 93-46. Passed 5-20-93.)

(d) The Chief Clerk of the Water and Sanitation Office is hereby authorized to prepare and adopt rules and regulations by which agents shall be guided in the execution of this service for the Water and Sanitation Office, covering such matters as no partial payments, no collection without customer bills, no adjustments or alterations in utility bills, no acceptance of checks except those payable to the Department of Public Service, and such other administrative matters.

(e) Agents appointed herein may discontinue the services rendered under authority of this section by giving the Chief Clerk of the Water and Sanitation Office and Council ninety days written notice of their intention to so discontinue the services.

(f) The authorities granted herein to the agents shall take effect and be in force from and after January 1, 1983.
(Ord. 82-119. Passed 12-22-82.)

135.08 CONTRACTS FOR CITY-OWNED RECREATIONAL FACILITIES.

All contracts and/or leases involving City-owned and/or operated parks, swimming pools, baths, playgrounds and recreation facilities shall be approved by Council prior to the same becoming effective and/or legally binding if the consideration paid is in excess of seven hundred fifty dollars (\$750.00) per day of use, excluding security deposits, or if the term of the contract and/or lease exceeds ten calendar days.
(Ord. 91-07. Passed 3-7-91.)

CHAPTER 136
Department of Relocation

136.01 Established; members.

136.02 Payments.

136.01 ESTABLISHED; MEMBERS.

(a) The Department of Relocation is hereby created as a subdepartment of the Department of Public Service and there is hereby established the following position: Director.

(b) The person chosen to fill such position shall be an elector of the City and shall be appointed by the Mayor.

(Ord. 83-7. Passed 1-20-83.)

136.02 PAYMENTS.

The Director of Public Service is hereby authorized and directed to make relocation payments and assistance where required by law for any urban renewal community development block grant activities with prior approval by Council, regardless of the amount of payments required by Federal law.

(Ord. 83-117. Passed 12-22-82.)

CHAPTER 139
Division of Development

139.01	Establishment; purpose.	139.04	Bonds.
139.02	Administration of Community Development Program.	139.05	Residency requirement; appointment.
139.03	Positions.		

CROSS REFERENCES

Urban renewal - see ADM. Ch. 181
Planning Commission - see P. & Z. Ch. 1101

139.01 ESTABLISHMENT; PURPOSE.

The Division of Development is hereby established in order to provide the necessary planning, guidance and coordination for the continued and future advancement, growth and beautification of the City.

The Division of Development shall be a subdepartment of the Department of Public Service. (Ord. 6641. Passed 3-26-75.)

139.02 ADMINISTRATION OF COMMUNITY DEVELOPMENT PROGRAM.

The Division of Development shall be responsible for the administration of the Community Development Program awarded to the City in a block grant as defined in the Housing and Community Development Act of 1974 and any future related Federal, State and/or local legislation. (Ord. 6641. Passed 3-26-75.)

139.03 POSITIONS.

There is hereby established within the Division of Development the following position: Director. (Ord. 2002-44. Passed 9-5-02.)

139.04 BONDS.

The following positions shall give a surety bond for the full amount herein set out, executed by a corporate surety company authorized and empowered to do business in the State, each conditioned by law, and payable to the City as follows:

Director	\$25,000
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(Ord. 83-8. Passed 1-20-83.)

139.05 RESIDENCY REQUIREMENT; APPOINTMENT.

The persons chosen to fill such positions shall be electors of the City and shall be appointed by the Mayor. (Ord. 6641. Passed 3-26-75.)

CHAPTER 145 Civil Service Commission

145.01 Membership.

CROSS REFERENCES

Civil service - see Ohio Const., Art. XV, §10
 Civil service law - see Ohio R.C. Ch. 124
 Civil Service Commission - see Ohio R.C. 124.40
 Application to fire and police personnel - see Ohio R.C. 737.051,
 737.10, 737.11
 Employment provisions - see ADM. Ch. 159

145.01 MEMBERSHIP.

The Mayor shall appoint three persons, one for a two year term, one for a four year term and one for a six year term, who shall constitute the Civil Service Commission. Each alternate year thereafter the Mayor shall appoint one person as successor of the member whose term expires, to serve six years until his successor is appointed and qualified. A vacancy shall be filled by the Mayor for any unexpired term.
 (1941 Code, Sec. 2-370)

CHAPTER 147
Civil Defense

147.01 Director of Disaster Services.

CROSS REFERENCES

Civil defense - see Ohio R.C. 5915

Alternate seats of local government in enemy attack - see Ohio R.C. 5915.041

147.01 DIRECTOR OF DISASTER SERVICES.

There is hereby established the position of Director of Disaster Services. The Director shall be appointed by the Mayor. The Director shall coordinate and supervise the civilian defense activities of the City. He shall exercise such powers and duties as are prescribed for the directors of local civil defense organizations by Ohio R.C. 5915.09 and other laws and ordinances. (Ord. 4871. Passed 11-6-58.)

CHAPTER 155
Board of Control

155.01 Membership.

CROSS REFERENCES

State law provisions - see Ohio R.C. 733.21 et seq.

Urban renewal contracts - see ADM. 181.05, 181.09, 181.11

Authority re garbage and rubbish collection - see S.U. & P.S.
945.05, 945.07

155.01 MEMBERSHIP.

The Board of Control shall be composed of the Mayor, the Director of Public Safety and the Director of Public Service. The Mayor shall be President ex officio. The Board shall keep a record of its proceedings. All votes shall be by “yeas” and “nays” and entered on the record, and the vote of a majority of the members shall be necessary to adopt any question, motion or order. (1941 Code, Sec. 2-320)

CHAPTER 159 Employment Provisions

EDITOR'S NOTE: The City has entered into collective bargaining agreements with the American Federation of State, County and Municipal Employees Local Union No. 1260 and Fraternal Order of Police Lodge No. 78. Certain employment provisions within this chapter have therefore been superseded by such agreements for those City employees covered thereunder.

159.01	Vacations.	159.11	Payment of insurance premiums from various funds.
159.02	Holidays.	159.12	Dental insurance.
159.03	Sick leave; retirement credit.	159.13	Pickup of contributions to retirement systems.
159.04	Nepotism prohibited; exceptions.	159.14	Drugfree workplace.
159.05	Travel expenses.	159.15	Firearms policy.
159.06	Overtime.	159.16	Issuance, use and control of credit cards.
159.07	Life insurance.	159.17	City issued cellular telephones, pagers and desk telephones.
159.08	Funeral leave.	159.18	Minimum wage.
159.09	Hospitalization insurance for employees.		
159.10	PERS contributions.		

CROSS REFERENCES

Welfare - see Ohio Const., Art. II, Sec. 34
 Workmen's compensation - see Ohio Const., Art. II, Sec. 35;
 Ohio R.C. Ch. 4123
 Wages and hours on public works - see Ohio Const., Art. II, Sec. 37;
 Ohio R.C. Ch. 4115
 All officers to take oath - see Ohio Const., Art. XV, Sec. 7;
 Ohio R.C. 3.22, 733.68
 State legal holidays - see Ohio R.C. 1.14, 5.20 et seq.
 Failure to give bond - see Ohio R.C. 3.30, 731.49 et seq.
 Civil Service Law - see Ohio R.C. Ch. 124
 Reinstatement after military service - see Ohio R.C. 124.29
 Public Employees Retirement System - see Ohio R.C. Ch. 145
 Council to fix bonds and salaries - see Ohio R.C. 731.04, 731.08
 Executive power - see Ohio R.C. 733.01
 Conduct and delinquent charges - see Ohio R.C. 733.34 et seq.,
 733.72 et seq.
 Officers' qualifications and oaths - see Ohio R.C. 733.68
 Bond of municipal officers - see Ohio R.C. 733.69
 Approval of bonds - see Ohio R.C. 733.70
 Certain facts shall not invalidate bond - see Ohio R.C. 733.71
 Contract interest - see Ohio R.C. 733.78

159.01 VACATIONS.

(a) Vacations for City employees shall be as follows:

<u>Length of Service (Continuous Years)</u>	<u>Length of Vacation (Hours; Weeks)</u>
1 but less than 5	80 hours - 2 weeks
5 but less than 10	120 hours - 3 weeks
10 but less than 15	160 hours - 4 weeks
15 but less than 20	200 hours - 5 weeks
20 or more	240 hours - 6 weeks

An employee working 130 days or more during a calendar year shall be eligible for vacation benefits.

All vacation benefits provided for herein shall be based only upon continuous years of service with the City. (Ord. 92-22. Passed 2-20-92.)

(b) The vacation period for all employees shall be determined by the head or superintendent of the particular department, and upon the approval of the Director of Public Service or the Director of Public Safety.
(Ord. 6104. Passed 1-6-72.)

(c) Vacation periods for employees shall be January 1 through December 31 of each year. Vacation period shall be allotted at the time most desired by the employee. Longer service employees shall be given preference as to choice but the final right to allot vacation periods and to change such allotments is exclusively reserved to the City to ensure the orderly operation of the City. Selection of vacation periods shall be made on or before December 31 of the year preceding the year in which the vacation is taken.
(Ord. 7032. Passed 1-5-78.)

159.02 HOLIDAYS.

(a) The following days are hereby declared to be legal holidays to be observed by the employees of the City as a part of their contract of employment.

- (1) The first day of January, known as New Year's Day.
- (2) The Friday preceding Easter Sunday, known as Good Friday.
- (3) The last Monday in May, known as Decoration Day or Memorial Day.
- (4) The fourth day of July, known as Independence Day.
- (5) The first Monday in September, known as Labor Day.
- (6) The eleventh day of November, known as Veterans Day.
- (7) The fourth Thursday in November, known as Thanksgiving Day.
- (8) The twenty-fifth day of December, known as Christmas Day.
- (9) Easter Sunday.

(Ord. 80-37. Passed 3-27-80.)

(b) On such holidays, only those employees shall work as may be necessary for the proper operation of the various departments.
(Ord. 5799. Passed 3-20-69.)

(c) All employees, except elected officials and department heads, observing such holidays whose names have appeared on the payroll of their respective departments for a period of sixty calendar days preceding any such holiday, shall be paid their regular rate of wage for the holiday.

(d) All employees of the various departments, except elected officials and department heads, whose services are necessary on the holidays, shall be paid double their regular rate of wage, except those employees who were absent from work on the work day immediately preceding the holiday, and except those employees who were absent from work on the work day immediately following the holiday.
(Ord. 80-74. Passed 6-19-60.)

(e) If any of the holidays fall on an employee's regularly scheduled day of rest, the next succeeding regularly scheduled working day for the employee shall be considered the holiday with respect to the employee and he shall be entitled to all the benefits of this section with respect to such holiday on the next succeeding regularly scheduled working day.

(f) The terms of this section shall apply only to regular employees of the several departments and it shall be the duty of the heads of the departments to certify to the Auditor, the reason and necessity for which services of an employee have been required on a holiday.
(Ord. 5799. Passed 3-20-69.)

(g) Those employees of the City assigned to duty and actually working on the afternoon shifts of December 24 or December 31, shall be paid one and one-fourth times their regular rate of pay for all hours worked in addition to their regular pay.
(Ord. 7037. Passed 1-5-78.)

159.03 SICK LEAVE; RETIREMENT CREDIT.

(a) Sick leave for City employees shall be governed by the provisions of Ohio R.C. 124.38. (Ord. 6716. Passed 9-25-75.)

(b) Employees with ten or more years of continuous service with the City shall be entitled to receive upon retirement fifty percent (50%) of the accumulated sick leave up to a maximum payment for sixty days.
(Ord. 92-21. Passed 2-20-92.)

(d) Accrued sick leave benefits to which an employee might be entitled upon retirement by virtue of State law, City ordinance or resolution of the Department of Health, shall be paid by the City Auditor. The Auditor is hereby authorized and directed to pay the City's share of the benefit for general operations employees, policemen, firemen, Health Department and Recreation Department employees from the General Fund. The City's share of the benefits for all other employees shall be charged to and paid from the fund of the department for which the employee works. (Ord. 6734. Passed 10-16-75.)

159.04 NEPOTISM PROHIBITED; EXCEPTIONS.

Nepotism shall be prohibited in the City, subject to the exceptions listed below.

- (a) For purposes of this section, members of an elected official's immediate family shall include a spouse, father, mother, step-mother, step-father, step-sister, step-brother, mother-in-law, father-in-law, son, daughter, step-son, step-daughter, sister, brother, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandparents or grandchildren.
- (b) No member of an elected official's immediate family, as defined by subsection (a) hereof, shall be employed as a regular full-time or part-time employee for the City.
- (c) This section does not apply to members of an elected official's immediate family who are currently employed with the City, or those immediate family members that became employees prior to a City official becoming elected.
(Ord. 2007-02. Passed 1-18-07.)

159.05 TRAVEL EXPENSES.

(a) When proper vouchers, supported by detailed records, are presented by a City official or employee to the Auditor, the Auditor shall pay the Internal Revenue Service standard business mileage rate for the next preceding year for each mile traveled on municipal business in a personal motor vehicle outside the City. For other forms of travel on such municipal business, the Auditor shall pay, upon proper vouchers so supported, the actual cost of transportation, taxi fares and similar expenses incidental and necessary to such travel.

(b) When proper vouchers, supported by detailed records, are presented to the Auditor, the Auditor shall pay to a City official or employee traveling overnight on municipal business:

- (1) The actual cost of a hotel/motel room and subsistence per diem of forty-five dollars (\$45.00) per day; and
- (2) When the travel is a day-trip outside a 50-mile radius of the City, up to a maximum of six dollars and fifty cents (\$6.50) for lunch and twelve dollars and fifty cents (\$12.50) for dinner.

(c) When expenses incurred during travel outside the City are to be charged wholly or in part to a project funded under a state or federal program or grant, authorization for the trip must be secured from the Mayor. In addition, that portion of out-of-town expenses related to transportation must be justified in terms of comparable cost of the travel by common carrier, where common carrier service is available.

(d) Reimbursement on a mileage basis may not be substituted for the actual cost of transportation when common carrier is used. (Ord. 2003-4. Passed 3-6-03.)

159.06 OVERTIME.

(a) Employees required to work in excess of eight hours in any twenty-four hour period or forty hours in any seven-day period, shall be paid at the rate of time and one-half their regular rate of pay for all overtime hours worked. (Ord. 80-77. Passed 6-19-80.)

(b) Overtime rates mean one and one-half times the normal rates of pay, except as may be otherwise provided in these Codified Ordinances.

(c) Overtime payment shall not be duplicated for the same hours worked, but the higher of the applicable overtime rates as provided in these Codified Ordinances shall be used to the extent that hours are compensated for at overtime rates at time and one-half or more under one section of the Codified Ordinances, they shall not be counted as hours worked in determining overtime liability under the same or any other provision in the Codified Ordinances. (Ord. 6278. Passed 2-15-73.)

(d) The payment of overtime to any employee of this City paid on a per diem or per hour basis at a rate of one and one-half times the employee's current pay rate is authorized when approved in writing by the department head, and on the basis of time sheets approved by the department head for such projects as the Mayor or Council find necessary for the proper administration of this City. (Ord. 6216. Passed 10-5-72.)

(e) Except as provided herein, employees of the City who are required to work in excess of ten hours in any one payroll day shall be furnished a meal ticket with a value of three dollars and fifty cents (\$3.50). (Ord. 80-41. Passed 3-27-80.)

(f) All paid holiday hours shall be counted as hours worked for the purpose of computing overtime. (Ord. 80-39. Passed 3-27-80.)

159.07 LIFE INSURANCE.

(a) The Mayor is hereby authorized to apply for a plan of group life and accidental death benefit insurance which will be available to all full-time employees of the City.

A full-time employee shall be one who works thirty or more hours per week.
(Res. 5090. Passed 6-10-61.)

(b) Fifty percent of the cost of such insurance plan will be borne by the City and fifty percent shall be borne by the employees on a withholding basis. The City's share shall be borne as follows:

General operating employees, except those represented by the Bargaining Unit of Local Union 1260.

Police employees

Fire employees

Health employees

Recreation employees

Pay from General Fund.

One hundred percent of the cost of such insurance plan for employees represented by the Bargaining Unit of Local Union 1260, will be borne by the City as follows:

Water and Sanitation employees

Pay from their respective employees department.

All other employees

Pay from General Fund.

(Ord. 6741. Passed 11-6-75.)

(c) The Auditor is hereby designated as the administrative officer for the purpose of receiving monthly billings from the insurance company and making a proper remittance. This is a voluntary plan and the Auditor is to withhold the premium from the employees wages.
(Res. 5090. Passed 6-10-61.)

(d) The City shall pay the premiums on an eight thousand dollar (\$8,000) group life insurance policy for each employee of the City who applies for such coverage.
(Ord. 90-16. Passed 4-19-90.)

159.08 FUNERAL LEAVE.

Employees of the City, except elected officials and department heads shall be granted up to three days of their regular scheduled work days for paid funeral leave, not chargeable to sick leave, in the event of a death in the immediate family. For purposes of this section "immediate family" shall be defined as follows: spouse, child, parent, mother-in-law, father-in-law, brother-in-law, sister-in-law, grandparent, grandchild, brother or sister, aunt or uncle of the employee, and nephew or niece of the employee and/or spouse.

The funeral leave granted herein shall consist of three consecutive work days. In the event of a death of a spouse, a parent or dependent child, the current three consecutive days funeral leave shall not expire on the day of the actual funeral, however, in all other instances where funeral leave is granted, it shall terminate on the actual day of the funeral. If the employee begins his funeral leave during the first four hours of his work day, that work day shall be counted as the first consecutive day of funeral leave.

(Ord. 84-71. Passed 8-7-84.)

159.09 HOSPITALIZATION INSURANCE FOR EMPLOYEES.

(a) The Board of Control is hereby authorized and directed to enter into a contract for hospitalization insurance for City employees, and members of their respective families who qualify for coverage under the terms of the subject policy, a copy of which contract(s) is/are on file in the office of the Clerk of Council in a file bearing the same number as this section.

Employees may elect coverage under one of the following medical insurance plans:

- (1) Advantage Health; or
- (2) Any other comparable plan offered by the City.

(b) Funds for the payment of premiums attributable to Water Department employees shall be payable from the Water Department Fund.

(c) Funds for the payment of premiums attributable to Sanitation Department employees shall be payable from the Sanitation Department Fund.

(d) Funds for the payment of premiums for employees of the Division of Development shall be payable from the Division of Development Fund.

(e) Funds for the payment of premiums for employees of City departments created by Council and funded by federal and/or state funds shall be paid from the fund of each respective department.

(f) Funds for the payment of premiums for other City employees not included above, shall be payable from the General Fund.

(g) As used in this section, "City employee" means any employee on the regular payroll of the City who works twenty or more hours per week, and is/are classified by the Director of Public Service and/or the Director of Public Safety as regularly scheduled City employees. (Ord. 98-73. Passed 12-5-98.)

159.10 PERS CONTRIBUTIONS.

The Auditor is hereby directed to pay all City contributions to the Public Employees Retirement System from the General Fund of the City, except that contributions for employees of the Water Department, Sanitation Department, Division of Development and any other employees paid by State or Federal funds, shall be paid from funds of his respective department. (Ord. 6378. Passed 8-2-73.)

159.11 PAYMENT OF INSURANCE PREMIUMS FROM VARIOUS FUNDS.

The Auditor of the City is hereby authorized and directed to pay all premiums for City insurance, except hospitalization insurance, from the General Fund, except that insurance premiums attributable to the Water Department, Sanitation Department, Division of Development and any other departments funded with State or Federal funds shall be paid from funds of the respective department.
(Ord. 6374. Passed 8-2-73.)

159.12 DENTAL INSURANCE.

The Board of Control is hereby authorized and directed to procure and enter into a contract for dental insurance coverage for all department heads and other management City employees not represented and/or included in the bargaining units of AFSCME Local Union No. 1260 and/or FOP Lodge No. 78, and members of their families who qualify for such coverage under the terms of the subject policy.

A copy of the foregoing dental insurance contract shall at all times be maintained in the Auditor's office in a file bearing the same number as this section.

The Auditor is hereby authorized and directed to pay all premiums for the dental insurance coverage from the General Fund, except that all insurance premiums, if any, attributable to the Water Department, Sanitation Department, Division of Development and any other department(s) funded with State and/or Federal funds shall be paid from funds of the respective departments.

As used herein, "management City employee" means any employee on the regular payroll of the City who works twenty or more hours per week, and is classified by the applicable supervisor as a regularly scheduled City employee. Additionally, it includes only those employees who are not represented and/or included in the bargaining units of AFSCME Local Union No. 1260 and/or FOP Lodge No. 78.
(Ord. 88-14. Passed 4-7-88.)

159.13 PICKUP OF CONTRIBUTIONS TO RETIREMENT SYSTEMS.

(a) Effective June 18, 1989, the full amount of the statutorily required contributions to the Public Employees Retirement System of Ohio, and the Police and Firemen's Disability and Pension Fund shall be withheld from the gross pay of each person within any and all of the classes established in subsection (b) hereof and shall be "picked-up" (assumed and paid to the Public Employees Retirement System of Ohio and the Police and Firemen's Disability and Pension Fund) by the City. This "pick-up" by the City is, and shall be designated as, public employee contributions and shall be in lieu of contributions to the Public Employees Retirement System of Ohio and the Police and Firemen's Disability and Pension Fund by each person within any and all of the classes established in subsection (b) hereof. No person subject to this "pick-up" shall have the option of choosing to receive the statutorily required contribution to the Public Employees Retirement System of Ohio and the Police and Firemen's Disability and Pension Fund directly instead of having it "picked-up" by the City or of being excluded from the "pick-up".

Further, the City shall, in reporting and making remittance to the Public Employees Retirement System of Ohio, and the Police and Firemen's Disability and Pension Fund, report that the public employee's contribution for each person subject to this "pick-up" has been made as provided by statute.

(b) The “pick-up” by the City provided by this section shall apply to the following: All elected officials and employees of the City who are contributing members of the Public Employees Retirement System of Ohio and/or the Police and Firemen’s Disability and Pension Fund.

(c) The gross wage or salary of any person subject to the “pick-up” provided by this section shall not change as a result of this “pick-up”.

(d) The Auditor is hereby authorized and directed to implement the provisions of this section to effect the “pick-up” of the statutorily required contributions to the Public Employees Retirement System of Ohio and the Police and Firemen’s Disability and Pension Fund for those persons reflected in subsection (b) hereof so as to enable them to obtain the resulting federal and state tax deferments and other benefits.
(Ord. 89-45. Passed 6-20-89.)

159.14 DRUGFREE WORKPLACE.

(a) General Provisions. The City of Martins Ferry is committed to maintaining a drugfree workplace. The manufacture, distribution, sale, dispensation, possession or use of alcohol or a controlled substance in the workplace is specifically prohibited.

(b) Definitions.

- (1) “Possession” means having in or on one’s person, effects, motor vehicle, tools or areas substantially entrusted to one’s control, such as desks, files or lockers.
- (2) “Workplace” means any City office, building, real estate (including parks and parking lots owned or leased by the City), motor vehicles or any other site where a City employee is to perform work for or on behalf of the City.
- (3) “Controlled substance” means substances defined in Schedule I through V of Section 812, 21 C.F.R. Part 1208 (1989).
- (4) “Conviction” means a finding of guilt by any judicial body charged with the responsibility of determining violations of the federal, state or local criminal drug statutes or ordinances.
- (5) “Criminal drug statute or ordinance” means a criminal statute or ordinance involving manufacture, distribution, sale, dispensation, use or possession of any controlled substance.

(c) Prohibited Conduct.

- (1) The manufacture, distribution, sale, dispensation, possession or use of a controlled substance in violation of any federal, state or local statute or ordinance constitutes ground for dismissal. Employees manufacturing, distributing, selling, dispensing, possessing or using a controlled substance shall be subject to appropriate discipline.
- (2) The failure of any employee to notify his/her department supervisor of any criminal drug statute or ordinance conviction shall make that employee subject to dismissal.
- (3) The manufacture, distribution, sale, dispensation, possession or use of alcohol while on duty or on City property or while in custody or charge of City equipment constitutes grounds for dismissal.

(d) Roles and Responsibilities.

- (1) Within ten days after receiving notice of a criminal drug statute or ordinance conviction of a City employee, the Mayor or his designee shall notify any granting federal agency of a criminal drug statute or ordinance conviction against an employee for conduct:
 - A. Occurring within the workplace; and
 - B. In connection with that federal agency's grant.
- (2) Within thirty days after receiving notice of a City employee's criminal drug statute or ordinance conviction, the employee's department supervisor shall take appropriate disciplinary action.
- (3) Department supervisors shall assist in ensuring that the workplace is free of controlled substances and that their departments meet the requirements of the Drugfree Workplace Act of 1988. Department supervisors shall make employees under their supervision aware of the Employee Assistance Program and shall report immediately to the Mayor or his designee any reasonable evidence to suspect that any employee is manufacturing, distributing, selling, dispensing, possessing or using a controlled substance.
- (4) Employees shall report to their supervisor any conduct of other employees manufacturing, distributing, selling, dispensing, possessing or being under the influence of controlled substances.

(e) Self Referral. Any employee who desires assistance with respect to controlled substances or alcohol may use nonchargeable leave for self-referral to the EAP. The employee shall obtain the approval of the department supervisor before leaving the worksite to attend an EAP appointment. All formal supervisor referrals shall use nonchargeable leave. (Ord. 96-8. Passed 1-18-96.)

159.15 FIREARMS POLICY.

(a) In the interest of protecting the safety of employees and citizens of the City of Martins Ferry, Council hereby adopts the following firearms policy for the City of Martins Ferry.

(b) Effective April 8, 2004, as required by Ohio R.C. 2923.1212, the following signs (or language substantially similar) will be posted at the entrance of every City owned building, and at the entrance to the portion of any non City owned building which is leased by the City.

"Pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordinance onto these premises. A valid license does not authorize the licensee to carry a concealed handgun onto these premises."

(c) Employees and officials of the City of Martins Ferry, other than law enforcement officers specially authorized to carry a firearm, are prohibited from carrying firearms into any City building, in any City vehicle, or at any time while they are acting within the course and scope of their employment.

(d) Employees and officials of the City of Martins Ferry, other than law enforcement officers specifically authorized to carry a firearm, are prohibited from bringing a handgun onto a City owned parking lot, even if it is kept in their own vehicle, except for employees with a valid license to carry a concealed handgun.

(e) A City employee or official with a valid license to carry a concealed handgun may bring a handgun onto a City owned parking lot, but must leave the handgun in their own locked vehicle, either in the glove compartment (or other locked compartment), in the trunk, or locked inside a gun case, when they report for work. An employee or official with a valid license to carry a concealed handgun who is reporting for work may remove the handgun from their own vehicle parked on City property only for the purpose of transporting it to and from the trunk of the vehicle for storage.

(f) Any City employee or official who violates this policy is acting outside the course and scope of their duties. The City of Martins Ferry will not defend or indemnify such actions by any City official or employee. Any City employee found to be in violation of this policy will be subject to disciplinary action, up to and including discharge.

(g) City employees who use a firearm or make comments about firearms in such a way that intimidates, harasses, coerces, or threatens another City employee will be subject to disciplinary action, up to and including discharge.
(Ord. 2004-15. Passed 4-14-04.)

159.16 ISSUANCE, USE AND CONTROL OF CREDIT CARDS.

The Mayor and Auditor shall implement and maintain the following system for the distribution, authorization and control of credit cards issued to or for the benefit of the City and used by City officials and employees.

- (a) Distribution-Credit cards may be distributed to those City officials and employees who, in the opinion of the Mayor, or his/her designee, have job responsibilities that would benefit or otherwise be facilitated by use of a credit card.
- (b) Authorization and Control - The Auditor shall develop specific administrative guidelines and accounting controls to ensure the proper usage of credit cards and credit card funds. The purchasing card is to be used when it is in the best interest of the City administrative affairs.
- (c) Application - The individual holder, upon prior approval of the Mayor or his/her designee, shall hold each credit card responsibly.
- (d) Credit Limits - The Mayor or his/her designee shall set credit limits on each card issued subject to the approval of the City Council. Individual purchases shall not exceed \$1000 without the pre-approval of the Mayor and in no event shall the credit card limit exceed \$2500 for any individual credit card account.
- (e) Credit Card restrictions - The following will be considered an unauthorized purchase or use of any City purchasing/credit card:
 - (1) Cash advances;
 - (2) Payment of invoices or statements;
 - (3) Purchases where an open charge account would be utilized; or
 - (4) Personal purchases of any kind.

- (f) Disallowed Charges-Disallowed charges, or charges not properly identified, will be paid by the employee before the charge card billing is due. Failure to do so will render the employee personally liable where the City shall have a prior lien against and a right to withhold any and all funds payable or to become payable to the employee up to the unpaid amount, plus interest and/or fees at the rate charged by the bank that issued the card. Employee shall not use the credit card if any disallowed charges are outstanding. The act of obtaining a City credit card does not indicate pre-approval of expenditures/expenses.
- (g) Return of Credit Card - The employee shall return all City credit cards at the request of the Mayor or his/her designee, or upon separation of employment. Final paycheck will be held until all outstanding property has been returned. (Ord. 2007-24. Passed 9-20-07.)

157.17 CITY ISSUED CELLULAR TELEPHONES, PAGERS AND DESK TELEPHONES.

- (a) City issued cellular telephones, pagers and desk telephones are intended for official business use. While occasional personal use is permitted, it must be responsible and it must be clearly incidental to business use. Employees must reimburse the City for any long distance costs associated with personal use of City issued telephones.
- (b) Cellular telephones and pagers may be issued only to those employees with a demonstrated need for these types of communication. Only authorized personnel within Departments shall request cellular telephones and pagers. Employees who use a City issued cellular telephone or pager agree to the following rules of use.
 - (1) Employees must reimburse the City for any costs associated with personal use. Personal use must be clearly incidental to business use. Personal use with associated charges must be reported to supervisors.
 - (2) Employees must safeguard any cellular telephone and pager equipment in their possession.
 - (3) The loss of any cellular telephone or pager equipment shall be reported to the employee's supervisor immediately. If theft is suspected, the Police Department should also be notified immediately. Loss of equipment may be grounds for discipline.
 - (4) Employees shall exercise extreme caution talking on a cellular telephone while driving. Unless utilizing a "hands-free" speakerphone option, employees should move to a safe location, stop their vehicle as soon as safely possible.
 - (5) Employees shall limit all cellular calls to no more than five minutes, unless call is of an immediate emergency nature. Calls over the five minute limit shall be documented and justification will be required.
 - (6) When an employee no longer has a demonstrated need for the cellular telephone or pager, or when the employee terminates employment with any City Department, that employee shall return any cellular telephone and pager equipment to that Department.

- (7) Any employee who exceeds their monthly-allotted minutes and/or package dollar amount unless directed by a supervisor, shall be subject to an immediate audit for the previous twelve-month period. Costs that are associated with excessive use and/or personal costs that are not reimbursed by the employee at the time of the audit may be considered theft and will result in appropriate corrective action.
- (8) After three instances of repeated non-compliance with this policy and failure to remain within allotted minutes, costs, etc. shall result in progressive discipline and may result in loss of use of cellular and/or paging equipment. (Ord. 2007-25. Passed 10-4-07.)

159.18 MINIMUM WAGE.

The minimum wage for the City of Martins Ferry is hereby established at the hourly rate of seven dollars and seventy cents (\$7.70).
(Ord. 2012-04. Passed 1-17-12.)

CHAPTER 161 Investment of Funds

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| 161.01 Authorization. | 161.04 Cemetery Perpetual Care Fund. |
| 161.02 Investment Advisory Board. | |
| 161.03 Permanent Improvement Fund. | |

CROSS REFERENCES

Deposit of public moneys - see Ohio R.C. 117.17
 Establishment of required funds - see Ohio R.C. 5705.09
 Special funds authorized - see Ohio R.C. 5705.12

161.01 AUTHORIZATION.

Whenever there are moneys in the City Treasury which will not be required to be used by the City for a period of six months or more, such moneys may, in lieu of being deposited in a bank, be invested in accordance with the provisions of Ohio R.C. 731.56 et seq. (Ord. 4541. Passed 12-28-54.)

161.02 INVESTMENT ADVISORY BOARD.

(a) There is hereby created an Investment Advisory Board consisting of three members: the President or acting President of the Citizens Bank, Sky Bank and National City Bank.

(b) It is hereby declared to be the policy of Council that the Investment Advisory Board shall meet with the Treasury Investment Board of the City once a month or so often as is necessary to review the portfolio of investments of the City and make recommendations to the Treasury Investment Board on the prudent and productive investment of City funds.

(c) Nothing herein shall be construed to limit or impede the lawful powers and authority of the Treasury Investment Board of the City nor is there any legislative intention that the Treasury Investment Board be limited to seeking advice only from the Investment Advisory Board. (Ord. 5860. Passed 12-18-69.)

(d) The Finance Committee of City Council shall be notified of all meetings of the Treasury Investment Board. (Ord. 2002-46. Passed 9-5-02.)

161.03 PERMANENT IMPROVEMENT FUND.

(a) All moneys paid into the Permanent Improvement Fund at the time of closing of the sale of the electric generating plant equipment and distribution and street lighting system and lease of real property on or under which certain equipment is situated shall be invested pursuant to Ohio R.C. 731.56 et seq. and remain so invested for a period of at least ten years.

(b) The Treasury Investment Board shall consult with the Investment Advisory Board pursuant to the procedure set forth in Section 161.02 prior to any investment of the Permanent Improvement Fund.
(Ord. 5861. Passed 12-18-69.)

(c) All income received by the City each fiscal year from the investment of the Permanent Improvement Fund shall be immediately paid by the City into the General Fund of the City. (Ord. 7018. Passed 12-16-77.)

161.04 CEMETERY PERPETUAL CARE FUND.

The Auditor is hereby authorized and directed to invest the Cemetery Perpetual Care Fund and keep said Fund invested in interest bearing debts of the City, and if no such debts are owed by the City, then in safe interest bearing bonds or certificates of deposit in financial institutions within the State of Ohio authorized by law to accept deposits and subject to inspection by either the United States or the State of Ohio.
(Ord. 2006-10. Passed 3-16-06.)

CHAPTER 163
Borrowing of Funds

163.01 Notice to banks.

163.02 Opening of bids.

163.01 NOTICE TO BANKS.

Each time the City borrows any monies the Chairman of the Finance Committee shall send or deliver a written communication(s) to the Citizens Bank, National City Bank, and Sky Bank specifically setting forth all of the specifications therefore, including the specifications that all bids must be sealed and in writing, and delivered to the City on or before the designated time. (Ord. 2002-70. Passed 11-21-02.)

163.02 OPENING OF BIDS.

All bids received shall be opened at the time designated by the Chairman of the Finance Committee, and only if at least two of the following City officials are present at the same time: Mayor; President of Council; City Council member; Auditor, or a representative from that office; or the Chairman of the Finance Committee.
(Ord. 2002-70. Passed 11-21-02.)

TITLE SEVEN - Judicial
Chap. 171. Mayor's Court.

CHAPTER 171
Mayor's Court

EDITOR'S NOTE: The Mayor has jurisdiction to hear and determine any prosecution for the violation of a Municipal ordinance, and has jurisdiction in all criminal causes involving moving traffic violations occurring on State highways located within the corporate limits, subject to the right of the defendant to trial by jury and before an impartial magistrate.

Ohio R.C. 2945.17 provides that an accused has a right to be tried by a jury at any trial in any court for the violation of any Ohio statute or of any Municipal ordinance, except in cases in which the penalty involved does not exceed a fine of one hundred dollars (\$100.00). Ohio R.C. 2937.08 and Criminal Rule 23(A) provide that if the court in which a defendant is charged with an offense is not a court of record (the Mayor's Court), and the charge is such that a right to a jury trial exists, such matter shall not be tried before him and shall be transferred to a court of record in the County if the defendant:

- (a) Does not waive his right to trial by jury in a serious offense case for which the penalty established by laws includes confinement for more than six months, or
- (b) Demands a jury trial in a petty offense case in which the penalty prescribed is a fine greater than one hundred dollars (\$100.00) and/or imprisonment for not more than six months. "Such demand must be in writing and filed with the clerk of court not less than ten days prior to the date set for trial, or on or before the third day following receipt of notice of the date set for trial, whichever is later. Failure to demand a jury trial as provided in this subdivision is a complete waiver of the right thereto."

In Ward v. Village of Monroeville, Ohio, 93 S. Ct. 80 (1972), the United States Supreme Court held that where the mayor before whom the defendant was compelled to stand trial was responsible for municipal finances and the mayor's court provided a substantial portion of municipal revenues, defendant was denied a trial before a disinterested and impartial magistrate as guaranteed by the due process clause of the United States Constitution.

The Supreme Court of Ohio has adopted the "Ohio Traffic Rules" which prescribe the procedure to be followed in the Mayor's Court in traffic cases. Rule 9(A) thereof states the jury demand shall be made pursuant to Criminal Rule 23 referred to above. Rule 9(B) sets forth the conditions under which the Mayor may hear a traffic case incorporating therein the holding in Ward v. Village of Monroeville as further interpreted in State, ex rel. Brockman v. Procter, 35 Ohio St. 2d 79 (1973): "Where, in a mayor's court, a defendant is entitled to a jury trial and a jury demand is made pursuant to Criminal Rule 23, the Mayor shall transfer the case pursuant to subdivision (C). If a jury demand is not made pursuant to Criminal Rule 23, and (or?) the defendant waives his right to jury trial in writing, a mayor may try the case if (1) his compensation as a judge is not directly dependent upon criminal case convictions, or (2) he is not the chief executive and administrative officer of the municipality and as such responsible for the financial condition of the municipality. Guilty and no contest pleas may be taken by any mayor including mayors whose compensation as a judge is directly dependent upon criminal case convictions and mayors who as chief executive and administrative officer of the municipality are responsible for the financial condition of the municipality."

The procedure for transferring a case to a court of record is set forth in Rule 9(C): "Where a transfer is required, the mayor's court shall make a written order directing the defendant to appear at the transferee court, continuing the same bail, if any, and making appearance before the transferee court a condition of bail, if any. Upon transfer, the mayor's court shall transmit to the clerk of the transferee court the ticket and all other papers in the case, and any bail taken in the case. Upon receipt of such papers the clerk of the transferee court shall set the case for trial and shall notify the defendant by ordinary mail of his trial date."

Rule 13 provides that a court shall establish a traffic violation bureau and specifies certain restrictions as to the designated offenses and schedule of fines to be accepted as waiver payment in lieu of court appearance.

CROSS REFERENCES

Disposition of fines and costs - see Ohio R.C. 733.40

Mayor's powers and duties - see Ohio R.C. 1905.20 et seq.

Trial - see Ohio R.C. Ch. 2938

Notification to Director of liquor law convictions - see Ohio R.C. 4301.991

Record of traffic violations - see Ohio R.C. 4513.37

TITLE NINE - Redevelopment
Chap. 181. Urban Renewal.

CHAPTER 181
Urban Renewal

181.01	Necessity of urban renewal.	181.09	Federal aid contracts.
181.02	Council policy.	181.10	Modification of plan.
181.03	Definitions.	181.11	Execution of urban renewal projects.
181.04	Mayor to supervise renewal and redevelopment activities.	181.12	Financing.
181.05	Preparation of plan.	181.13	Building permits.
181.06	Contents of plan.	181.14	Tax exemption.
181.07	Action by Planning Commission.	181.15	Separability; chapter controlling.
181.08	Public hearing and Council action.		

CROSS REFERENCES

Appropriation of property - see Ohio Const., Art. I, Sec. 19;
Art. XVIII, Sec. 10, 11

Procedure for appropriation of property - see Ohio R.C. Ch. 163

Power to transfer or convey real property without bids - see Ohio R.C.
721.28

Urban renewal debt retirement fund - see Ohio R.C. Ch. 725

Division of Development - see ADM. Ch. 139

General City Plan - see P. & Z. 1113.01

181.01 NECESSITY OF URBAN RENEWAL.

It is hereby determined that within the City there exist slum, blighted, deteriorated and deteriorating areas of the nature defined in this chapter which constitute a serious and growing menace injurious and inimical to the public health, safety, morals and general welfare of the residents. The existence of such areas:

- (a) Contributes substantially and increasingly to the spread of disease and crime, and to losses by fire and accident, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution and punishment, for the treatment

- of juvenile delinquency, for the maintenance of adequate police, fire and accident protection, and for other public services and facilities;
- (b) Constitutes an economic and social liability; and
- (c) Substantially impairs and arrests the sound growth of the community, retards the provision of housing accommodations, aggravates traffic problems and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities.

This menace is beyond remedy and control solely by regulatory processes and exercise of the police power, and cannot be dealt with effectively by the ordinary operation of private enterprise without the aids provided in this chapter. The elimination in whole or in part of slum, blighted, deteriorated and deteriorating areas, and the prevention of occurrence or recurrence of such areas by redevelopment and by the conservation, rehabilitation and reconditioning, to the extent feasible, of the salvageable portions of such areas, and by other activities pursuant to urban redevelopment or urban renewal as defined in this chapter, are public uses and purposes for which public money may be expended and private property acquired by purchase, by donation and by eminent domain and are governmental functions of concern to the City, and require the exercise of the powers of government granted to the City by the provisions of Article XVIII of the Ohio Constitution. The necessity in the public interest and general welfare, for the provisions of this chapter is hereby declared as a matter of legislative determination.

(Ord. 5379. Passed 10-22-64.)

181.02 COUNCIL POLICY.

It is hereby declared to be the policy of Council to promote and encourage the sound development, including renewal and redevelopment where necessary, of the entire City in accordance with the General Plan for the City. Council realizes that the City Government will be unable to carry out coordinated and effective programs for renewing the City without the cooperation and support of the public as a whole. Therefore, Council stands ready to cooperate with private enterprise, civic groups, neighborhood agencies and governmental agencies in developing and carrying out urban renewal programs and projects to promote the sound development of new areas, to prevent the spread of slums and blight and to eliminate slums, blighted, deteriorated and deteriorating areas in the City.

(Ord. 5379. Passed 10-22-64.)

181.03 DEFINITIONS.

For purposes of this chapter, the following terms have the meanings ascribed to them in this section unless a different meaning is clearly indicated in the context.

- (a) "Agency" or "urban renewal agency" or "local public agency" or "City" means the City of Martins Ferry.
- (b) "Slum, blighted or deteriorated area" means an area within the corporate limits of the City in which there are a majority of structures or other improvements, which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation or open spaces, high density of population and overcrowding, unsafe and unsanitary conditions or the existence of conditions which endanger life or property by fire or other hazards and causes, or any combination of such factors, and an area with overcrowding or improper location of structures on the land, excessive dwelling unit density, detrimental

land uses or conditions, unsafe, congested, poorly designed streets or inadequate public facilities or utilities, all of which substantially impair the sound growth and planning of the community, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals and general welfare.

- (c) "Deteriorating area" means either:
 - (1) An area, whether predominantly built up or open, which is not a slum, blighted or deteriorated area but which, because of incompatible land uses, nonconforming uses, lack of adequate parking facilities, faulty street arrangement, obsolete platting, inadequate community and public utilities, diversity of ownership, tax delinquency, increased density of population without commensurate increases in new residential buildings and community facilities, high turnover in residential or commercial occupancy, lack of maintenance and repair of buildings, or any combination thereof, is detrimental to the public health, safety, morals and general welfare, and which will deteriorate, or is in danger of deteriorating, into a slum, blighted or deteriorated area, or
 - (2) An area consisting principally of land in highways, railway tracks, bridge or tunnel entrances, or other similar facilities which have a blighting influence on the surrounding area and over which air right sites can be developed thereby eliminating such blighting influence.
- (d) "Project area" or "urban redevelopment area" or "urban renewal area" means a slum, blighted, deteriorated or deteriorating area or any combination or part thereof which Council designates as of a character and size appropriate for urban renewal activities and for which an urban redevelopment plan or urban renewal plan is proposed or prepared.
- (e) "General neighborhood renewal area" means an urban renewal area of such scope that urban renewal activities therein have to be carried out in more than one separate urban renewal project, over an estimated period of up to ten years.
- (f) "Urban renewal" or "urban redevelopment" means the activities of the City, with or without Federal or State aid or assistance, for developing, undertaking and carrying out urban renewal or redevelopment programs and projects, including all planning and other related activities of the City in connection therewith, or any part of such activities.
- (g) "Open space land" means land which has not been developed by the construction or installation of streets, utilities, buildings, except sporadic or incidental structures, or other site improvements. Whether or not such an area has been platted in whole or in part does not prevent its classification as "open space land."
- (h) "Redeveloper" means any person or entity purchasing property from the City within a project area, or owning property located within such an area and entering into a conforming agreement with the City in consideration for which he is permitted by the City to retain title to the property.
(Ord. 5379. Passed 10-22-64.)
- (i) "Urban renewal plan" or "urban redevelopment plan" or "redevelopment plan" means a plan as it exists from time to time for the urban renewal or redevelopment of a project area or part thereof.
(Ord. 5385. Passed 12-10-64.)

- (j) "General neighborhood renewal plan" means the plan and program as it exists from time to time for the urban renewal or redevelopment of a general neighborhood renewal area. The general neighborhood renewal plan need not contain all of the required contents set forth in Section 181.06 with respect to an urban renewal plan or urban redevelopment plan. Approval of the general neighborhood renewal plan by Council does not create authority to carry out project execution activities.
- (k) "Urban renewal project", "urban redevelopment project" or "project" means undertakings and activities of the City, with or without Federal or State aid or assistance, in a project area for the elimination and for the prevention of the development or spread of slum, blighted, deteriorated or deteriorating areas, and may involve clearance and redevelopment in a project area, or rehabilitation and conservation in a project area, or any combination or part thereof, in accordance with the urban renewal or urban redevelopment plan for the project area to the full extent of and in accordance with the rights, powers and authority of the City, whether derived from the applicable provisions of the Federal or State constitution or statutes, or City ordinances. Such undertakings and activities in a project area may include:
- (1) Acquisition of realty, including the acquisition of air rights;
 - (2) Demolition and removal of buildings and improvements;
 - (3) Installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out the urban renewal or urban redevelopment plan;
 - (4) Disposition of property for uses in accordance with the urban renewal or urban redevelopment plan;
 - (5) Encouraging and assisting interested residents in a private program of voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan, with or without aid and assistance by Federal Housing Administration mortgage insurance or special support for mortgage financing through the Federal National Mortgage Association or similar organizations;
 - (6) Acquisition of any real property where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen such lot occupancy or population density as create such conditions, eliminate uses incompatible with the general character of a neighborhood and which are detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities; and disposition of property, so acquired in accordance with this paragraph for voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan;
 - (7) Construction of foundations and platforms necessary for the appropriate provision of air right sites in accordance with the urban renewal or urban redevelopment plan;
 - (8) Acquisition and repair or rehabilitation for guidance purposes, and resale, of structures which, under the urban renewal plan, are to be repaired or rehabilitated for dwelling use or related facilities, provided, that there shall not be acquired for such purposes, in any project area, buildings which contain or will contain more than 100 dwelling units, or five percent

of the total number of dwelling units in the area which, under the urban renewal plan, are to be repaired or rehabilitated, whichever is the lesser. The urban renewal project shall not include the construction or improvement by the City of any building other than municipal buildings, except as provided in paragraph (7) of this subsection and this paragraph (8).

- (l) "General Plan" or "Master Plan" generally means a broad and general guide and pattern for the future growth and development of the City including maps, plats, charts and descriptive, interpretive and analytical narratives, as may be appropriate and specifically shall mean the Comprehensive Plan of Martins Ferry, Ohio as adopted by the City Planning Commission on March 30, 1964, pursuant to Ohio R.C. 713.02, and any subsequent amendments thereto.
- (m) "Slum clearance", "clearance" or "urban redevelopment" includes those undertakings and activities identified in subsection (k)(1) through (4) and (7).
- (n) "Rehabilitation", "conservation" or "reconditioning" includes those undertakings and activities identified in subsection (k)(3) through (6) and (8). (Ord. 5379. Passed 10-22-64.)

181.04 MAYOR TO SUPERVISE RENEWAL AND REDEVELOPMENT ACTIVITIES.

The Mayor is hereby charged with the responsibility of supervising the urban renewal and urban redevelopment activities of this City, coordinating the activities of the several officers, employees, commissions and boards concerned with such projects and executing on behalf of the City, as its authorized representative, all applications to the Federal Government for grants, loans and advances.
(Ord. 5379. Passed 10-22-64.)

181.05 PREPARATION OF PLAN.

(a) Upon the recommendation of the Mayor and approval by the Planning Commission, the Board of Control shall enter into such contracts on behalf of the City with engineers, architects and other professional services as may be necessary to provide the necessary inspections, studies, plans, surveys and reports in connection with the preparation of the general neighborhood renewal plan, and in connection with the urban renewal or redevelopment activities to be undertaken by the City to the extent that funds have been appropriated therefor. The Planning Commission may itself conduct such inspections, studies, plans, surveys and reports.

(b) When studies, plans, surveys or reports pursuant to subsection (a) of this section have been prepared, they shall be submitted to Council and filed as provided from time to time. (Ord. 5379. Passed 10-22-64.)

181.06 CONTENTS OF PLAN.

(a) Any urban renewal or redevelopment plan hereafter prepared shall be prepared in such detail as to clearly set forth sufficient information to permit the Planning Commission to exercise its power of approval or disapproval under Ohio R.C. 713.02, and in any event such plans shall include, but not be limited to, the following:

- (1) A description of the boundaries of the project area;
- (2) A land use plan showing the location, character and extent of public and private land ownership, utilities, use and occupancy proposed within the area;

- (3) A delineation of areas of land acquisition, demolition and removal of structures, or of rehabilitation, conservation or reconditioning of existing structures, if any, as may be proposed to be carried out in the project area;
- (4) A statement indicating the controls and the use, development and building restrictions to be placed on the property in the project area to prevent a recurrence of slum or blighted conditions;

and, in addition thereto, the plan or its supporting documentation shall include, but shall not be limited to, the following:

- (5) A report showing the proposed changes, if any, in the building, housing or zoning ordinances or maps and street layout, levels or grades;
- (6) A statement from the appropriate City official or officials setting forth the capability of the City to finance the portion of the project costs to be contributed by the City;
- (7) A statement of the relationship of the plan to definite objectives of the City in respect to appropriate land uses, improved traffic conditions and transportation, public utilities, recreation and community facilities and other public improvements.

(b) A relocation plan shall indicate a feasible method for the temporary relocation of families displaced from the project area, and that there are or are being provided in the project area, or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families to be displaced from the project area, decent, safe and sanitary dwellings equal in number to the number of such displaced families, and available to them and reasonably accessible to their places of employment.

(Ord. 5379. Passed 10-22-64.)

181.07 ACTION BY PLANNING COMMISSION.

(a) When a general neighborhood renewal plan or an urban renewal or urban redevelopment plan and the supporting documentation therefor is filed with Council, Council shall refer the plan and supporting documentation to the Planning Commission of the City for its review and recommendations including the exercise of its power of approval or disapproval under Ohio R.C. 713.02, and its certification as to whether or not the plan is in conformity with the General Plan of the City, by causing a copy of the plan and supporting documentation to be delivered to the person charged with the preparation and custody of the record of proceedings of the Planning Commission.

(b) The Planning Commission shall submit in writing to Council its approval or recommendations concerning the plan. The approval of the Commission shall also constitute its approval of those matters placed under its jurisdiction by Ohio R.C. 713.02, except as the recommendations of the Planning Commission may include a disapproval pursuant to that section. Except as recommendations or disapprovals are received from the Planning Commission on or before the thirtieth day after the day of delivery to the person charged with the preparation and custody of the record of proceedings of the Planning Commission of such plan and supporting documentation, the plan shall be conclusively presumed to have been approved by the Planning Commission.

(Ord. 5379. Passed 10-22-64.)

181.08 PUBLIC HEARING AND COUNCIL ACTION.

(a) Council, before approving a general neighborhood renewal plan or an urban renewal or urban redevelopment plan, shall hold a public hearing on the plan at which an opportunity shall be provided to all interested persons to be heard either in person or by counsel, which hearing may be adjourned from time to time. Notice of the date, time and place of such hearing will be published in a newspaper of general circulation in the City once a week for two consecutive weeks on the same day of the week, and at least seven full days shall elapse between the second publication and the date set for the public hearing. The notice shall also contain a description of the project area by its location in relation to highways, streets, watercourses or other natural or artificial boundaries, and shall also designate the place at which the plan, maps, plats and other materials describing the project area are and will be available for public inspection.

(b) Following the completion of the public hearing, Council may either approve or reject the general neighborhood renewal plan or the urban renewal or urban redevelopment plan, or make modifications and approve the plan as modified; provided that:

- (1) If the boundaries of the project area are extended to include any land (except land contained within the right-of-way lines of a dedicated street or alley) not included in the urban renewal or urban redevelopment plan upon which the public hearing was held pursuant to subsection (a) hereof, or if there is added a type of urban renewal or redevelopment activity not included in the urban renewal or urban redevelopment plan upon which the public hearing was held pursuant to subsection (a) hereof which requires the acquisition of property or if there is any change in land use or redevelopment restrictions contained in the urban renewal or urban redevelopment plan upon which the public hearing was held pursuant to subsection (a) hereof, a public hearing shall be held on the urban renewal or urban redevelopment plan as modified prior to the approval thereof by Council in accordance with the provisions of subsection (a) hereof; and
- (2) If such modifications are other than in accordance with the recommendations of the Planning Commission, the general neighborhood renewal plan or urban renewal plan or urban redevelopment plan as modified shall be resubmitted to the Planning Commission for its written approval or recommendations pursuant to the provisions of Section 181.07.

(c) When Council wishes to approve a general neighborhood renewal plan, or an urban renewal or redevelopment plan, it shall do so by ordinance passed by not less than a majority vote, after reading in full on three separate days or under suspension of rules pursuant to Ohio R.C. 731.17; provided, however, that if the plan has not been approved by the Planning Commission, or if there were any partial disapprovals by or adverse recommendations of the Planning Commission under Ohio R.C. 713.02, not accepted by Council by its modifications of the plan in accordance therewith, then an affirmative vote of two-thirds of the members of Council shall be required to pass the ordinance and, to the extent that such disapproval involves the construction of an improvement or utility within the meaning of Ohio R.C. 713.02, the concurrence of the head of the department or departments having control of the construction of such proposed improvement or utility shall also be necessary.

(d) The ordinance of Council approving a general neighborhood renewal plan should contain a finding that the plan conforms to the general plan and to the workable program of the City and such other findings as may be necessary or desirable, but need not contain the other findings set forth in subsection (e) hereof for approval of urban renewal or redevelopment plans. Such approval of a general neighborhood renewal plan may be made before or at the same time as the approval of an urban renewal or redevelopment plan for a project within the general neighborhood renewal area.

(e) The ordinance of Council approving an urban renewal or redevelopment plan shall include the following findings:

- (1) Specific findings of fact as to the conditions in the project area which make it a slum, blighted, deteriorated or deteriorating area, and findings that the project area is a slum, blighted, deteriorated or deteriorating area;
- (2) That the size and character of the area and the location of elements of slum, blight and deterioration in the area make it appropriate for urban renewal activities;
- (3) That the proposals for the proper relocation of individuals and families displaced in carrying out the project in decent, safe and sanitary dwellings in conformity with acceptable standards are feasible and can be reasonably and timely effected to permit the proper prosecution and completion of the project; and that such dwellings or dwelling units available or to be made available to such displaced individuals and families are at least equal in number to the number of displaced individuals and families, are not generally less desirable in regard to public utilities and public and commercial facilities than the dwellings of the displaced individuals and families in the project area, are available at rents or prices within the financial means of the displaced individuals and families, and are reasonably accessible to their places of employment;
- (4) This finding is to be made only if Federal aid is needed: That financial aid to be provided by the Federal Government under its contract is necessary to enable the project to be undertaken in accordance with the plan;
- (5) That the plan for the project area will afford maximum opportunity consistent with the sound needs of the community as a whole for the rehabilitation or redevelopment of the project area by private enterprise;
- (6) That the plan conforms to the existing General Plan for the overall development of the City as prepared by the Planning Commission pursuant to Ohio R.C. 713. 02;
- (7) That the plan gives due consideration to the provision of adequate park and recreational areas and facilities, as may be desirable for neighborhood improvement, with special consideration for the health, safety and welfare of the children residing in the general vicinity of the site covered by the plan;
- (8) This finding is to be made only if there is included in the plan any provision permitting the new construction of hotels, motels or other housing for transient use: That the City has caused to be made a competent independent analysis of the local supply of transient housing and as a result determines that there exists a need for additional units of such housing in the project area;

- (9) This finding is to be made only if the project area is not predominantly residential in character and is not to be redeveloped for predominantly residential use: That the redevelopment of the project area for predominantly nonresidential uses is necessary for the proper development of the community;
- (10) This finding is to be made only where an open space land program is involved:
That the land and the interests in land to be acquired are for the purpose of preserving the area as open space land and are necessary for orderly long range development, to curb urban sprawl and the spread of urban blight and deterioration, to encourage more economical and desirable urban development and to provide areas for parks, playgrounds, parkways, conservation areas, watersheds and to preserve natural resources, and that the area so to be acquired is of a size and character appropriate for these purposes;
- (11) This finding is to be made only if Federal aid is involved and clearing is the sole treatment proposed: That the objectives of the urban renewal plan cannot be achieved through rehabilitation of the urban renewal area;
- (12) This finding is to be made only if Federal aid is involved and both clearance and rehabilitation treatment are proposed: That the objectives of the urban renewal plan cannot be achieved through more extensive rehabilitation of the urban renewal area;
- (13) This finding is to be made only where an educational institution or a hospital is located in or near the project area and it is desired to utilize Section 112 of the Housing Act of 1949, as amended: That, in addition to the elimination of slums and blight from the area, the undertaking of an urban renewal or urban redevelopment project in the area will further promote the public welfare and the proper development of the community by making land in the area available for disposition, for uses in accordance with the urban renewal or urban redevelopment plan, to an educational institution or hospital for redevelopment in accordance with the uses specified in the urban renewal or urban redevelopment plan and by providing, through the redevelopment of the area in accordance with the urban renewal or urban redevelopment plan, a cohesive neighborhood environment compatible with the functions and needs of the educational institution or hospital, or by any combination of the foregoing.

(f) The Clerk of Council shall certify as true and correct and deliver to the Mayor a copy of the ordinance approving the plan for the Mayor's approval or veto and appropriate further action, and any documents which were submitted to Council to support findings made in the ordinance should be filed with a copy of the ordinance.

(g) The taking effect of the ordinance approving an urban renewal or redevelopment plan shall constitute authority to spend moneys of the City appropriated for carrying out urban renewal or redevelopment activities in accordance with the plan, as well as the proceeds of bonds or notes issued for such purpose, and to accept advances, gifts, donations and grants from the Federal Government, the State, any entity, instrumentality or subdivision of either, or from any other entity or person for such purpose.
(Ord. 5379. Passed 10-22-64.)

181.09 FEDERAL AID CONTRACTS.

Any contract with a Federal agency for loans, advances, grants or other Federal aid to the City shall be approved by the Solicitor as to form and legality and after approval and authorization by ordinance of Council, passed in accordance with the requirements of Ohio R.C. 731.17, shall be executed by the Board of Control.
(Ord. 5379. Passed 10-22-64.)

181.10 MODIFICATION OF PLAN.

An approved urban renewal plan may be amended, modified or changed by ordinance of Council from time to time; however, if the boundaries of the project area are extended to include any land (except land contained within the right-of-way lines of a dedicated street or alley) not previously included therein or if there is added a new type of urban renewal activity which requires the acquisition of property or if there is any change in the land use or redevelopment restrictions or if there is a change in the proposed location, extent or character of a public improvement or utility within the project area or in any other matter directly within the jurisdiction of the Planning Commission to approve or disapprove under Ohio R.C. 713.02, or if the amendment, modification or change is deemed by Council to be a substantial change in the urban renewal or redevelopment plan, then all of the proceedings provided for in Sections 181.07 and 181.08 shall be carried out in connection with the amendment, modification or change except that the findings to be made in the ordinance approving the urban renewal or urban redevelopment plan shall be altered to fit the new circumstances. The land use or redevelopment restrictions applicable to any land previously conveyed by the City may not be amended, modified or changed without the consent of the property owner.

A general neighborhood renewal plan may be amended, modified or changed by ordinance of Council from time to time, provided that any such amendment, modification or change shall be submitted to the Planning Commission for its written approval or recommendations pursuant to the provisions of Section 181.07.
(Ord. 5379. Passed 10-22-64.)

181.11 EXECUTION OF URBAN RENEWAL PROJECTS.

(a) Acquisition of Property. As authorized by Council and with the approval of the Board of Control where appropriate under the provisions of Ohio R.C. 733.22, the Director of Public Service with the appropriate advice and assistance of the Solicitor, shall cause the necessary steps to be taken to acquire the parcels of land in the project area in accordance with the urban renewal or redevelopment plan, including but not limited to, the negotiation for such parcels, obtaining appraisals, title examinations and reports, executing contracts for any of such services and appropriate documents to transfer title to the City; provided, that in the event appropriation of property is necessary, Council shall initiate and carry out, with the appropriate assistance of the several officers, employees, boards and commissions of the City, the proceedings in accordance with Ohio R.C. Chapter 163. Acquisition may take place at any time after compliance with Sections 181.07 and 181.08.

(b) City Activities Preparing Property for Disposition. The Director of Public Service shall make the contracts, purchase the supplies and materials and provide the labor, pursuant to and in accordance with the applicable provisions, including the

competitive bidding requirements, of Ohio R.C. 735.05 to 735.09, Chapter 153 and Sections 723.52 and 723.53, for such City activities as may be necessary to carry out the urban renewal project, including but not limited to the demolition, rehabilitation or repair of structures (whether voluntarily by the private owners thereof or by the City for demonstration purposes in limited numbers), the removal of pavement, sidewalks, lighting and trees, capping, removal and relocation of City-owned utility lines, grading, construction of site improvements and supporting facilities and the temporary lease, rental or permission to let others use structures or parcels of land while owned by the City, relocation activities and the enforcement of any applicable provisions of law or conforming agreements relative to building, zoning, platting and the repair or rehabilitation of land and structures remaining in private ownership after:

- (1) Any necessary appropriations of City moneys and authorization of expenditures by ordinances of Council in accordance with Ohio R.C. Chapter 5705;
- (2) Council action, where appropriate, to rezone property, vacate or dedicate streets or other public places and to provide for the establishment and preservation of open space areas pursuant to Ohio R.C. Chapters 711, 713 and 723, and applicable City ordinances;
- (3) Approvals and directions of the Board of Control, where appropriate, pursuant to Ohio R.C. 733.22;
- (4) Certification of funds by the Auditor, where appropriate, pursuant to Ohio R.C. 5705.41; and
- (5) Preparation of or approval of legal form of contracts by the Solicitor.

(c) Disposition of Property. Pursuant to Ohio R.C. 721.01, 721.03 and 721.28, after Council determines that real property is not needed for any Municipal purpose, Council may authorize by ordinance the transfer, lease or conveyance of any real property in accordance with and for the purposes of the plan, subject to such lawful terms, conditions, restrictions and covenants (including covenants running with the land) to assist in carrying out the purposes of the plan. All dispositions of real property shall be at not less than the fair value thereof determined by Council based upon the proposed new uses and restrictions to be imposed thereon under the urban renewal plan by Council through zoning ordinances, private covenant or otherwise. Such determination shall be made only after obtaining independent appraisals of the fair value upon the aforesaid bases, which appraisals shall not be binding upon the City. The manner of disposition shall be prescribed by ordinance, and may be by negotiation, with or without any competitive bidding, and such competition and award of a disposition contract may be based on factors other than price alone. Two weeks publication of notice in a newspaper of general circulation in the City shall be sufficient notice for the taking of competitive bids or of the execution of a disposition contract without competitive bidding. The financial and legal ability of those proposing to acquire or lease such real property shall be considered in all dispositions. The Director of Public Service shall execute, on behalf of the City, such instruments as may be necessary to transfer, lease or convey such real property in the form approved by the Solicitor and authorized by Council, which form shall include all covenants running with the land, including any portions of the plan incorporated by reference. The Director of Public Service shall execute any certificates of completion of improvements or other appropriate instruments, on behalf of the City, that may be necessary in accordance with any covenants in such instruments of lease or conveyance.

(d) Conforming Agreements. If the owner of property in the project area is willing to make the use of his property conform to the urban renewal or redevelopment plan and Council finds and determines that the acquisition of such property by the City will not be necessary if so conformed, the Mayor, upon Council authorization, may enter into a conforming agreement upon such terms and security as may be authorized by Council. The agreement may provide for the acquisition of the property upon continued failure of the property owner to keep his agreement after notice from the City specifying such failure.

(e) Employment of Community Corporations. In the execution of urban renewal or redevelopment projects, Council may authorize, as to any appropriate projects or parts of projects, the employment of community improvement corporations, community redevelopment corporation and metropolitan housing authorities, as defined by the statutes of Ohio, and when authorized by ordinance of Council may grant leases, make conveyances and enter into agreements with such corporations related to appropriate aspects of such projects to the full extent of the powers possessed by such corporations.
(Ord. 5379. Passed 10-22-64.)

181.12 FINANCING.

The cost of urban renewal activities may be paid in whole or in part by the City from appropriate general or special funds or accounts established pursuant to Ohio R.C. Chapters 135 and 5705 and the City may accept grants or gifts of moneys or real or personal property from persons, entities, governments or taxing authorities to be used for the planning and financing of such urban renewal activities. Any investment of excess funds shall be carried out in accordance with the provisions of Ohio R.C. 731.56 to 731.59. All bonds or notes payable from the general credit and taxes of the City to finance urban renewal activities shall be issued in accordance with the applicable provisions of Ohio R.C. Chapter 133. Accounts shall be maintained for the carrying out of those urban renewal activities being financed by loans or advances from the Federal Government separate from any other City accounts, including City accounts used to carry out any activities being financed by the City and no money or real or personal property shall in any way be pledged as security for the repayment of any Federal loans or advances, except the separately described portion of a project area set aside for such purpose, together with the proceeds from the sale, lease or temporary operation thereof and Federal capital grant moneys earned in connection therewith in order to avoid violating statutory and constitutional debt and tax limitations.
(Ord. 5379. Passed 10-22-64.)

181.13 BUILDING PERMITS.

After approval of an urban renewal or redevelopment plan by Council, no building permit shall be issued for the improvement or enlargement of any existing structure, or for the construction of a new structure, in the clearance and redevelopment portion of the project area except that a permit may be issued for the repair of an existing structure when such repair is deemed necessary by the Department of Public Service for the immediate preservation of the public health and safety or is required by the redeveloper in accordance with the redevelopment plan.
(Ord. 5379. Passed 10-22-64.)

181.14 TAX EXEMPTION.

(a) All property of the City, including funds, owned or held by it for the purposes of this chapter shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against the City be a charge or lien upon such property. However, the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this chapter by the City on its rents, fees, grants or revenues from urban renewal or redevelopment projects.

(b) The property of the City, acquired or held for the purposes of this chapter on January 1 of any year, is declared to be public property used exclusively for essential public and governmental purposes and such property shall be exempt from all taxes of the City, County, State or any taxing authority thereof; however, such tax exemption shall terminate when the City sells, leases or otherwise disposes of such property in a project area to a purchaser or lessee which is not a person, corporation, partnership or other association entitled to tax exemption with respect to such property.
(Ord. 5379. Passed 10-22-64.)

181.15 SEPARABILITY; CHAPTER CONTROLLING.

Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law or ordinance, the provisions of this chapter shall be controlling. The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by other law.
(Ord. 5379. Passed 10-22-64.)

CHAPTER 185
Land Reutilization

185.01 Procedure adopted.

CROSS REFERENCES
Land reutilization - see Ohio R.C. Ch. 5722

185.01 PROCEDURE ADOPTED.

The City hereby elects to adopt and implement the procedure set forth in Ohio R.C. Chapter 5722 relative to the effective utilization of nonproductive land situated within the Municipal corporation. The existence of such nonproductive land within the boundaries of the City is such as to necessitate the implementation of the land reutilization program to foster either the return of such nonproductive land to tax revenue generating status or the devotion thereof to public use. The implementation of such a program constitutes a public purpose and the use of such land required pursuant to such program constitutes a public use of such land. (Ord. 7002. Passed 11-3-77.)

TITLE ELEVEN - Taxation

Chap. 191. Motor Vehicle License Tax.

Chap. 193. Income Tax.

CHAPTER 191

Motor Vehicle License Tax

191.01 Levy of annual tax on motor vehicles.

191.02 Additional tax.

CROSS REFERENCES

Power to levy - see Ohio R.C. 4504.172

191.01 LEVY OF ANNUAL TAX ON MOTOR VEHICLES.

(a) There is hereby levied an annual license tax upon the operation of motor vehicles on the public roads or highways pursuant to Ohio R.C. 4504.172, for the purposes of paying the costs and expenses of enforcing and administering the tax provided for in this section; to provide additional revenue for the purposes set forth in Ohio R.C. 4504.06; and to supplement revenue already available for such purposes.

Such tax shall be at the rate of five dollars (\$5.00) per motor vehicle on each and every motor vehicle, the district of registration of which as defined in Ohio R.C. 4503.10 is in the City.

As used in this chapter “motor vehicle” means any and all vehicles included within the definition of motor vehicle in Ohio R.C. 4501.01 and 4505.01.

(b) The tax imposed by this chapter shall apply to and be in effect for the registration year commencing January 1, 1988 and shall continue in effect and application during each registration year thereafter.

(c) The tax imposed by this chapter shall be paid to the Registrar of Motor Vehicles of the State or to a deputy registrar, at the time application for registration of a motor vehicle is made as provided in Ohio R.C. 4503.10.

(d) All moneys derived from the tax hereinbefore levied shall be used by the City for the purposes specified in this chapter.
(Ord. 87-19. Passed 8-27-87.)

191.02 ADDITIONAL TAX.

(a) There is hereby levied an annual license tax upon the operation of motor vehicles on the public roads or highways pursuant to Ohio R.C. 4504.17 for the purposes of paying the costs and expenses of enforcing and administering the tax provided for in this section; to provide additional revenue for the purposes set forth in Ohio R.C. 4504.04, 4504.06, 4504.171, or 4504.172; and to supplement revenue already available for such purposes set forth in those sections.

- (1) Such tax shall be at the rate of five dollars (\$5.00) per motor vehicle on each and every motor vehicle the district of registration of which, as defined in Ohio R.C. 4503.10 is in the City.
- (2) As used here, "motor vehicle" means any and all vehicles included within the definition of motor vehicle in Ohio R.C. 4501.01 and 4505.01.

(b) The tax imposed by this section shall apply to and be in effect for the registration year commencing January 1, 2012, and shall continue in effect and application during each registration year thereafter.

(c) The tax imposed by this section shall be paid to the Registrar of Motor Vehicles of the State, or to a deputy registrar, at the time application for registration of a motor vehicle is made as provided in Ohio R.C. 4503.10.

(d) All monies derived from the tax hereinbefore levied shall be used by the City for the purposes specified in this section, to include, but not be limited to, planning, constructing, reconstruction, paving, repaving, patching, widening, maintaining, repairing, clearing, and cleaning of City streets.
(Ord. 2011-13. Passed 6-16-11.)

CHAPTER 193 Income Tax

193.01	Authority to levy tax; purpose of tax.	193.15	Administration of claims.
193.02	Definitions.	193.16	Tax information confidential.
193.03	Imposition of tax.	193.17	Fraud.
193.04	Collection at source.	193.18	Interest and penalties.
193.05	Annual return; filing.	193.19	Authority of Tax Administrator; verification of information.
193.06	Credit for tax paid to other municipalities.	193.20	Request for opinion of the Tax Administrator.
193.07	Estimated taxes.	193.21	Board of Tax Review.
193.08	Rounding of amounts.	193.22	Authority to create rules and regulations.
193.09	Requests for refunds.	193.23	Rental and leased property.
193.10	Second municipality imposing tax after time period allowed for refund.	193.24	Savings clause.
193.11	Amended returns.	193.25	Collection of tax after termination of chapter.
193.12	Limitations.	193.26	Adoption of RITA Rules and Regulations.
193.13	Audits.	193.99	Violations; penalties.
193.14	Service of assessment.		

CROSS REFERENCES

Municipal income taxes - see Ohio R.C. Ch. 718.06

193.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.

(A) To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Martins Ferry, there will be, and is hereby, levied an annual municipal income tax on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided.

(B) The annual tax is levied at a rate of 1.00% (one percent). The tax is levied at a uniform rate on all persons residing in or earning or receiving income in the City of Martins Ferry. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 193.03 and other sections as they may apply.

(C) The tax on income and the withholding tax established by this Chapter 193 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio Revised Code Section 718. (Ord. 2015-18. Passed 11-5-15.)

193.02 DEFINITIONS.

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

(B) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(C) As used in this chapter:

- (1) **"Adjusted federal taxable income,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under (C)(24)(d) of this division, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - (a) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
 - (b) Add an amount equal to five percent (5%) of intangible income deducted under division (C)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;
 - (c) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;
 - (d)
 - (i) Except as provided in (C)(1)(d)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in Section 1221 or 1231 of the Internal Revenue Code;
 - (ii) Division (C)(1)(d)(i) of this section does not apply to the extent the income or gain is income or gain described in Section 1245 or 1250 of the Internal Revenue Code.
 - (e) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
 - (f) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;

- (g) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under Section 4313.02 of the Ohio Revised Code;
- (h)
 - (i) Except as limited by divisions (C)(1)(h)(ii), (iii), and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017. The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
 - (ii) No person shall use the deduction allowed by division (C)(1)(h) of this section to offset qualifying wages.
 - (iii)
 - (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (C)(1)(h)(i) of this section.
 - (b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by (C)(1)(h)(i) of this section.
 - (iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to (C)(1)(h) of this section.
 - (v) Nothing in division (C)(1)(h)(iii)(a) of this section precludes a person from carrying forward, use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (C)(1)(h)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (C)(1)(h)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (C)(1)(h)(iii)(a) of this section shall apply to the amount carried forward.
- (i) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (V)(3)(b) of Section 193.05.

- (j) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (V)(3)(b) of Section 193.05.

If the taxpayer is not a C corporation, is not a disregarded entity that has made an election described in division (C)(48)(b) of this section, is not a publicly traded partnership that has made the election described in division (C)(24)(d) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under Section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (C)(1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

- (2) (a) "**Assessment**" means a written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 193.21, and has "ASSESSMENT" written in all capital letters at the top of such finding.
- (b) "Assessment" does not include a notice denying a request for refund issued under division (C)(3) of Section 193.09, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (C)(2)(a) of this section.
- (3) "**Audit**" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax.

- (4) **"Board of Tax Review"** or "Board of Review" or "Board of Tax Appeals", or other named local board constituted to hear appeals of municipal income tax matters, means the entity created under Section 193.21.
- (5) **"Calendar quarter"** means the three-month period ending on the last day of March, June, September, or December.
- (6) **"Casino operator" and "casino facility"** have the same meanings as in Section 3772.01 of the Ohio Revised Code.
- (7) **"Certified mail," "express mail," "United States mail," "postal service,"** and similar terms include any delivery service authorized pursuant to Section 5703.056 of the Ohio Revised Code.
- (8) **"Disregarded entity"** means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.
- (9) **"Domicile"** means the true, fixed, and permanent home of a taxpayer and to which, whenever absent, the taxpayer intends to return. A taxpayer may have more than one residence but not more than one domicile.
- (10) **"Employee"** means an individual who is an employee for federal income tax purposes.
- (11) **"Employer"** means a person that is an employer for federal income tax purposes.
- (12) **"Exempt income"** means all of the following:
 - (a) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state.
 - (b) Intangible income.
 - (c) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident or liability insurance policies. As used in division (C)(12)(c) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in Section 3402(o)(2) of the Internal Revenue Code.
 - (d) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
 - (e) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed \$1,000 for the taxable year. Such compensation in excess of \$1,000 for the taxable year will be subject to taxation. The payer of such compensation is not required to withhold any tax from that compensation.

- (f) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations.
- (g) Alimony and child support received.
- (h) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages.
- (i) Income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code. Division (C)(12)(i) of this section does not apply for purposes of Chapter 5745 of the Ohio Revised Code.
- (j) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business.
- (k) Compensation or allowances excluded from federal gross income under Section 107 of the Internal Revenue Code.
- (l) Employee compensation that is not qualifying wages as defined in division (C)(35) of this section.
- (m) For residents, the net profit or loss of pass-through entities owned directly or indirectly by the resident when the pass-through entity is subject to the Municipality income taxation as a separate taxpayer in accordance with this Chapter. The intention of this provision is to avoid the double taxation by the Municipality of pass-through entity income for resident taxpayers.
- (n) An S corporation shareholder's share of net profits of the S corporation, other than any part of the share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code.
- (o) All earnings or income of all persons under 18 years of age whether residents or non-residents of the Municipality.
- (p)
 - (i) Except as provided in divisions (C)(12)(p)(ii), (iii), and (iv) of this section, qualifying wages described in division (C)(2) or (5) of Section 193.04 to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.
 - (ii) The exemption provided in division (C)(12)(p)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
 - (iii) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (C)(4)(b) of Section 193.04.
 - (iv) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

- (a) For qualifying wages described in division (C)(2) of Section 193.04, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (C)(5) of Section 193.04, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;
 - (b) The employee receives a refund of the tax described in division (C)(12)(p)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.
- (q)
 - (i) Except as provided in division (C)(12)(q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than 20 days in a taxable year.
 - (ii) The exemption provided in division (C)(12)(q)(ii) of this section does not apply under either of the following circumstances:
 - (a) The individual's base of operation is located in the municipal corporation.
 - (b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (C)(12)(q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 193.04(C).
 - (iii) Compensation to which division (C)(12)(q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.
 - (iv) For purposes of division (C)(12)(q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

- (r) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to Section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.
- (s) Income the taxation of which is prohibited by the constitution or laws of the United States.
Any item of income that is exempt income of a pass-through entity under division (C) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.
- (13) **"Form 2106"** means Internal Revenue Service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (14) **"Generic form"** means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability or for filing a refund claim.
- (15) **"Gross receipts"** means the total revenue derived from sales, work done, or service rendered.
- (16) **"Income"** means the following:
 - (a) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in (C)(24)(d) of this division.
 - (ii) For the purposes of division (C)(16)(a)(i) of this section:
 - (a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (C)(16)(a)(iv) of this section.

- (b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.
 - (iii) Division (C)(16)(a)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (C)(12)(n) or (C)(16)(e) of this section.
 - (iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.
 - (b) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
 - (c) For taxpayers that are not individuals, net profit of the taxpayer.
 - (d) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.
 - (e) Intentionally left blank.
- (17) **"Intangible income"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.
- (18) **"Internal Revenue Code"** has the same meaning as in Section 5747.01 of the Ohio Revised Code.

- (19) **"Limited liability company"** means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (20) **"Municipal corporation"** includes a joint economic development district or joint economic development zone that levies an income tax under Section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.
- (21) (a) **"Municipal taxable income"** means the following:
- (i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under Section 193.03, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.
 - (ii) (a) For an individual who is a resident of the Municipality, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
 - (b) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the municipal corporation under Section 193.03, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for Municipality.
- (b) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (C)(21)(a)(ii)(a) or (C)(21)(b) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by Section 67 of the Internal Revenue Code. If the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes, but only to the extent the expenses do not relate to exempt income. If the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in the Municipality and are not related to exempt income.
- (22) **"Municipality"** means the same as the City of Martins Ferry. If the terms are capitalized in the ordinance they are referring to the City of Martins Ferry. If not capitalized they refer to a municipal corporation other than the City of Martins Ferry.
- (23) **"Net operating loss"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

- (24) (a) **"Net profit"** for a person other than an individual means adjusted federal taxable income.
- (b) **"Net profit"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (C)(24)(b) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (C)(1)(h) of this section.
- (c) For the purposes of this Chapter, and notwithstanding division (C)(24)(a) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
- (d) A publicly traded partnership that is treated as a partnership for federal income tax purposes, and that is subject to tax on its net profits by the Municipality, may elect to be treated as a C corporation for the Municipality. The election shall be made on the annual return for the Municipality. The Municipality will treat the publicly traded partnership as a C corporation if the election is so made.
- (25) **"Nonresident"** means an individual that is not a resident.
- (26) **"Ohio Business Gateway"** means the online computer network system, created under Section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (27) **"Other payer"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
- (28) **"Pass-through entity"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (29) **"Pension"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
- (30) **"Person"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
- (31) **"Postal service"** means the United States postal service.

- (32) **"Postmark date," "date of postmark,"** and similar terms include the date recorded and marked in the manner described in division (B)(3) of Section 5703.056 of the Ohio Revised Code.
- (33) (a) **"Pre-2017 net operating loss carryforward"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the municipal corporation that was adopted by the municipal corporation before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such municipal corporation in future taxable years.
- (b) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years provided in the resolution or ordinance or until fully utilized, whichever is earlier.
- (34) **"Publicly traded partnership"** means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.
- (35) **"Qualifying wages"** means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- (a) Deduct the following amounts:
- (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.
 - (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
 - (iii) Intentionally left blank.
 - (iv) Intentionally left blank.
 - (v) Any amount included in wages that is exempt income.
- (b) Add the following amounts:
- (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
 - (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (C)(35)(b)(ii) of this section applies only to those amounts constituting ordinary income.
 - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (C)(35)(b)(iii) of this section applies only to employee contributions and employee deferrals.
 - (iv) Any amount that is supplemental unemployment compensation benefits described in Section 3402(o)(2) of the Internal Revenue Code and not included in wages.

- (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with Section 1402(a)(8) of the Internal Revenue Code.
- (vi) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under Section 911 of the Internal Revenue Code;
 - (b) For no preceding taxable year did the amount constitute wages as defined in Section 3121(a) of the Internal Revenue Code;
 - (c) For no succeeding taxable year will the amount constitute wages; and
 - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (C)(35)(b) of this section or Section 193.04, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.
- (36) **"Related entity"** means any of the following:
 - (a) An individual stockholder, or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;
 - (b) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;
 - (c) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (C)(36)(d) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;
 - (d) The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (C)(36)(a) to (c) of this section have been met.
- (37) **"Related member"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in Section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related

member under this division, "twenty percent (20%)" shall be substituted for "five percent (5%)" wherever "five percent (5%)" appears in Section 1563(e) of the Internal Revenue Code.

- (38) **"Resident"** means an individual who is domiciled in the Municipality as determined under Section 193.03(E).
- (39) **"S corporation"** means a person that has made an election under sub-Chapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (40) **"Schedule C"** means Internal Revenue Service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (41) **"Schedule E"** means Internal Revenue Service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) **"Schedule F"** means Internal Revenue Service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (43) **"Single member limited liability company"** means a limited liability company that has one direct member.
- (44) **"Small employer"** means any employer that had total revenue of less than \$500,000 during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; compensation; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.
- (45) **"Tax Administrator"** means the individual charged with direct responsibility for administration of an income tax levied by the Municipality in accordance with this Chapter.
- (46) **"Tax return preparer"** means any individual described in Section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15 .
- (47) **"Taxable year"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (48) (a) **"Taxpayer"** means a person subject to a tax levied on income by the Municipality in accordance with this Chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (C)(48)(b)(i) of this section, a disregarded entity.
 - (b) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
 - (a) The limited liability company's single member is also a limited liability company.

- (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
- (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (C)(38) of this section as this section existed on December 31, 2004.
- (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
- (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
- (ii) For purposes of division (C)(48)(b)(ii) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least \$400,000.
- (49) **"Taxpayers' rights and responsibilities"** means the rights provided to taxpayers in Sections 193.09, 193.12, 193.13, 193.19(B), 193.20, 193.21, and Sections 5717.011 and 5717.03 of the Ohio Revised Code, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Section 718 of the Ohio Revised Code and resolutions, ordinances, and rules and regulations adopted by the Municipality for the imposition and administration of a municipal income tax.
- (50) **"Video lottery terminal"** has the same meaning as in Section 3770.21 of the Ohio Revised Code.
- (51) **"Video lottery terminal sales agent"** means a lottery sales agent licensed under Chapter 3770 of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to Section 3770.21 of the Ohio Revised Code.
(Ord. 2015-18. Passed 11-5-15.)

193.03 IMPOSITION OF TAX.

The income tax levied by the Municipality at a rate of one percent [1.00%] is levied on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in the Municipality.

Individuals.

- (A) For residents of Municipality, the income tax levied herein shall be on all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident. This is further detailed in the definition of income (Section 193.02 (C)(16)).
- (B) For nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the municipal corporation, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- (C) For residents and nonresidents, income can be reduced to "Municipal Taxable Income" as defined in Section 193.02 (C)(21). Exemptions which may apply are specified in Section 193.02 (C)(12).

Refundable credit for Nonqualified Deferred Compensation Plan.

- (D) (1) As used in this division:
 - (a) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
 - (b) "Qualifying loss" means the amount of compensation attributable to a taxpayer's nonqualified deferred compensation plan, less the receipt of money and property attributable to distributions from the nonqualified deferred compensation plan. Full loss is sustained if no distribution of money and property is made by the nonqualified deferred compensation plan. The taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.
 - (c) (i) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to the Municipality with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
 - (ii) If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the Municipality each year with respect to the nonqualified deferred compensation plan.
 - (d) "Refundable credit" means the amount of the Municipality income tax that was paid on the non-distributed portion, if any, of a nonqualified deferred compensation plan.
- (2) If, in addition to the Municipality, a taxpayer has paid tax to other municipal corporations with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

- (3) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to the Municipality for all taxable years with respect to the nonqualified deferred compensation plan.
- (4) The credit allowed under this division is allowed only to the extent the taxpayer's qualifying loss is attributable to:
 - (a) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - (b) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

Domicile.

- (E)
 - (1)
 - (a) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.
 - (b) An individual may rebut the presumption of domicile described in division (E)(1)(a) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.
 - (2) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:
 - (a) The individual's domicile in other taxable years;
 - (b) The location at which the individual is registered to vote;
 - (c) The address on the individual's driver's license;
 - (d) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
 - (e) The location and value of abodes owned or leased by the individual;
 - (f) Declarations, written or oral, made by the individual regarding the individual's residency;
 - (g) The primary location at which the individual is employed;
 - (h) The location of educational institutions attended by the individual's dependents as defined in Section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation where the educational institution is located; and
 - (i) The number of contact periods the individual has with the Municipality. For the purposes of this division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality.

- (3) All additional applicable factors are provided in the Rules and Regulations.

Businesses.

- (F) This division applies to any taxpayer engaged in a business or profession in the Municipality, unless the taxpayer is an individual who resides in the Municipality or the taxpayer is an electric company, combined company, or telephone company that is subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.
- (1) Except as otherwise provided in division (F)(2) of this section, net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:
- (a) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the Municipality during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.
As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
 - (b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 193.04(C);
 - (c) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (2) (a) If the apportionment factors described in division (F)(1) of this section do not fairly represent the extent of a taxpayer's business activity in the Municipality, the taxpayer may request, or the Tax Administrator of the Municipality may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
- (i) Separate accounting;
 - (ii) The exclusion of one or more of the factors;
 - (iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;
 - (iv) A modification of one or more of the factors.

- (b) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 193.12 (A).
 - (c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(2)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 193.12 (A).
 - (d) Nothing in division (F)(2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.
- (3) As used in division (F)(1)(b) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
 - (a) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (i) The employer;
 - (ii) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - (iii) A vendor, customer, client, or patient of a person described in (F)(3)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.
 - (b) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
 - (c) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (F) (3)(a) or (b) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.
- (4) For the purposes of division (F)(1)(c) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:
 - (a) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in the Municipality if, regardless of where title passes, the property meets any of the following criteria:

- (i) The property is shipped to or delivered within the Municipality from a stock of goods located within the Municipality.
 - (ii) The property is delivered within the Municipality from a location outside the Municipality, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Municipality and the sales result from such solicitation or promotion.
 - (iii) The property is shipped from a place within the Municipality to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
 - (b) Gross receipts from the sale of services shall be situated to the Municipality to the extent that such services are performed in the Municipality.
 - (c) To the extent included in income, gross receipts from the sale of real property located in the Municipality shall be situated to the Municipality.
 - (d) To the extent included in income, gross receipts from rents and royalties from real property located in the Municipality shall be situated to the Municipality.
 - (e) Gross receipts from rents and royalties from tangible personal property shall be situated to the Municipality based upon the extent to which the tangible personal property is used in the Municipality.
- (5) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual, or by a disregarded entity owned by the individual, shall be subject to the Municipality's tax only if the property generating the net profit is located in the Municipality or if the individual taxpayer that receives the net profit is a resident of the Municipality. The Municipality shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.
- (6)
 - (a) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the Municipality, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the Municipality to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
 - (b) An individual who is a resident of the Municipality shall report the individual's net profit from all real estate activity on the individual's annual tax return for the Municipality. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under the Municipality's income tax ordinance.

- (7) When calculating the ratios described in division (F)(1) of this section for the purposes of that division or division (F)(2) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.
(Ord. 2015-18. Passed 11-5-15.)

193.04 COLLECTION AT SOURCE.

Withholding provisions.

(A) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold an income tax from the qualifying wages earned and/or received by each employee in the Municipality. Except for qualifying wages for which withholding is not required under Section 193.03 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in Section 193.03 of this Chapter, of 1.0%. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

- (B) (1) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer according to the following schedule:
- (a) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the Municipality in the preceding calendar year exceeded \$2,399, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded \$200.
Payment under division (B)(1)(a) of this section shall be made so that the payment is received by the Tax Administrator not later than 15 days after the last day of each month for which the tax was withheld.
 - (b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the 15th day of the month following the end of each calendar quarter.
- (2) If the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under Section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation, the payment shall be made by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the Municipality. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section.

- (3) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Tax Administrator and the Municipality as the return required of an non-resident employee whose sole income subject to the tax under this Chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer.
- (4) An employer, agent of an employer, or other payer is not required to withhold the Municipality income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.
- (5)
 - (a) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this Chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.
 - (b) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.
- (6) Compensation deferred before June 26, 2003, is not subject to the Municipality income tax or income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.
- (7) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Tax Administrator.
- (8) On or before the last day of February of each year, an employer shall file a withholding reconciliation return with the Tax Administrator listing:
 - (a) The names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year;
 - (b) The amount of tax withheld, if any, from each such employee, the total amount of qualifying wages paid to such employee during the preceding calendar year;
 - (c) The name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year;
 - (d) Any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee;
 - (e) Other information as may be required by the Tax Administrator.

- (9) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.
- (10) An employer is required to deduct and withhold the Municipality income tax on tips and gratuities received by the employer's employees and constituting qualifying wages, but only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.
- (11) The Tax Administrator shall consider any tax withheld by an employer at the request of an employee, when such tax is not otherwise required to be withheld by this Chapter, to be tax required to be withheld and remitted for the purposes of this section.

Occasional Entrant -Withholding.

- (C) (1) As used in this Section:
 - (a) "Employer" includes a person that is a related member to or of an employer.
 - (b) "Fixed location" means a permanent place of doing business, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
 - (c) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.
If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (C)(2)(a)(i) of this section

among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section.

For the purposes of this division, the location at which an employee spends a particular day shall be determined in accordance with division (C)(2)(b) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

- (d) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
 - (e) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
 - (f) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
 - (g) "Worksite location" means a construction site or other temporary worksite at which the employer provides services for more than 20 days during the calendar year. "Worksite location" does not include the home of an employee.
- (2) (a) Subject to divisions (C)(3), (5), (6), and (7) of this section, an employer is not required to withhold the Municipality income tax on qualifying wages paid to an employee for the performance of personal services in the Municipality if the employee performed such services in the Municipality on 20 or fewer days in a calendar year, unless one of the following conditions applies:
- (i) The employee's principal place of work is located in the Municipality.
 - (ii) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in the Municipality at which the employer provides or provided services that can reasonably be, or would have been, expected by the employer to last more than 20 days in a calendar year. Services can "reasonably be expected by the employer to last more than 20 days" if either of the following applies at the time the services commence:
 - (a) The nature of the services are such that it will require more than 20 days of the services to complete the services;
 - (b) The agreement between the employer and its customer to perform services at a location requires the employer to perform the services at the location for more than 20 days.

- (iii) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 193.04.
 - (iv) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure.
- (b) For the purposes of division (C)(2)(a) of this section, an employee shall be considered to have spent a day performing services in the Municipality only if the employee spent more time performing services for or on behalf of the employer in the Municipality than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
 - (i) Traveling to the location at which the employee will first perform services for the employer for the day;
 - (ii) Traveling from a location at which the employee was performing services for the employer to any other location;
 - (iii) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
 - (iv) Transporting or delivering property described in division (C)(2)(b)(iii) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
 - (v) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.
- (3) If the principal place of work of an employee is located in another Ohio municipal corporation that imposes an income tax, the exception from withholding requirements described in division (C)(2)(a) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to that municipal corporation.
- (4) (a) Except as provided in division (C)(4)(b) of this section, if, during a calendar year, the number of days an employee spends performing personal services in the Municipality exceeds the 20-day threshold, the employer shall withhold and remit tax to the Municipality for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in the Municipality.

- (b) An employer required to begin withholding tax for the Municipality under division (C)(4)(a) of this section may elect to withhold tax for the Municipality for the first 20 days on which the employer paid qualifying wages to the employee for personal services performed in the Municipality.
- (5) If an employer's fixed location is the Municipality and the employer qualifies as a small employer as defined in Section 193.02, the employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the Municipality, regardless of the number of days which the employee worked outside the corporate boundaries of the Municipality.
To determine whether an employer qualifies as a small employer for a taxable year, the employer will be required to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.
- (6) Divisions (C)(2)(a) and (4) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 193.04.
(Ord. 2015-18. Passed 11-5-15.)

193.05 ANNUAL RETURN; FILING.

(A) An annual Municipality income tax return shall be completed and filed by every individual taxpayer eighteen (18) years of age or older and any taxpayer that is not an individual for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.

- (1) The Tax Administrator may accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer under Section 193.05 of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due the Municipality.
- (2) Retirees having no Municipal Taxable Income for the Municipality income tax purposes may file with the Tax Administrator a written exemption from these filing requirements on a form prescribed by the Tax Administrator. The written exemption shall indicate the date of retirement and the entity from which retired. The exemption shall be in effect until such time as the retiree receives Municipal Taxable Income taxable to the Municipality, at which time the retiree shall be required to comply with all applicable provisions of this Chapter.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the Municipality, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.

(E) The Municipality shall permit spouses to file a joint return.

- (F) (1) Each return required to be filed under this division shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer. The return shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.
- (2) The Tax Administrator shall require a taxpayer who is an individual to include, with each annual return and amended return, copies of the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return, any other documentation necessary to support the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.
- (3) The Tax Administrator may require a taxpayer that is not an individual to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.
A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio Business Gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio Business Gateway.
- (4) After a taxpayer files a tax return, the Tax Administrator may request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.
- (G) (1) Except as otherwise provided in this Chapter, each return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of Section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality. No remittance is required if the net amount due is ten dollars or less.

- (2) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of the Municipality's income tax return. The extended due date of the Municipality's income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.
 - (a) A copy of the federal extension request shall be included with the filing of the Municipality's income tax return.
 - (b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's Municipality income tax return. If the request is received by the Tax Administrator on or before the date the Municipality income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.
- (3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of the Municipality's income tax return. The extended due date of the Municipality's income tax return shall be the same as the extended due date of the state income tax return.
- (4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.
- (5) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.
- (H)
 - (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the net amount due is ten dollars or less.
 - (2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (H)(1) of this section shall file with the Municipality an annual net profit return under division (F)(3) of this section.

(I) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. This division shall not apply to payments required to be made under division (B)(1)(a) of Section 193.04 or provisions for semi-monthly withholding.

(J) Taxes withheld for the Municipality by an employer, the agent of an employer, or other payer as described in Section 193.04 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by the Municipality, unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the Municipality to be filed in accordance with this division shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return.

(L) The Tax Administrator shall accept for filing a generic form of any income tax return, report, or document required by the Municipality, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by the Municipality or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the Municipality's ordinance, resolution, or rules and regulations governing the filing of returns, reports, or documents.

Filing via Ohio Business Gateway.

- (M) (1) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file the Municipality's income tax return, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.
- (2) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.
- (3) Nothing in this section affects the due dates for filing employer withholding tax returns.

Extension for service in or for the armed forces.

(N) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the president of the United States or an act of the congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the Municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality during the period of the member's or civilian's duty service, and for 180 days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

- (O) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the 181st day after the applicant's active duty or service terminates. The Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate. However, taxes pursuant to a contract entered into under this division are not delinquent, and the Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (2) If the Tax Administrator determines that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the 181st day after the applicant's active duty or service terminates.
- (3) Taxes paid pursuant to a contract entered into under (O)(1) of this division are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (P) (1) Nothing in this division denies to any person described in this division the application of divisions (N) and (O) of this section.
- (2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by a municipal corporation in accordance with this Chapter. The length of any extension granted under division (P)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this division, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the president of the United States or an act of the congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.
- (b) Taxes whose payment is extended in accordance with division (P)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (P)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(Q) For each taxable year to which division (N), (O), or (P) of this section applies to a taxpayer, the provisions of divisions (O)(2) and (3) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year.

Consolidated municipal income tax return.

(R) As used in this section:

- (1) "Affiliated group of corporations" means an affiliated group as defined in Section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
- (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code.
- (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (R)(1) of this section.
- (4) "Incumbent local exchange carrier" has the same meaning as in Section 4927.01 of the Ohio Revised Code.
- (5) "Local exchange telephone service" has the same meaning as in Section 5727.01 of the Ohio Revised Code.

- (S)
- (1) For taxable years beginning on or after January 1, 2016, a taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated municipal income tax return for a taxable year if at least one member of the affiliated group of corporations is subject to the Municipality's income tax in that taxable year, and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (S)(2) of this section or a taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
 - (2) An election to discontinue filing consolidated municipal income tax returns under this section must be made in the first year following the last year of a five-year consolidated municipal income tax return election period in effect under division (S)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five-year period beginning with the first taxable year of the election.
 - (3) An election made under division (S)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(T) A taxpayer that is a member of an affiliated group of corporations that filed a consolidated federal income tax return for a taxable year shall file a consolidated Municipality income tax return for that taxable year if the Tax Administrator determines, by a preponderance of the evidence, that intercompany transactions have not been conducted at arm's length and that there has been a distortive shifting of income or expenses with regard to allocation of net profits to the Municipality. A taxpayer that is required to file a consolidated Municipality income tax return for a taxable year shall file a consolidated Municipality income tax return for all subsequent taxable years, unless the taxpayer requests and receives written permission from the Tax Administrator to file a separate return or a taxpayer has experienced a change in circumstances.

(U) A taxpayer shall prepare a consolidated Municipality income tax return in the same manner as is required under the United States department of treasury regulations that prescribe procedures for the preparation of the consolidated federal income tax return required to be filed by the common parent of the affiliated group of which the taxpayer is a member.

- (V) (1) Except as otherwise provided in divisions (V)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 193.02, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
- (2) No corporation filing a consolidated Municipality income tax return shall make any adjustment otherwise required under Section 193.02(C)(1) to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.
- (3) If the net profit or loss of a pass-through entity having at least eighty percent (80%) of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated Municipality income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:
- (a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 193.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

- (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in divisions (R) through (Y) of Section 193.05, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- (4) If the net profit or loss of a pass-through entity having less than eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
 - (a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in divisions (R) through (Y) of Section 193.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the Municipality;
 - (b) The pass-through entity shall be subject to the Municipality income taxation as a separate taxpayer in accordance with this Chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(W) Corporations filing a consolidated Municipality income tax return shall make the computations required under divisions (R) through (Y) of Section 193.05 by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(X) Each corporation filing a consolidated Municipality income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by the Municipality in accordance with this Chapter on the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

(Y) Corporations and their affiliates that made an election or entered into an agreement with the Municipality before January 1, 2016, to file a consolidated or combined tax return with the Municipality may continue to file consolidated or combined tax returns in accordance with such election or agreement for taxable years beginning on and after January 1, 2016. (Ord. 2015-18. Passed 11-5-15.)

193.06 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(A) Every individual taxpayer domiciled in the Municipality who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this Chapter, may claim a nonrefundable credit against the tax imposed by this Chapter upon satisfactory evidence that tax has been paid to another municipality. Subject to division (C) of this section, the credit shall not exceed 100% of the amount obtained by multiplying the income, qualifying wages, commissions, net profits or other compensation subject to tax in the other municipality by the lower of the tax rate in such other municipality or the tax rate imposed under this Chapter.

(B) The Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under Section 715.691 or a joint economic development district created under Section 715.70, 715.71, or 715.72 of the Ohio Revised Code to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation.

(C) If the amount of tax withheld or paid to the other municipality is less than the amount of tax required to be withheld or paid to the other municipality, then for purposes of division (A) of this section, "the income, qualifying wages, commissions, net profits or other compensation" subject to tax in the other municipality shall be limited to the amount computed by dividing the tax withheld or paid to the other municipality by the tax rate for that municipality.

(D) Intentionally left blank.
(Ord. 2015-18. Passed 11-5-15.)

193.07 ESTIMATED TAXES.

(A) As used in this section:

- (1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for the Municipality's income tax for the current taxable year.
- (2) "Tax liability" means the total taxes due to the Municipality for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

(B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least \$200. For the purposes of this section:

- (a) Taxes withheld for the Municipality from qualifying wages shall be considered as paid to the Municipality in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case they shall be considered as paid on the dates on which the amounts were actually withheld.

- (b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
 - (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
 - (3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 193.05 or on or before the fifteenth (15th) day of the fourth month after the taxpayer becomes subject to tax for the first time.
 - (4) Taxpayers reporting on a fiscal year basis shall file a declaration on or before the fifteenth (15th) day of the fourth month after the beginning of each fiscal year or period.
 - (5) The original declaration or any subsequent amendment may be increased or decreased on or before any subsequent quarterly payment day as provided in this section.
- (C)
- (1) The required portion of the tax liability for the taxable year that shall be paid through estimated taxes made payable to the Municipality, including the application of tax refunds to estimated taxes and withholding on or before the applicable payment date, shall be as follows:
 - (a) On or before the fifteenth (15th) day of the fourth month after the beginning of the taxable year, twenty-two and one-half (22.5) percent of the tax liability for the taxable year;
 - (b) On or before the fifteenth (15th) day of the sixth month after the beginning of the taxable year, forty-five (45) percent of the tax liability for the taxable year;
 - (c) On or before the fifteenth (15th) day of the ninth month after the beginning of the taxable year, sixty-seven and one-half (67.5) percent of the tax liability for the taxable year;
 - (d) On or before the fifteenth (15th) day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year.
 - (2) When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates.
 - (3) On or before the fifteenth (15th) day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 718.05.

- (D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 193.18 upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
- (a) For the first payment of estimated taxes each year, twenty-two and one-half percent (22.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (b) For the second payment of estimated taxes each year, forty-five percent (45%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (c) For the third payment of estimated taxes each year, sixty-seven and one-half percent (67.5%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (d) For the fourth payment of estimated taxes each year, ninety percent (90%) of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:

- (1) The amount of estimated taxes that were paid equals at least ninety percent (90%) of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
 - (2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the Municipality under Section 193.05 for that year.
 - (3) The taxpayer is an individual who resides in the Municipality but was not domiciled here on the first day of January of the calendar year that includes the first day of the taxable year.
- (Ord. 2015-18. Passed 11-5-15.)

193.08 ROUNDING OF AMOUNTS.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this Chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document. (Ord. 2015-18. Passed 11-5-15.)

193.09 REQUESTS FOR REFUNDS.

(A) As used in this section, "withholding tax" has the same meaning as in Section 193.18.

(B) Upon receipt of a request for a refund, the Tax Administrator, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the municipal corporation:

- (1) Overpayments of more than ten dollars or more;
- (2) Amounts paid erroneously if the refund requested exceeds ten dollars or more.

- (C)
- (1) Except as otherwise provided in this Chapter, requests for refund shall be filed with the Tax Administrator, on the form prescribed by the Tax Administrator within three years after the tax was due or paid, whichever is later. The Tax Administrator may require the requestor to file with the request any documentation that substantiates the requestor's claim for a refund.
 - (2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (C)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.
 - (3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 193.21.

(D) A request for a refund that is received after the last day for filing specified in division (C) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

- (1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.
- (2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.
- (3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(E) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within 90 days after the final filing date of the annual return or 90 days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in Section 193.18 (A)(4). (Ord. 2015-18. Passed 11-5-15.)

193.10 SECOND MUNICIPALITY IMPOSING TAX AFTER TIME PERIOD ALLOWED FOR REFUND.

(A) Income tax that has been deposited with the Municipality, but should have been deposited with another municipality, is allowable by the Municipality as a refund but is subject to the three-year limitation on refunds.

(B) Income tax that was deposited with another municipality but should have been deposited with the Municipality is subject to recovery by the Municipality. If the Municipality's tax on that income is imposed after the time period allowed for a refund of the tax or withholding paid to the other municipality, the Municipality shall allow a nonrefundable credit against the tax or withholding the Municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipality with respect to such income or wages.

(C) If the Municipality's tax rate is less than the tax rate in the other municipality, then the nonrefundable credit shall be calculated using the Municipality's tax rate. However, if the Municipality's tax rate is greater than the tax rate in the other municipality, the tax due in excess of the nonrefundable credit is to be paid to the Municipality, along with any penalty and interest that accrued during the period of nonpayment.

(D) Nothing in this section permits any credit carryforward.
(Ord. 2015-18. Passed 11-5-15.)

193.11 AMENDED RETURNS.

- (A) (1) If a taxpayer's tax liability shown on the annual tax return for the Municipality changes as a result of an adjustment to the taxpayer's federal or state income tax return, the taxpayer shall file an amended return with the Municipality. The amended return shall be filed on a form required by the Tax Administrator.
- (2) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.
- (B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due, together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, no payment need be made. The amended return shall reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return only:

- (a) to determine the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; or,
 - (b) if the applicable statute of limitations for civil actions or prosecutions under Section 193.12 has not expired for a previously filed return.
 - (2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; i.e., the payment shall be the lesser of the two amounts.
- (C)
 - (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (E) of Section 193.12 for filing the amended return, even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is less than ten dollars, no refund need be paid by the Municipality. A request filed under this division shall claim refund of overpayments resulting from alterations only to those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return, unless it is also filed within the time prescribed in Section 193.09.
 - (2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. All facts, figures, computations, and attachments may be reopened to determine the refund amount due by inclusion of all facts, figures, computations, and attachments.

(D) Within 60 days after the final determination of any federal or state tax liability affecting the taxpayer's Municipality's tax liability, that taxpayer shall make and file an amended the Municipality return showing income subject to the Municipality income tax based upon such final determination of federal or state tax liability. The taxpayer shall pay any additional Municipality income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is less than ten dollars.
(Ord. 2015-18. Passed 11-5-15.)

193.12 LIMITATIONS.

- (A)
 - (1)
 - (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the later of:
 - (i) Three years after the tax was due or the return was filed, whichever is later; or
 - (ii) One year after the conclusion of the qualifying deferral period, if any.
 - (b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.
 - (2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

- (a) Beginning on the date a person who is aggrieved by an assessment files with the Board of Tax Review the request described in Section 193.21. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Board of Tax Review did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.
- (b) Ending the later of the sixtieth day after the date on which the final determination of the Board of Tax Review becomes final or, if any party appeals from the determination of the Board of Tax Review, the sixtieth day after the date on which the final determination of the Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 193.09.

- (D)
 - (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.
 - (2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Board of Tax Review, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the resultant amount due is less than the amount paid, a refund will be paid in the amount of the overpayment as provided by Section 193.09, with interest on that amount as provided by division (E) of Section 193.09.

(E) No civil action to recover the Municipality income tax or related penalties or interest shall be brought during either of the following time periods:

- (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
 - (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.
- (Ord. 2015-18. Passed 11-5-15.)

193.13 AUDITS.

(A) At or before the commencement of an audit, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during the audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of a tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner.

This division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest. (Ord. 2015-18. Passed 11-5-15.)

193.14 SERVICE OF ASSESSMENT.

(A) As used in this section:

- (1) "Last known address" means the address the Tax Administrator has at the time a document is originally sent by certified mail, or any address the Tax Administrator can ascertain using reasonable means such as the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the Ohio Revised Code.
- (2) "Undeliverable address" means an address to which the postal service or an authorized delivery service under Section 5703.056 of the Ohio Revised Code is not able to deliver an assessment of the Tax Administrator, except when the reason for non-delivery is because the addressee fails to acknowledge or accept the assessment.

(B) Subject to division (C) of this section, a copy of each assessment shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under Section 5703.056 of the Ohio Revised Code. With the permission of the person affected by an assessment, the Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail.

- (C) (1) (a) If certified mail is returned because of an undeliverable address, a Tax Administrator shall utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the Ohio Revised Code. If the Tax Administrator is unable to ascertain a new last known address, the assessment shall be sent by ordinary mail and considered served. If the ordinary mail is subsequently returned because of an undeliverable address, the assessment remains appealable within 60 days after the assessment's postmark.
- (b) Once the Tax Administrator or other Municipality official, or the designee of either, serves an assessment on the person to whom the assessment is directed, the person may protest the ruling of that assessment by filing an appeal with the Board of Tax Review within 60 days after the receipt of service. The delivery of an assessment of the Tax Administrator under division (C)(1)(a) of this section is prima facie evidence that delivery is complete and that the assessment is served.
- (2) If mailing of an assessment by a Tax Administrator by certified mail is returned for some cause other than an undeliverable address, the Tax Administrator shall resend the assessment by ordinary mail. The assessment shall show the date the Tax Administrator sends the assessment and include the following statement:
"This assessment is deemed to be served on the addressee under applicable law ten days from the date this assessment was mailed by the Tax Administrator as shown on the assessment, and all periods within which an appeal may be filed apply from and after that date."
Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima facie evidence that delivery of the assessment was completed ten days after the Tax Administrator sent the assessment by ordinary mail and that the assessment was served. If the ordinary mail is subsequently returned because of an undeliverable address, the Tax Administrator shall proceed under division (C)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (D) of this section.
- (D) (1) A person disputing the presumption of delivery and service under division (C) of this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent by certified mail was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the

assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least 20 percent, as determined by voting rights, of the addressee's business.

- (2) If a person elects to appeal an assessment on the basis described in division (D)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within 60 days after the initial contact by the Tax Administrator or other the Municipality official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Board of Tax Review.

(E) Nothing in this section prohibits the Tax Administrator or the Tax Administrator's designee from delivering an assessment by a Tax Administrator by personal service.

(F) Collection actions taken upon any assessment being appealed under division (C)(1)(b) of this section, including those on which a claim has been delivered for collection, shall be stayed upon the pendency of an appeal under this section.

(G) Additional regulations as detailed in the Rules and Regulations shall apply. (Ord. 2015-18. Passed 11-5-15.)

193.15 ADMINISTRATION OF CLAIMS.

(A) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the Municipality's income tax imposed in accordance with this Chapter.

(B) Nothing in this Chapter prohibits a Tax Administrator from doing either of the following if such action is in the best interests of the Municipality:

- (1) Compromise a claim;
- (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments.

(C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.

(D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall be to the benefit of only the parties to the compromise or agreement, and shall not eliminate or otherwise affect the liability of any other person.

(E) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due. (Ord. 2015-18. Passed 11-5-15.)

193.16 TAX INFORMATION CONFIDENTIAL.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by this Chapter. The Tax Administrator or a designee thereof may furnish copies of returns filed or otherwise received under this Chapter and other related tax information to the internal revenue service, the tax commissioner, and tax administrators of other municipal corporations.

(B) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers. (Ord. 2015-18. Passed 11-5-15.)

193.17 FRAUD.

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by the Municipality ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Municipality or the Tax Administrator. (Ord. 2015-18. Passed 11-5-15.)

193.18 INTEREST AND PENALTIES.

(A) As used in this section:

- (1) "Applicable law" means this Chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided they impose or directly or indirectly address the levy, payment, remittance, or filing requirements of the Municipality.
- (2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under Section 1274 of the Internal Revenue Code, for July of the current year.
- (3) "Income tax," "estimated income tax," and "withholding tax" means any income tax, estimated income tax, and withholding tax imposed by the Municipality pursuant to applicable law, including at any time before January 1, 2016.
- (4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.
- (5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with the Tax Administrator or the Municipality by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

- (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
 - (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
 - (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
 - (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.
- (B)
- (1) This section applies to the following:
 - (a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
 - (b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016.
 - (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules and regulations, as adopted before January 1, 2016, of the Municipality to which the return is to be filed or the payment is to be made.
- (C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fail, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed, the following penalties and interest shall apply:
- (1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.
 - (2)
 - (a) With respect to unpaid income tax and unpaid estimated income tax, the Municipality may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.
 - (b) With respect to any unpaid withholding tax, the Municipality may impose a penalty equal to fifty percent (50%) of the amount not timely paid.
 - (3) With respect to returns other than estimated income tax returns, the Municipality may impose a penalty of \$25 for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed \$150 for each failure.
- (D) Nothing in this section requires the Municipality to refund or credit any penalty, amount of interest, charges, or additional fees that the Municipality has properly imposed or collected before January 1, 2016.

(E) Nothing in this section limits the authority of the Municipality to abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, that such abatement is appropriate.

(F) By the 31st day of October of each year the Municipality shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

(G) The Municipality may impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees. (Ord. 2015-18. Passed 11-5-15.)

193.19 AUTHORITY OF TAX ADMINISTRATOR; VERIFICATION OF INFORMATION.

Authority.

(A) Nothing in this Chapter shall limit the authority of the Tax Administrator to perform any of the following duties or functions, unless the performance of such duties or functions is expressly limited by a provision of the Ohio Revised Code:

- (1) (a) Exercise all powers whatsoever of a query nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths.
- (b) The powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under the Municipality's income tax ordinance;
- (2) Appoint agents and prescribe their powers and duties;
- (3) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;
- (4) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, for any reason overpaid. In addition, the Tax Administrator may investigate any claim of overpayment and, if the Tax Administrator finds that there has been an overpayment, make a written statement of the Tax Administrator's findings, and approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this Chapter;
- (5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 193.03;
- (7) (a) Make all tax findings, determinations, computations, and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, re-determine, or correct any tax findings, determinations, computations, or orders the Tax Administrator has made.

- (b) If an appeal has been filed with the Board of Tax Review or other appropriate tribunal, the Tax Administrator shall not review, re-determine, or correct any tax finding, determination, computation, or order which the Tax Administrator has made, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
- (8) Destroy any or all returns or other tax documents in the manner authorized by law;
- (9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 193.04.

Verification of accuracy of returns and determination of liability.

- (B) (1) A Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.
- (2) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.
- (3) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.
- (4) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal or state income tax returns under this section shall fail to comply.

Identification information.

- (C) (1) Nothing in this Chapter prohibits the Tax Administrator from requiring any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.
- (2) (a) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within 30 days of making the request, nothing in this Chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 193.18, in addition to any applicable penalty described in Section 193.99.
- (b) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (C) of Section 193.19 within 30 days after filing the next tax document requiring such identifying information, nothing in this Chapter prohibits the Tax Administrator from imposing a penalty pursuant to Section 193.18.
- (c) The penalties provided for under divisions (C)(2)(a) and (b) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 193.99 for a violation of Section 193.17 and any other penalties that may be imposed by the Tax Administrator by law. (Ord. 2015-18. Passed 11-5-15.)

193.20 REQUEST FOR OPINION OF THE TAX ADMINISTRATOR.

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator in accordance with the Rules and Regulations.

(C) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(D) A Tax Administrator may refuse to offer an opinion on any request received under this section. Such refusal is not subject to appeal.

(E) An opinion of the Tax Administrator binds the Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(F) An opinion of the Tax Administrator issued under this section is not subject to appeal. (Ord. 2015-18. Passed 11-5-15.)

193.21 BOARD OF TAX REVIEW.

- (A) (1) The Board of Tax Review shall consist of three members. The legislative authority of the Municipality shall appoint two members, but such appointees may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the Mayor of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.
- (2) The term for members of the Board of Tax Review of the Municipality shall be two years. There is no limit on the number of terms that a member may serve if the member is reappointed by the legislative authority. The board member appointed by the Mayor of the Municipality shall serve at the discretion of the administrative official.
- (3) Members of the Board of Tax Review appointed by the legislative authority may be removed by the legislative authority by majority vote for malfeasance, misfeasance, or nonfeasance in office. To remove such a member, the legislative authority must give the member a copy of the charges against the member and afford the member an opportunity to be publicly heard in person or by counsel in the member's own defense upon not less than ten days' notice. The decision by the legislative authority on the charges is final and not appealable.
- (4) A member of the Board of Tax Review who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.
- (5) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within 60 days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the Board of Tax Review shall impair the power and authority of the remaining members to exercise all the powers of the Board of Tax Review.
- (6) If a member is temporarily unable to serve on the Board of Tax Review due to a conflict of interest, illness, absence, or similar reason, the legislative authority or Mayor that appointed the member shall appoint another individual to temporarily serve on the Board of Tax Review in the member's place. The appointment of such an individual shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.

(B) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the Board of Tax Review by filing a request with the Board of Tax Review. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within 60 days after the taxpayer receives the assessment.

(D) The Board of Tax Review shall schedule a hearing to be held within 60 days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board of Tax Review and may be represented by an attorney at law, certified public accountant, or other representative. The Board of Tax Review may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within 120 days after the first day of the hearing unless the parties agree otherwise.

(E) The Board of Tax Review may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board of Tax Review shall issue a final determination on the appeal within 90 days after the Board of Tax Review's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within 15 days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the Board of Tax Review's final determination as provided in Section 5717.011 of the Ohio Revised Code.

(F) The Board of Tax Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before a Board of Tax Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code. (Ord. 2015-18. Passed 11-5-15.)

193.22 AUTHORITY TO CREATE RULES AND REGULATIONS.

(A) Nothing in this Chapter prohibits the legislative authority of the Municipality, or a Tax Administrator pursuant to authority granted to the administrator by resolution or ordinance, to adopt rules to administer an income tax imposed by the Municipality in accordance with this Chapter. Such rules shall not conflict with or be inconsistent with any provision of this Chapter. Taxpayers are hereby required to comply not only with the requirements of this chapter, but also to comply with the Rules and Regulations.

(B) All rules adopted under this section shall be published and posted on the internet. (Ord. 2015-18. Passed 11-5-15.)

193.23 RENTAL AND LEASED PROPERTY.

This section intentionally left blanked.

193.24 SAVINGS CLAUSE.

This Chapter shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this Chapter or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this Chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter. It is hereby declared to be the intention of Council that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence, or part hereof, not been included therein. (Ord. 2015-18. Passed 11-5-15.)

193.25 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(A) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of said taxes levied hereunder in the aforesaid periods are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 193.12 and Section 193.99 hereof.

(B) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 193.05 and Section 193.04 as though the same were continuing. (Ord. 2015-18. Passed 11-5-15.)

193.26 ADOPTION OF RITA RULES AND REGULATIONS.

The Municipality hereby adopts the Regional Income Tax Agency (RITA) Rules & Regulations, including amendments that may be made from time to time, for use as the Municipality's Income Tax Rules and Regulations. In the event of a conflict with any provision(s) of the Municipality Income Tax Ordinance and the RITA Rules & Regulations, the Ordinance will supersede. (Ord. 2015-18. Passed 11-5-15.)

193.99 VIOLATIONS; PENALTIES.

(A) Whoever violates Section 193.17, division (A) of Section 193.16, or Section 193.04 by failing to remit the Municipality income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than \$1,000 or imprisonment for a term of up to six months, or both. If the individual that commits the violation is an employee, or official, of the Municipality, the individual is subject to discharge from employment or dismissal from office.

(B) Any person who discloses information received from the Internal Revenue Service in violation of division (A) of Section 193.16 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than \$5,000 plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. If the individual that commits the violation is an employee, or official, of the Municipality, the individual is subject to discharge from employment or dismissal from office.

(C) Each instance of access or disclosure in violation of division (A) of Section 193.16 constitutes a separate offense.

- (D) If not otherwise specified herein, no person shall:
- (1) Fail, neglect or refuse to make any return or declaration required by this ordinance;
 - (2) File any incomplete or false return;
 - (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this Chapter;
 - (4) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and federal and state income tax returns relating to the income or net profits of a taxpayer;
 - (5) Fail to appear before the Tax Administrator and to produce his books, records, papers or federal and state income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator;
 - (6) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer;
 - (7) Fail to comply with the provisions of this ordinance or any order or subpoena of the Tax Administrator authorized hereby;
 - (8) Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;
 - (9) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.

(E) Any person who violates any of the provisions in Section 193.99 (D) shall be subject to the penalties provided for in Section 193.99 (A) of this Chapter.
(Ord. 2015-18. Passed 11-5-15.)

CODIFIED ORDINANCES OF MARTINS FERRY

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

- Chap. 301. Definitions.
- Chap. 303. Enforcement, Impounding and Penalty.
- Chap. 305. Traffic Control.
- Chap. 307. Golf Carts.

TITLE THREE - Streets and Traffic Control Devices

- Chap. 311. Street Obstructions and Special Uses.
- Chap. 313. Traffic Control Devices.

TITLE FIVE - Vehicles

- Chap. 331. Operation Generally.
- Chap. 333. OVI; Willful Misconduct; Speed.
- Chap. 335. Licensing; Accidents.
- Chap. 337. Safety and Equipment.
- Chap. 339. Commercial and Heavy Vehicles.
- Chap. 341. Commercial Drivers.

TITLE SEVEN - Parking

- Chap. 351. Parking Generally.
- Chap. 353. Parking Meters.

TITLE NINE - Pedestrians, Bicycles and Motorcycles

- Chap. 371. Pedestrians.
- Chap. 373. Bicycles and Motorcycles.
- Chap. 375. Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles.

CODIFIED ORDINANCES OF MARTINS FERRY

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

- Chap. 301. Definitions.
 Chap. 303. Enforcement, Impounding and Penalty.
 Chap. 305. Traffic Control.
 Chap. 307. Golf Carts.

CHAPTER 301 Definitions

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CROSS REFERENCES

See sectional histories for similar State law
Funeral procession defined - see TRAF. 331.24
Street racing defined - see TRAF. 333.07
Studded tire defined - see TRAF. 339.11
Blind person defined - see TRAF. 371.02
Snowmobile, off-highway motorcycle and all purpose vehicle
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School zones defined - see TRAF. 333.03(b)

301.01 MEANING OF WORDS AND PHRASES.

The following words and phrases when used in this Traffic Code, except as otherwise provided, shall have the meanings respectively ascribed to them in this chapter.

301.02 AGRICULTURAL TRACTOR.

"Agricultural tractor" means every self-propelling vehicle designed or used for drawing other vehicles or wheeled machinery but having no provision for carrying loads independently of such other vehicles, and used principally for agricultural purposes. (ORC 4511.01(J))

301.03 ALLEY.

"Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic, and includes any street or highway that has been declared an "alley" by Council. (ORC 4511.01(XX))

301.031 BEACON; HYBRID BEACON.

(a) "Beacon" means a highway traffic signal with one or more signal sections that operate in a flashing mode. (ORC 4511.01(KKK))

(b) "Hybrid beacon" means a type of beacon that is intentionally placed in a dark mode between periods of operation where no indications are displayed and, when in operation, displays both steady and flashing traffic control signal indications.
(ORC 4511.01(LL))

301.04 BICYCLE; MOTORIZED BICYCLE; MOPED.

(a) "Bicycle" means every device, other than a device that is designed solely for use as a play vehicle by a child, that is propelled solely by human power, upon which a person may ride and that has two or more wheels any of which is more than fourteen inches in diameter.
(ORC 4511.01(G))

(b) "Motorized bicycle" or "moped" means any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that may be pedaled and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement which produces no more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface. (ORC 4511.01(H))

301.05 BUS.

"Bus" means every motor vehicle designed for carrying more than nine passengers and used for the transportation of persons other than in a ridesharing arrangement as defined in Ohio R.C. 4511.01, and every motor vehicle, automobile for hire or funeral car, other than a taxicab or motor vehicle used in a ridesharing arrangement, designed and used for the transportation of persons for compensation. (ORC 4511.01(L))

301.06 BUSINESS DISTRICT.

"Business district" means the territory fronting upon a street or highway, including the street or highway, between successive intersections where fifty percent or more of the frontage between such successive intersections is occupied by buildings in use for business, or where fifty percent or more of the frontage for a distance of 300 feet or more is occupied by buildings in use for business, and the character of such territory is indicated by official traffic control devices. (ORC 4511.01(NN))

301.07 COMMERCIAL TRACTOR.

"Commercial tractor" means every motor vehicle having motive power designed or used for drawing other vehicles and not so constructed as to carry any load thereon, or designed or used for drawing other vehicles while carrying a portion of such other vehicles, or the load thereon, or both. (ORC 4511.01(I))

301.08 CONTROLLED-ACCESS HIGHWAY.

"Controlled-access highway" means every street or highway in respect to which owners or occupants of abutting lands and other persons have no legal right or access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such street or highway. (ORC 4511.01(CC))

301.09 CROSSWALK.

"Crosswalk" means:

- (a) That part of a roadway at intersections ordinarily included within the real or projected prolongation of property lines and curb lines or, in the absence of curbs, the edges of the traversable roadway;
- (b) Any portion of a roadway at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface;
- (c) Notwithstanding subsections (a) and (b) hereof, there shall not be a crosswalk where authorized signs have been placed indicating no crossing.

(ORC 4511.01(LL))

301.10 DRIVER OR OPERATOR.

"Driver" or "operator" means every person who drives or is in actual physical control of a vehicle. (ORC 4511.01(Y))

301.11 EMERGENCY VEHICLE.

"Emergency vehicle" means emergency vehicles of municipal, township or county departments or public utility corporations when identified as such as required by law, the Ohio Director of Public Safety or local authorities, and motor vehicles when commandeered by a police officer. (ORC 4511.01(D))

301.12 EXPLOSIVES.

"Explosives" means any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion that contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by a detonator of any part of the compound or mixture may cause

such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb.

Manufactured articles shall not be held to be explosives when the individual units contain explosives in such limited quantities, of such nature or in such packing, that it is impossible to procure a simultaneous or a destructive explosion of such units, to the injury of life, limb or property by fire, by friction, by concussion, by percussion or by a detonator, such as fixed ammunition for small arms, firecrackers or safety fuse matches. (ORC 4511.01(T))

301.13 EXPRESSWAY.

"Expressway" means a divided arterial highway for through traffic with full or partial control of access with an excess of fifty percent of all crossroads separated in grade. (ORC 4511.01(ZZ))

301.14 FLAMMABLE LIQUID.

"Flammable liquid" means any liquid that has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed cup test device. (ORC 4511.01(U))

301.15 FREEWAY.

"Freeway" means a divided multi-lane highway for through traffic with all crossroads separated in grade and with full control of access. (ORC 4511.01(Y))

301.16 GROSS WEIGHT.

"Gross weight" means the weight of a vehicle plus the weight of any load thereon. (ORC 4511.01(V))

301.161 HIGHWAY MAINTENANCE VEHICLE.

"Highway maintenance vehicle" means a vehicle used in snow and ice removal or road surface maintenance, including a snow plow, traffic line striper, road sweeper, mowing machine, asphalt distributing vehicle, or other such vehicle designed for use in specific highway maintenance activities. (ORC 4511.01(QQ))

301.162 HIGHWAY TRAFFIC SIGNAL.

"Highway traffic signal" means a power-operated traffic control device by which traffic is warned or directed to take some specific action. "Highway traffic signal" does not include a power-operated sign, steadily illuminated pavement markers, warning light, or steady burning electric lamp. (ORC 4511.01(MMM))

301.17 INTERSECTION.

"Intersection" means:

- (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways that join at any other angle might come into conflict. The junction of an alley or driveway with a roadway or highway does not constitute an intersection unless the roadway or highway at the junction is controlled by a traffic control device.
- (b) If a highway includes two roadways that are thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway constitutes a separate intersection. If both intersecting highways include two roadways thirty feet or more apart, then every crossing of any two roadways of such highways constitutes a separate intersection.

- (c) At a location controlled by a traffic control signal, regardless of the distance between the separate intersections as described in subsection (b) of this section:
- (1) If a stop line, yield line, or crosswalk has not been designated on the roadway within the median between the separate intersections, the two intersections and the roadway and median constitute one intersection.
 - (2) Where a stop line, yield line, or crosswalk line is designated on the roadway on the intersection approach, the area within the crosswalk and any area beyond the designated stop line or yield line constitute part of the intersection.
 - (3) Where a crosswalk is designated on a roadway on the departure from the intersection, the intersection includes the area that extends to the far side of the crosswalk. (ORC 4511.01(KK))

301.18 LANED STREET OR HIGHWAY.

"Laned street or highway" means a street or highway the roadway of which is divided into two or more clearly marked lanes for vehicular traffic.
(ORC 4511.01(GG))

301.181 MEDIAN.

"Median" means the area between two roadways of a divided highway, measured from edge of traveled way to edge of traveled way, but excluding turn lanes. The width of a median may be different between intersections, between interchanges, and at opposite approaches of the same intersection. (ORC 4511.01(NNN))

301.19 MOTORCYCLE.

"Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter," "autocycle," "cab-enclosed motorcycle" or "motorcycle" without regard to weight or brake horsepower. (ORC 4511.01(C))

301.191 MOTORIZED SCOOTER.

"Motorized Scooter" means any vehicle having either two tandem wheels, or one wheel in front and two wheels in the back, that is equipped with a helper internal combustion or electric motor that is capable of propelling the vehicle at a speed in excess of six miles per hour, and upon which a person may sit or stand. (Ord. 2004-18. Passed 4-14-04.)

301.20 MOTOR VEHICLE.

"Motor vehicle" means every vehicle propelled or drawn by power other than muscular power, except motorized bicycles, road rollers, traction engines, power shovels, power cranes and other equipment used in construction work and not designed for or employed in general highway transportation, hole-digging machinery, well-drilling machinery, ditch-digging machinery, farm machinery, and trailers designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.
(ORC 4511.01(B))

301.201 OPERATE.

"Operate" means to cause or have caused movement of a vehicle.
(ORC 4511.01(HHH))

301.21 PARK OR PARKING.

"Park or parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

301.22 PEDESTRIAN.

"Pedestrian" means any natural person afoot. (ORC 4511.01(X))

301.23 PERSON.

"Person" means every natural person, firm, copartnership, association or corporation. (ORC 4511.01(W))

301.24 POLE TRAILER.

"Pole trailer" means every trailer or semitrailer attached to the towing vehicle by means of a reach, pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connection. (ORC 4511.01(O))

301.25 POLICE OFFICER.

"Police officer" means every officer authorized to direct or regulate traffic, or to make arrests for violations of traffic regulations. (ORC 4511.01(Z))

301.251 PREDICATE MOTOR VEHICLE OR TRAFFIC OFFENSE.

"Predicate motor vehicle or traffic offense" means any of the following:

- (a) A violation of Ohio R.C. 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.511, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.66, 4511.661, 4511.68, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.763, 4511.771, 4511.78 or 4511.84;
 - (b) A violation of division (A)(2) of Ohio R.C. 4511.17, divisions (A) to (D) of Ohio R.C. 4511.51, or division (A) of Ohio R.C. 4511.74;
 - (c) A violation of any provision of Ohio R.C. 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;
 - (d) A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in subsection (a) to (c) of this section.
- (ORC 4511.01(III))

301.26 PRIVATE ROAD OR DRIVEWAY.

(a) "Private road or driveway" means every way or place in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons. (ORC 4511.01(DD))

(b) "Private road open to public travel" means a private toll road or road, including any adjacent sidewalks that generally run parallel to the road, within a shopping center, airport, sports arena, or other similar business or recreation facility that is privately owned but where the public is allowed to travel without access restrictions. "Private road open to public travel" includes a gated toll road but does not include a road within a private gated property where access is restricted at all times, a parking area, a driving aisle within a parking area, or a private grade crossing. (ORC 4511.01(OOO))

301.27 PUBLIC SAFETY VEHICLE.

"Public safety vehicle" means any of the following:

- (a) Ambulances, including private ambulance companies under contract to a municipal corporation, township or county and private ambulances and transport vehicles bearing license plates issued under Ohio R.C. 4503.49;
- (b) Motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the State or the Municipality;
- (c) Any motor vehicle when properly identified as required by the Ohio Director of Public Safety, when used in response to fire emergency calls or to provide emergency medical service to ill or injured persons, and when operated by a duly qualified person who is a member of a volunteer rescue service or a volunteer fire department, and who is on duty pursuant to the rules or directives of that service. The Ohio Fire Marshal shall be designated by the Ohio Director of Public Safety as the certifying agency for all public safety vehicles described in this subsection (c);
- (d) Vehicles used by fire departments, including motor vehicles when used by volunteer fire fighters responding to emergency calls in the fire department service when identified as required by the Ohio Director of Public Safety. Any vehicle used to transport or provide emergency medical service to an ill or injured person, when certified as a public safety vehicle, shall be considered a public safety vehicle when transporting an ill or injured person to a hospital regardless of whether such vehicle has already passed a hospital. (ORC 4511.01(E))
- (e) Vehicles used by the Commercial Motor Vehicle Safety Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission as specified in Ohio R.C. 5503.34.

301.28 RAILROAD.

"Railroad" means a carrier of persons or property operating upon rails placed principally on a private right of way. (ORC 4511.01(P))

301.29 RAILROAD SIGN OR SIGNAL.

"Railroad sign or signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train. (ORC 4511.01(SS))

301.30 RAILROAD TRAIN.

"Railroad train" means a steam engine, or an electric or other motor, with or without cars coupled thereto, operated by a railroad. (ORC 4511.01(Q))

301.31 RESIDENCE DISTRICT.

"Residence district" means the territory, not comprising a business district, fronting on a street or highway, including the street or highway, where, for a distance of 300 feet or more, the frontage is improved with residences or residences and buildings in use for business. (ORC 4511.01(OO))

301.32 RIGHT OF WAY.

"Right of way" means either of the following, as the context requires:

- (a) The right of a vehicle or pedestrian to proceed uninterruptedly in a lawful manner in the direction in which it or the individual is moving in preference to another vehicle or pedestrian approaching from a different direction into its or the individual's path;
- (b) A general term denoting land, property or the interest therein, usually in the configuration of a strip, acquired for or devoted to transportation purposes. When used in this context, right of way includes the roadway, shoulders or berm, ditch, and slopes extending to the right-of-way limits under the control of the State or local authority. (ORC 4511.01(UU))

301.321 ROAD SERVICE VEHICLE.

"Road service vehicle" means wreckers, utility repair vehicles, and state, county, and municipal service vehicles equipped with visual signals by means of flashing, rotating, or oscillating lights. (ORC 4511.01(JJJ))

301.33 ROADWAY.

"Roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel, except the berm or shoulder. If a street or highway includes two or more separate roadways, the term "roadway" means any such roadway separately but not all such roadways collectively. (ORC 4511.01(EE))

301.34 SAFETY ZONE.

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and protected or marked or indicated by adequate signs as to be plainly visible at all times. (ORC 4511.01(MM))

301.35 SCHOOL BUS.

"School bus" means every bus designed for carrying more than nine passengers that is owned by a public, private or governmental agency or institution of learning and operated for the transportation of children to or from a school session or a school function, or owned by a private person and operated for compensation for the transportation of children to or from a school session or a school function; provided "school bus" does not include a bus operated by a municipally owned transportation system, a mass transit company operating exclusively within the territorial limits of the Municipality, or within such limits and the territorial limits of municipal corporations immediately contiguous to the Municipality, nor a common passenger carrier certified by the Public Utilities Commission unless such bus is devoted exclusively to the transportation of children to and from a school session or a school function, and "school bus" does not include a van or bus used by a licensed child day-care center or type A family day-care home to transport children from the child day-care center or type A family day-care home to a school if the van or bus does not have more than fifteen children in the van or bus at any time. "Child day-care center" and "type A family day-care home" have the same meanings as in Ohio R.C. 5104.01. (ORC 4511.01(F), (FFF))

301.36 SEMITRAILER.

"Semitrailer" means every vehicle designed or used for carrying persons or property with another and separate motor vehicle so that in operation a part of its own weight or that of its load, or both, rests upon and is carried by another vehicle. (ORC 4511.01(N))

301.361 SHARED-USE PATH.

"Shared-use path" means a bikeway outside the traveled way and physically separate from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent alignment. A shared-use path also may be used by pedestrians, including skaters, joggers, users of manual and motorized wheelchairs, and other authorized motorized and non-motorized users. (ORC 4511.01(PPP))

301.37 SIDEWALK.

"Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians. (ORC 4511.01(FF))

301.38 STATE ROUTE.

"State route" means every highway that is designated with an official State route number and so marked. (ORC 4511.01(JJ))

301.39 STOP (WHEN REQUIRED).

"Stop" when required means a complete cessation of movement.

301.40 STOPPING OR STANDING.

(a) "Stop or stopping" when prohibited means any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device.

(b) "Stand or standing" means the halting of a vehicle, whether occupied or not, otherwise then temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

301.41 STOP INTERSECTION.

"Stop intersection" means any intersection at one or more entrances of which stop signs are erected. (ORC 4511.01(BBB))

301.42 STREET OR HIGHWAY; ARTERIAL STREET.

(a) "Street" or "highway" are synonymous and mean the entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular travel. (ORC 4511.01(BB))

(b) "Arterial street" means any United States or State numbered route, controlled access highway or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways. (ORC 4511.01(CCC))

301.43 THROUGH STREET OR HIGHWAY.

"Through street or highway" means every street or highway as provided in Section 313.02. (ORC 4511.01(HH))

301.44 THRUWAY.

"Thruway" means a through street or highway whose entire roadway is reserved for through traffic and on which roadway parking is prohibited. (ORC 4511.01(AAA))

301.45 TRAFFIC.

"Traffic" means pedestrians, ridden or herded animals, vehicles and other devices, either singly or together, while using for purposes of travel any street or highway or private road open to public travel. (ORC 4511.01(TT))

301.46 TRAFFIC CONTROL DEVICE.

"Traffic control device" means a flagger, sign, signal, marking, or other device used to regulate, warn or guide traffic, placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction. (ORC 4511.01(QQ))

301.47 TRAFFIC CONTROL SIGNAL.

"Traffic control signal" means any highway traffic signal by which traffic is alternately directed to stop and permitted to proceed. (ORC 4511.01(RR))

301.48 TRAILER.

"Trailer" means every vehicle designed or used for carrying persons or property wholly on its own structure and for being drawn by a motor vehicle, including any such vehicle when formed by or operated as a combination of a semitrailer and a vehicle of the dolly type, such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a street or highway at a speed greater than twenty-five miles per hour and a vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of more than ten miles or at a speed of more than twenty-five miles per hour. (ORC 4511.01(M))

301.49 TRUCK.

"Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property. (ORC 4511.01(K))

301.50 URBAN DISTRICT.

"Urban district" means the territory contiguous to and including any street or highway which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than 100 feet for distance of a quarter of a mile or more, and the character of such territory is indicated by official traffic control devices. (ORC 4511.01(PP))

301.51 VEHICLE.

"Vehicle" means every device, including a motorized bicycle, in, upon or by which any person or property may be transported or drawn upon a street or highway, except that "vehicle" does not include any motorized wheelchair, electric personal assistive mobility device, or any device, other than a bicycle, that is moved by human power. (ORC 4511.01(A))

301.52 WHEELCHAIR, MOTORIZED.

"Motorized wheelchair" means any self-propelled vehicle designed for, and used by, a handicapped person and that is incapable of a speed in excess of eight miles per hour. (ORC 4511.01(EEE))

CHAPTER 303

Enforcement, Impounding and Penalty

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| <p>303.01 Compliance with lawful order of police officer; fleeing.</p> <p>303.02 Traffic direction in emergencies; obedience to school guard.</p> <p>303.03 Officer may remove ignition key.</p> <p>303.04 Road workers, motor vehicles and equipment excepted.</p> <p>303.041 Emergency, public safety and coroner's vehicles exempt.</p> <p>303.05 Application to persons riding, driving animals upon roadway.</p> <p>303.06 Freeway use prohibited by pedestrians, bicycles and animals.</p> <p>303.07 Application to drivers of government vehicles.</p> | <p>303.08 Impounding of vehicles; redemption.</p> <p>303.081 Impounding vehicles on private residential or agricultural property.</p> <p>303.082 Private tow-away zones.</p> <p>303.083 Release of vehicle; records; charges.</p> <p>303.084 Impounding of vehicles on City property for misdemeanor and felony violations or arrests; storage fees.</p> <p>303.09 Providing false information to police officer.</p> <p>303.99 General Traffic Code penalties.</p> |
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CROSS REFERENCES

See sectional histories for similar State law

Disposition of unclaimed vehicles - see Ohio R.C. 737.32, 4513.62 et seq.

Citations for minor misdemeanors - see Ohio R.C. 2935.26 et seq.

Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. 4507.16, 4507.34

State point system suspension - see Ohio R.C. 4507.40

Uniform application of Ohio Traffic Law - see Ohio R.C. 4511.06

Marking motor vehicles used by traffic officers - see Ohio R.C. 4549.13

Distinctive uniform required for traffic officers - see Ohio R.C. 4549.15

Exceptions for emergency or public safety vehicles - see TRAF. 331.20, 333.06

303.01 COMPLIANCE WITH LAWFUL ORDER OF POLICE OFFICER; FLEEING.

(a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control or regulate traffic.

(b) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

(EDITOR'S NOTE: Refer to Ohio R.C. 2921.331 for filing charges under subsection (b) hereof since the jury or judge as trier of fact may determine the violation to be a felony.)

(c) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer. A violation of subsection (a) is a misdemeanor of the first degree. Except as hereinafter provided, a violation of subsection (b) is a misdemeanor of the first degree. A violation of subsection (b) is a felony if the jury or judge as trier of fact finds any one of the following by proof beyond a reasonable doubt:

- (1) In committing the offense, the offender was fleeing immediately after the commission of a felony;
- (2) The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property;
- (3) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

(d) In addition to any other sanction imposed for a violation of subsection (a) of this section or a misdemeanor violation of subsection (b) of this section, the court shall impose a class five suspension from the range specified in Ohio R.C. 4510.02(A)(5). If the offender previously has been found guilty of an offense under this section, in addition to any other sanction imposed for the offense, the court shall impose a class one suspension as described in division (A)(1) of that section. The court may grant limited driving privileges to the offender on a suspension imposed for a misdemeanor violation of this section as set forth in Ohio R.C. 4510.021. No judge shall suspend the first three years of suspension under a class two suspension of an offender's license, permit or privilege required by this division on any portion of the suspension under a class one suspension of an offender's license, permit, or privilege required by this subsection.
(ORC 2921.331)

303.02 TRAFFIC DIRECTION IN EMERGENCIES; OBEDIENCE TO SCHOOL GUARD.

(a) Police officers shall direct or regulate traffic in accordance with the provisions of this Traffic Code, provided that, in the event of fire or other emergency or to expedite traffic or safeguard pedestrians, they are authorized to direct traffic as conditions may require notwithstanding the provisions of this Traffic Code. Firemen, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. The direction of traffic may be by word or audible signal, by gesture or visible signal or by any combination thereof. No person shall fail to comply with any lawful order or direction of any police officer or fireman issued pursuant to this section.

(b) No person shall fail to comply with any lawful order or direction of any school crossing guard invested with authority to direct, control or regulate traffic in the vicinity of the school to which such guard may be assigned.

(c) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

303.03 OFFICER MAY REMOVE IGNITION KEY.

A law enforcement officer may remove the ignition key left in the ignition switch of an unlocked and unattended motor vehicle parked on a street or highway, or any public or private property used by the public for purposes of vehicular travel or parking. The officer removing such key shall place notification upon the vehicle detailing his name and badge number, the place where such key may be reclaimed and the procedure for reclaiming such key. The key shall be returned to the owner of the motor vehicle upon presentation of proof of ownership.
(ORC 4549.05)

303.04 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.

(a) The provisions of this Traffic Code do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic control devices, but apply to such persons and vehicles when traveling to or from such work.

(b) The driver of a highway maintenance vehicle owned by this state or any political subdivision of this state, while the driver is engaged in the performance of official duties upon a street or highway, provided the highway maintenance vehicle is equipped with flashing lights and such other markings as are required by law, and such lights are in operation when the driver and vehicle are so engaged, shall be exempt from criminal prosecution for violations of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 and Ohio R.C. 4511.66 and 5577.01 to 5577.09.

- (c) (1) This section does not exempt a driver of a highway maintenance vehicle from civil liability arising from a violation of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 or Ohio R.C. 4511.66 or 5577.01 to 5577.09.
- (2) This section does not exempt a driver of a vehicle who is not a state employee and who is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Ohio R.C. 5577.01 to 5577.09.

(d) As used in this section, “engaged in the performance of official duties” includes driving a highway maintenance vehicle to and from the manufacturer or vehicle maintenance provider and transporting a highway maintenance vehicle, equipment, or materials to and from a work location. (ORC 4511.04)

303.041 EMERGENCY, PUBLIC SAFETY AND CORONER’S VEHICLES EXEMPT.

(a) Ohio R.C. 4511.12, 4511.13, 4511.131, 4511.132, 4511.14, 4511.202, 4511.21, 4511.211, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.62, 4511.66, 4511.68, 4511.681 and 4511.69 and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to the driver of an emergency vehicle or public safety vehicle if the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and if the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4511.041)

(b) Ohio R.C. 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.35, 4511.36, 4511.37, 4511.38 and 4511.66, and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to a coroner, deputy coroner, or coroner's investigator operating a motor vehicle in accordance with Ohio R.C. 4513.171. This section does not relieve a coroner, deputy coroner, or coroner's investigator operating a motor vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway. (ORC 4511.042)

303.05 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.

Every person riding, driving or leading an animal upon a roadway shall be subject to the provisions of this Traffic Code applicable to the driver of a vehicle, except those provisions of such sections which by their nature are inapplicable. (ORC 4511.05)

303.06 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.

(a) No person, unless otherwise directed by a police officer, shall:

- (1) As a pedestrian, occupy any space within the limits of the right-of-way of a freeway, except: in a rest area; on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for pedestrian use; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle; or to obtain assistance;
- (2) Occupy any space within the limits of the right of way of a freeway, with: an animal-drawn vehicle; a ridden or led animal; herded animals; a pushcart; a bicycle, except on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for bicycle use; a bicycle with motor attached; a motor driven cycle with a motor which produces not to exceed five brake horsepower; an agricultural tractor; farm machinery; except in the performance of public works or official duties.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.051)

303.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.

The provisions of this Traffic Code applicable to the drivers of vehicles shall apply to the drivers of all vehicles owned or operated by the United States, any state or any political subdivision thereof, including this Municipality, except as may be otherwise provided by law and subject to such specific exceptions as are set forth with reference to authorized emergency and public safety vehicles.

303.08 IMPOUNDING OF VEHICLES; REDEMPTION.

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

- (1) When any vehicle is left unattended upon any street, bridge or causeway and is so illegally parked so as to constitute a hazard or obstruction to the normal movement of traffic, or so as to unreasonably interfere with street cleaning or snow removal operations.
- (2) A. When any vehicle or "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 is left on a public street or other property open to the public for purposes of vehicular travel or parking or upon or within the right of way of any road or highway, for forty-eight consecutive hours or longer, without notification to the Police Chief of the reasons for leaving such vehicle in such place.
B. When an "abandoned junk motor vehicle" is left on private property for more than seventy-two consecutive hours without the permission of the person having the right to the possession of the property.
C. Prior to disposal of an "abandoned junk motor vehicle", it shall be photographed by a law enforcement officer.
(Ord. 85-4. Passed 1-17-85.)
- (3) When any vehicle has been stolen or operated without the consent of the owner and is located upon either public or private property.
- (4) When any vehicle displays illegal license plates or fails to display the current lawfully required plates and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.
- (5) When any vehicle has been used in or connected with the commission of a felony and is located upon either public or private property.
- (6) When any vehicle has been damaged or wrecked so as to be inoperable or violates equipment provisions of this Traffic Code whereby its continued operation would constitute a condition hazardous to life, limb or property, and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.
- (7) When any vehicle is left unattended either on public or private property due to the removal of an ill, injured or arrested operator.
- (8) When any vehicle has been operated by any person who has failed to stop in case of an accident or collision and is located either on public or private property.
- (9) When any vehicle has been operated by any person who is driving without a lawful license or while his license has been suspended or revoked and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.
- (10) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required, and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.

(b) Any vehicle removed under authority of subsection (a)(2) hereof shall be ordered into storage and/or disposed of as provided under Ohio R.C. 4513.60 et seq. Any other vehicle removed under authority of this section shall be ordered into storage and the Municipal police shall forthwith notify the registered vehicle owner of the fact of such removal and impounding, reasons therefor and the place of storage. Any person desiring to redeem an impounded vehicle shall appear at the police offices to furnish satisfactory evidence of identity and ownership or right to possession. Prior to issuance of a release form, the claimant, owner or operator shall either pay the amount due for any fines for violations on account of which such vehicle was impounded or, as the court may require, post a bond in an amount set by the court, to appear to answer to such violations. The pound operator shall release such vehicle upon the receipt of the release form and payment of all towage and storage charges.

(c) No owner or operator shall remove an impounded vehicle from the place of storage without complying with the above procedure. Possession of a vehicle which has been impounded and unlawfully taken from the place of storage, by the owner or operator, shall constitute prima-facie evidence that it was so removed by the owner or operator.

(d) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

303.081 IMPOUNDING VEHICLES ON PRIVATE RESIDENTIAL OR AGRICULTURAL PROPERTY.

- (a) (1) The Chief of Police upon complaint of any person adversely affected may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The Chief of Police, upon complaint of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. When ordering a motor vehicle into storage pursuant to this section, the Chief of Police may arrange for the removal of the motor vehicle by a towing service and shall designate a storage facility.
- (2) A towing service towing a motor vehicle under subsection (a)(1) of this section shall remove the motor vehicle in accordance with that subsection. The towing service shall deliver the motor vehicle to the location designated by the Chief of Police not more than two hours after the time it is removed from the private property, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
- (3) Subject to subsection (b) of this section, the owner of a motor vehicle that has been removed pursuant to this subsection may recover the vehicle only in accordance with subsection (d) of this section.
- (4) As used in this section "private residential property" means private property on which is located one or more structures that are used as a home, residence or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

(b) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to subsection (a)(1) of this section arrives after the motor vehicle has been prepared for removal, but prior to its actual removal from the property, the towing service shall give the owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the motor vehicle established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the motor vehicle. However, if the vehicle is within a municipal corporation and the municipal corporation has established a vehicle removal fee, the towing service shall give the owner or operator oral or written notification that the owner or operator may pay not more than one-half of that fee to obtain release of the motor vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction.

Upon payment of the applicable fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the motor vehicle to the owner or operator. Upon its release, the owner or operator immediately shall move it so that it is not on the private residential or private agricultural property without the permission of the person having the right to possession of the property, or is not at the garage or place of storage without the permission of the owner, whichever is applicable.

- (c)
 - (1) The Chief of Police shall maintain a record of motor vehicles that the Chief orders into storage pursuant to subsection (a)(1) of this section. The record shall include an entry for each such motor vehicle that identifies the motor vehicle's license number, make, model and color, the location from which it was removed, the date and time of the removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. The Chief of Police shall provide any information in the record that pertains to a particular motor vehicle to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
 - (2) Any person who registers a complaint that is the basis of the Police Chief's order for the removal and storage of a motor vehicle under subsection (a)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (d)
 - (1) The owner or lienholder of a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section may reclaim it upon both of the following:
 - A. Payment of all applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 or, if the vehicle was towed within a municipal corporation that has established fees for vehicle removal and storage, payment of all applicable fees established by the municipal corporation.
 - B. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement.

When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.

- (2) Upon presentation of proof of ownership as required under subsection (d)(1)B. of this section, the owner of a motor vehicle that is ordered into storage under subsection (a)(1) of this section may retrieve any personal items from the motor vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under division (B)(3) of Ohio R.C. 4513.69, if applicable. The owner of a motor vehicle shall not do either of the following:

- A. Retrieve any personal item that has been determined by the sheriff or chief of police, as applicable, to be necessary to a criminal investigation;
- B. Retrieve any personal item from a vehicle if it would endanger the safety of the owner unless the owner agrees to sign a waiver of liability.

For purposes of subsection (d)(2) of this section, "personal items" do not include any items that are attached to the motor vehicle.

- (3) If a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by Ohio R.C. 4513.61 and 4513.62 apply.

- (e) (1) No person shall remove, or cause the removal of, any motor vehicle from any private residential or private agricultural property other than in accordance with subsection (a)(1) of this section or Ohio R.C. 4513.61 to 4513.65.
- (2) No towing service or storage facility shall fail to comply with the requirements of this section.

(f) This section does not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with Section 303.082.

(g) Whoever violates subsection (e) of this section is guilty of a minor misdemeanor. (ORC 4513.60)

303.082 PRIVATE TOW-AWAY ZONES.

(a) The owner of a private property may establish a private tow-away zone, but may do so only if all of the following conditions are satisfied:

- (1) The owner of the private property posts on the property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all entrances to the property, and that includes all of the following information:
- A. A statement that the property is a tow-away zone;
 - B. A description of persons authorized to park on the property. If the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. If the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. In all cases, if it is not apparent which persons may park in the private tow-away zone, the owner of the private property shall include on the sign the address of the property on which the private tow-away zone is located, or the name of the business that is located on the property designated as a private tow-away zone.

- C. If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;
- D. The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night;
- E. A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in division (B) of Ohio R.C. 4505.101.

In order to comply with the requirements of subsection (a)(1) of this section, the owner of a private property may modify an existing sign by affixing to the existing sign stickers or an addendum in lieu of replacing the sign.

- (2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:
 - A. It is located within twenty-five linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within twenty-five linear miles.
 - B. It is well-lighted.
 - C. It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.
- (b)
 - (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with subsection (a) of this section, without the consent of the owner of the private property or in violation of any posted parking condition or regulation, the owner of the private property may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in Ohio R.C. 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (c) of this section, may recover the vehicle in accordance with subsection (g) of this section.
 - (2) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the municipal corporation shall cause the removal and storage of any vehicle pursuant to subsection (b) of this section by an unlicensed tow truck or unlicensed tow truck operator.
 - (3) No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.

(c) If the owner or operator of a vehicle that is being removed under authority of subsection (b) of this section, arrives after the vehicle has been prepared for removal, but prior to the actual removal from the property, the towing service shall give the vehicle owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the vehicle established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the

transaction. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner of the private property or in violation of any posted parking condition or regulation.

- (d) (1) Prior to towing a vehicle under subsection (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (a) of this section.
The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least thirty days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.
- (2) A towing service shall deliver a vehicle towed under subsection (b) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
- (e) (1) If an owner of a private property that is established as a private tow-away zone in accordance with subsection (a) of this section causes the removal of a vehicle from that property by a towing service under subsection (b) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the Police Department concerning all of the following:
 - A. The vehicle's license number, make, model and color;
 - B. The location from which the vehicle was removed;
 - C. The date and time the vehicle was removed;
 - D. The telephone number of the person from whom the vehicle may be recovered;
 - E. The address of the place from which the vehicle may be recovered.
- (2) The Chief of Police shall maintain a record of any vehicle removed from private property in the Chief's jurisdiction that is established as a private tow-away zone of which the Chief has received notice under this section. The record shall include all information submitted by the towing service. The Chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle, and requests information pertaining to the vehicle.
- (f) (1) When a vehicle is removed from private property in accordance with this section, within three days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of the records of the Bureau of Motor Vehicles to ascertain the identity of the owner and any lienholder of the motor vehicle. The Registrar of Motor Vehicles shall insure that such information is provided in a timely manner. Subject to subsection (f)(4) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:

- A. Within five business days after the Registrar of Motor Vehicles provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested or by a commercial carrier service utilizing any form of delivery requiring a signed receipt;
 - B. If the vehicle remains unclaimed thirty days after the first notice is sent, in the manner required under subsection (f)(1)A. of this section;
 - C. If the vehicle remains unclaimed forty-five days after the first notice is sent, in the manner required under subsection (f)(1)A. of this section.
 - (2) Sixty days after any notice sent pursuant to subsection (f)(1) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the towing service or storage facility, if authorized under subsection (B) of Ohio R.C. 4505.101, may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.
 - (3) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under division (B) of Ohio R.C. 4505.101.
 - (4) With respect to a vehicle concerning which a towing service or storage facility is not eligible to obtain title under Ohio R.C. 4505.101, the towing service or storage facility need only comply with the initial notice required under subsection (f)(1)A. of this section.
- (g) (1) The owner or lienholder of a vehicle that is removed under subsection (b) of this section may reclaim it upon both of the following:
- A. Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement;
 - B. Payment of the following fees:
 - 1. All applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, except that the lienholder of a vehicle may retrieve the vehicle without paying any storage fee for the period of time that the vehicle was in the possession of the towing service or storage facility prior to the date the lienholder received the notice sent under subsection (f)(1)A. of this section;
 - 2. If notice has been sent to the owner and lienholder as described in subsection (f) of this section, a processing fee of twenty-five dollars (\$25.00).
- (2) A towing service or storage facility in possession of a vehicle that is removed under authority of subsection (b) of this section shall show the vehicle owner, operator or lienholder who contests the removal of the vehicle all photographs taken under subsection (d) of this section. Upon request, the towing service or storage facility shall provide a copy of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.

- (3) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
- (4) Upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement, the owner of a vehicle that is removed under authority of subsection (b) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability. For purposes of subsection (g)(4) of this section, "personal items" do not include any items that are attached to the vehicle.

(h) No person shall remove, or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section, or store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.

(i) This section does not affect or limit the operation of Ohio R.C. 4513.60 or Ohio R.C. 4513.61 to 4613.65 as they relate to property other than private property that is established as a private tow-away zone under subsection (a) of this section.

(j) Whoever violates subsection (h) of this section is guilty of a minor misdemeanor.

(k) As used in this section, "owner of a private property" or "owner of the private property" includes, with respect to a private property, any of the following:

- (1) Any person who holds title to the property;
- (2) Any person who is a lessee or sublessee with respect to a lease or sublease agreement for the property;
- (3) A person who is authorized to manage the property;
- (4) A duly authorized agent of any person listed in subsections (k)(1) to (3) of this section. (ORC 4513.601)

303.083 RELEASE OF VEHICLE; RECORDS; CHARGES.

(EDITOR'S NOTE: The provisions of former Section 303.083 as amended are now codified in Section 303.081.)

303.084 IMPOUNDING OF VEHICLES ON CITY PROPERTY FOR MISDEMEANOR AND FELONY VIOLATIONS OR ARRESTS; STORAGE FEES.

(a) Any motor vehicle required to be impounded pursuant to law subsequent to a misdemeanor or felony violation or arrest within the corporate limits of Martins Ferry may be stored on City property as may be designated by the Director of Public Service/Safety until such time as said motor vehicle is ordered released by the appropriate Court.

(b) Daily storage fees for said impoundment shall be thirty dollars (\$30.00). All storage fees, and towing charges, if any, shall be paid in full prior to any motor vehicle being released.

(c) This section shall have no effect on existing Sections 303.08, 303.081, or 303.082 of the Codified Ordinances, and same shall remain in full force and effect. All other ordinances or resolutions, or portions thereof, which are in conflict with this section are hereby repealed. (Ord. 2011-03. Passed 2-3-11.)

303.09 PROVIDING FALSE INFORMATION TO POLICE OFFICER.

(a) No person shall knowingly present, display or orally communicate a false name, social security number or date of birth to a law enforcement officer who is in the process of issuing to the person a traffic ticket or complaint.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 4513.361)

303.99 GENERAL TRAFFIC CODE PENALTIES.

(a) General Misdemeanor Classifications. Whoever violates any provision of this Traffic Code for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor. (ORC 4513.99)

(b) Penalties. Whoever is convicted of or pleads guilty to a violation of this Traffic Code shall be imprisoned for a definite term or fined, or both, which term of imprisonment and fine shall be fixed by the court as provided in this section.

<u>Classification of Misdemeanor</u>	<u>Maximum Term of Imprisonment</u>	<u>Maximum Fine</u>
First degree	180 days	\$1,000.00
Second degree	90 days	750.00
Third degree	60 days	500.00
Fourth degree	30 days	250.00
Minor	No imprisonment	150.00

(ORC 2929.24; 2929.28)

CHAPTER 305 Traffic Control

305.01	Division of Traffic Engineering and Safety created.	305.06	Director's powers not limited.
305.02	Authority and considerations for placement of devices.	305.07	Records of Director.
305.03	Conformity with State Manual.	305.08	Reservation of power to Council.
305.04	Powers of Public Safety Director.	305.09	Violations subject to misdemeanor classification.
305.05	Posting of signs and signals required.		

CROSS REFERENCES

Power to designate highway as included in a freeway, expressway or thruway - see Ohio R.C. 4511.011
 Power to enact local traffic regulations - see Ohio R.C. 4511.07, 4511.61
 Local traffic control devices - see Ohio R.C. 4511.11
 Alteration of prima-facie speed limits - see Ohio R.C. 4511.21, 4511.22(A), 4511.23
 Designation of through streets and erection of stop or yield signs - see Ohio R.C. 4511.65; TRAF. 313.02

305.01 DIVISION OF TRAFFIC ENGINEERING AND SAFETY CREATED.

Pursuant to Ohio R.C. 737.021 and 737.022, a Division of Traffic Engineering and Safety is hereby created, and the Director of Public Safety shall be the executive head of such Division.

305.02 AUTHORITY AND CONSIDERATIONS FOR PLACEMENT OF DEVICES.

The Director of Public Safety is hereby authorized to place and maintain traffic control devices upon any street or highway under his jurisdiction as are necessary to effectuate the provisions of this Traffic Code, or to regulate, warn or guide traffic, and such other traffic control devices as he shall deem necessary for the proper control of traffic. The Director of Public Safety shall determine the location, timing and coordination of such traffic control devices upon the basis of an applicable engineering or traffic investigation and shall consider the following:

- (a) The maximum safety and protection of vehicular and pedestrian traffic from physical injury or property damage.
- (b) The existing and potential traffic movement, volume and conditions.
- (c) The location and frequency of accidents, including studies of remedial measures.

- (d) The recommendations of the Police and Fire Chiefs.
- (e) The acceleration of transportation of persons and property by vehicles so as to expedite travel and promote public safety.
- (f) The convenience and welfare of the general public in parking, standing, loading and unloading, and the use of the streets as affecting business concerns and places of assembly.
- (g) Economy in the expenditure of money.

305.03 CONFORMITY WITH STATE MANUAL.

All traffic control devices placed pursuant to the provisions of this Traffic Code shall conform to the Ohio Manual of Uniform Traffic Control Devices for Streets and Highways, as set forth in Ohio R.C. 4511.09.

305.04 POWERS OF PUBLIC SAFETY DIRECTOR.

The Director of Public Safety is hereby empowered to:

- (a) Designate any street or highway as a through street or highway and require that all vehicles stop or yield the right of way as may be required before entering the same; or in residence districts designate certain streets or highway or portions thereof not to be through streets or highways despite the erection of stop signs or other official traffic control devices at intersecting streets.
- (b) Designate any intersection as a stop intersection and require all vehicles to stop at one or more entrances to such intersection.
- (c) Designate any intersection as a yield intersection and require all vehicles to yield the right of way as required.
- (d) Designate any street as a one-way street and require that all vehicles thereon be moved in one specific direction.
- (e) Designate and mark lanes to be used by traffic moving in a particular direction regardless of the center line of the roadway.
- (f) Erect signs directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction.
- (g) Designate those portions of any street, where overtaking and passing other traffic or driving to the left of the center or center line of the roadway would be especially hazardous, by appropriate signs or markings on the street to indicate the beginning and end of such zones. Such zones may be marked by an auxiliary yellow line placed parallel and to the right of the normal center line or offset marked lane line.
- (h) Place markers, buttons or signs within or adjacent to intersections and require that a specific course of direction be traveled by vehicles proceeding in lanes by either permitting, prohibiting or requiring turns at such intersections.
- (i) Install traffic control devices, signals and signs at any location to regulate traffic.
- (j) Establish safety zones, crosswalks, zones of quiet and play streets.
- (k) Close any street or portion thereof to vehicular traffic which is in the process of construction, reconstruction or repair.
- (l) Determine the location of any necessary bus stops and taxicab stands.
- (m) Determine the location and limiting hours of truck loading zones.
- (n) Designate dangerous railroad crossings and erect stop signs thereat.

- (o) Erect "No U Turn" signs at any location to prohibit a vehicle from being turned so as to proceed in the opposite direction.
- (p) Regulate or prohibit the stopping, standing and parking of vehicles on streets, alleys or public property by erecting signs plainly indicating the prohibitions, restrictions or limitations.
- (q) Designate individual parking spaces by markings, which may either be parallel or at a prescribed angle to the curb or edge of the roadway.
- (r) Designate truck routes and streets or parts thereof where either a weight limit restriction or truck exclusion has been imposed by rule or regulation provided such is not in conflict with any legislation.
- (s) Erect signs to prohibit a right turn against a steady red signal at any intersection.

305.05 POSTING OF SIGNS AND SIGNALS REQUIRED.

No provision of this chapter shall be effective until signs, signals, markings or other devices giving notice of such local traffic regulations are posted upon or at the entrance to the street or part thereof affected, as may be most appropriate, so that in a proper position they are sufficiently legible to be seen by an ordinarily observant person.

305.06 DIRECTOR'S POWERS NOT LIMITED.

The powers of the Director of Public Safety shall not be limited by the specific enumeration of subjects contained in this chapter.

305.07 RECORDS OF DIRECTOR.

The Director of Public Safety shall keep a record of all rules, regulations and proceedings promulgated in connection with this chapter.

305.08 RESERVATION OF POWER TO COUNCIL.

Notwithstanding the provisions of this chapter, Council may override any decision of the Director of Public Safety and may assume any of the powers delegated to the Director, by legislation adopted by a vote of a majority of the members duly elected thereto. Upon the adoption of any such legislation, the same may be changed only by amending or repealing legislation adopted by Council.

305.09 VIOLATIONS SUBJECT TO MISDEMEANOR CLASSIFICATION.

Except as otherwise provided, any person violating the rules and regulations promulgated in connection with this chapter is guilty of a misdemeanor which shall be classified as provided in Section 303.99.

CHAPTER 307

Golf Carts

307.01 Definitions.**307.02 Inspection of golf carts.****307.03 Usage and restrictions.****307.99 Penalty.**

307.01 DEFINITIONS.

As used in this chapter:

- (a) "Vehicle" has the same meaning as set forth in Ohio R.C. 4501.01(A).
- (b) "Motor vehicle" has the same meaning as set forth in Ohio R.C. 4501.01(B).
- (c) "Operator" has the same meaning as set forth in Ohio R.C. 4501.01(X).
- (d) "Golf Cart" is a motor vehicle as that term is defined under Ohio R.C. 4501.01(B). (Ord. 2016-12. Passed 12-27-16.)

307.02 INSPECTION OF GOLF CARTS.

(a) No person shall operate a "golf cart" vehicle on the streets within the City of Martins Ferry unless it has been inspected and approved by the Chief of Police, or his designee, for compliance with the applicable safety/equipment requirements of the State of Ohio relative to motor vehicles. For purposes of this section, "golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, that has a unladen weight of less than one thousand eight hundred pounds, and that is designed to carry not more than six persons including the driver.

(b) If the Chief of Police, or his designee, or another agent designated and approved by the State of Ohio, determines that the golf cart complies with the State of Ohio's statutory requirements that are applicable to motor vehicles, the Chief of Police shall issue the owner or operator a certificate of compliance entitling the owner or operator to operate the golf cart on the streets within the City of Martins Ferry. The owner or operator shall also show the Chief of Police or designee proof of liability insurance for the golf cart before a certificate of compliance is issued. The owner or operator of any golf cart shall be required to pay a fee in the amount of \$35.00 to the City of Martins Ferry through the City Police Department before the golf cart may be operated on the streets of the City. Any certificate issued pursuant to this section by the Chief of Police expires after 365 days and the Chief of Police will designate the issuing date and expiration date on each certificate. The Chief of Police shall keep a copy of each certificate issued pursuant to this section. The owner or operator of any golf cart shall keep a copy of any certificate issued pursuant to this section inside the golf cart to which it pertains. The Chief of Police shall issue a sticker or other similar device to the owner of each golf cart once it is inspected. The sticker shall signify compliance with this section and the expiration of the current inspection period. The owner of each golf cart shall display the sticker in a conspicuous place on the rear of the golf cart.

(c) The owner of a golf cart, at any time prior to having a golf cart inspected, may make application to the Chief of Police of the City of Martins Ferry for a variance of any of the applicable safety/equipment requirements of the State of Ohio relative to motor vehicles. The Chief of Police shall approve the variance, if, in his sole discretion, said variance does not affect the safety or efficacy of the equipment on the golf cart to be inspected.

(d) The owner of a golf cart shall also comply with all requirements of Ohio law regarding proper title, registration and license plates prior to operating a golf cart on any street within the City of Martins Ferry. Compliance with this section shall be in addition to, rather than in lieu of, any applicable provisions of State law relative to the operation of motor vehicles. (Ord. 2016-12. Passed 12-27-16.)

307.03 USAGE AND RESTRICTIONS.

(a) Golf carts are permitted to be driven on all streets and alleyways and upon all private properties open to the general public in the course of business inside the City corporation limit with the following exceptions:

- (1) Golf carts will not travel past the intersection of Hanover Street and Third Street towards Route 7;
- (2) Golf carts are not permitted to be driven on the streets and alleyways of the industrial zone of the City located between Route 7 and the Ohio River.

(b) The operator of a golf cart must be at least 16 years of age and have a valid driver's license.

(c) Any child who falls under the child restraint criteria set by Ohio R.C. 4511.81 is prohibited from being a passenger in a golf cart operated on any City street, right of way or public area in the City of Martins Ferry. (Children who are up to 4 years old and less than 40 pounds which are required to be in a child safety seat or any child who is 8 years old or less and under 4'9" in height who are required to be in a booster seat.)

(d) Golf carts must be operated in accord with all State of Ohio traffic laws in addition to all applicable sections of the City of Martins Ferry Municipal Ordinances. (Ord. 2016-12. Passed 12-27-16.)

307.99 PENALTY.

Whoever violates this chapter is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; and each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

(Ord. 2016-12. Passed 12-27-16.)

TITLE THREE - Streets and Traffic Control Devices

Chap. 311. Street Obstructions and Special Uses.

Chap. 313. Traffic Control Devices.

CHAPTER 311

Street Obstructions and Special Uses

**311.01 Placing injurious material
or obstruction in street.**

311.02 Parades and assemblages.

311.03 Toy vehicles on streets.

311.04 Playing in streets.

CROSS REFERENCES

See sectional history for similar State law

Power to regulate processions or assemblages - see Ohio R.C.
4511.07(C)

Dropping, sifting and leaking loads - see TRAF. 339.08

**311.01 PLACING INJURIOUS MATERIAL OR OBSTRUCTION IN
STREET.**

(a) No person shall place or knowingly drop upon any part of a street, highway or alley any tacks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such street, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

(b) Any person who drops or permits to be dropped or thrown upon any street any noxious, destructive or injurious material shall immediately remove the same.

(c) Any person authorized to remove a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

(d) No person shall place any obstruction in or upon a street without proper authority.

(e) No person, with intent to cause physical harm to a person or vehicle, shall place or knowingly drop upon any part of a highway, lane, road, street or alley any tacks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

- (f) (1) Except as otherwise provided in this subsection, whoever violates any provision of subsections (a) to (d) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the third degree.
- (2) Whoever violates subsection (e) of this section is guilty of a misdemeanor of the first degree. (ORC 4511.74)

311.02 PARADES AND ASSEMBLAGES.

(a) No person, group of persons or organization shall conduct or participate in any parade, assemblage or procession other than a funeral procession upon any street or highway, or block off any street or highway area, without first obtaining a permit from the Police Chief.

Applications for such permits shall be made on such forms as may be prescribed and shall contain such information as is reasonably necessary to a fair determination of whether a permit should be issued. Applications shall be filed not less than five days before the time intended for such parade, procession or assemblage.

The permit may be refused or cancelled if:

- (1) The time, place, size or conduct of the parade including the assembly areas and route of march would unreasonably interfere with the public convenience and safe use of the streets and highways.
- (2) The parade would require the diversion of so great a number of police officers to properly police the line of movement, assembly area and areas contiguous thereto so as to deny normal police protection to the Municipality.
- (3) The parade route of march or assembly areas would unreasonably interfere with the movement of police vehicles, fire-fighting equipment or ambulance service to other areas of the Municipality.
- (4) The parade would unreasonably interfere with another parade for which a permit has been issued.
- (5) The information contained in the application is found to be false, misleading or incomplete in any material detail.
- (6) An emergency such as a fire or storm would prevent the proper conduct of the parade.

The permit or any order accompanying it may limit or prescribe reasonable conditions, including the hours, the place of assembly and of dispersal, the route of march or travel and the streets, highways or portions thereof which may be used or occupied.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

311.03 TOY VEHICLES ON STREETS.

(a) No person on roller skates or riding in or by means of any sled, toy vehicle, skateboard or similar device shall go upon any roadway except while crossing a street on a crosswalk and except on streets set aside as play streets.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

311.04 PLAYING IN STREETS.

(a) No person shall fly a kite, play baseball or any other game, or ride a toy vehicle in a street or alley other than one set aside for such purposes.
(1941 Code, §5-35, 5-40)

(b) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

CHAPTER 313 Traffic Control Devices

313.01	Obedience to traffic control devices.	313.07	Unauthorized signs and signals, hiding from view, advertising.
313.02	Through streets; stop and yield right-of-way signs.	313.08	Alteration, injury, removal of traffic control devices.
313.03	Traffic signal indications.	313.09	Driver's duties upon approaching ambiguous or non-working traffic signal.
313.04	Lane-use control signal indications.	313.10	Unlawful purchase, possession or sale.
313.05	Special pedestrian control signals.	313.11	Portable signal preemption devices prohibited.
313.06	Flashing traffic signals. (Repealed)		

CROSS REFERENCES

See sectional histories for similar State law

Designation of through streets or stop intersections - see Ohio R.C. 4511.07(F), 4511.65

Uniform system of traffic control devices - see Ohio R.C. 4511.09, 4511.11(D)

Placing and maintaining local traffic control devices - see Ohio R.C. 4511.10, 4511.11

Traffic control devices defined - TRAF. 301.46

313.01 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

(a) No pedestrian or driver of a vehicle shall disobey the instructions of any traffic control device placed in accordance with the provisions of this Traffic Code, unless at the time otherwise directed by a police officer.

No provisions of this Traffic Code for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this Traffic Code does not state that signs are required, that section shall be effective even though no signs are erected or in place.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.12)

313.02 THROUGH STREETS; STOP AND YIELD RIGHT-OF-WAY SIGNS.

(a) All State routes are hereby designated as through streets or highways, provided that stop signs, yield signs or traffic control signals shall be erected at all intersections with such through streets or highways, except as otherwise provided in this section. Where two or more State routes that are through streets or highways intersect and no traffic control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the Ohio Department of Transportation, except as otherwise provided in this section.

Whenever the Ohio Director of Transportation determines on the basis of an engineering and traffic investigation that stop signs are necessary to stop traffic on a through highway for safe and efficient operation, nothing in this section shall be construed to prevent such installations. When circumstances warrant, the Director also may omit stop signs on roadways intersecting through highways under his jurisdiction. Before the Director either installs or removes a stop sign under this paragraph, he shall give notice, in writing, of that proposed action to the Municipality at least thirty days before installing or removing the stop sign.

(b) Other streets or highways or portions thereof, are hereby designated through streets or highways, if they are within the Municipality, if they have a continuous length of more than one mile between the limits of such street or highway or portion thereof, and if they have "stop" or "yield" signs or traffic control signals at the entrances of the majority of intersecting streets or highways. For purposes of this section, the limits of such street or highway or portion thereof, shall be a municipal corporation line, the physical terminus of the street or highway or any point on such street or highway at which vehicular traffic thereon is required by regulatory signs to stop or yield to traffic on the intersecting street, provided that in residence districts the Municipality may by ordinance designate such street or highway, or portion thereof, not to be a through highway and thereafter the affected residence district shall be indicated by official traffic control devices. Where two or more streets or highways designated under this subsection (b) intersect and no traffic control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the Ohio Department of Transportation or by Council or the authorized local authority, except as otherwise provided in this section.

(c) Stop signs need not be erected at intersections so constructed as to permit traffic to safely enter a through street or highway without coming to a stop. Signs shall be erected at such intersections indicating that the operator of a vehicle shall yield the right of way to or merge with all traffic proceeding on the through street or highway.

(d) Council or the authorized local authority may designate additional through streets or highways and shall erect stop signs, yield signs or traffic control signals at all streets and highways intersecting such through streets or highways, or may designate any intersection as a stop or yield intersection and shall erect like signs at one or more entrances to such intersection. (ORC 4511.65)

313.03 TRAFFIC SIGNAL INDICATIONS.

Highway traffic signal indications for vehicles, and pedestrians shall have the following meanings:

(a) Steady Green Signal Indication:

- (1) A. Vehicular traffic facing a circular green signal indication is permitted to proceed straight through or turn right or left, or make a u-turn movement except as such movement is modified by a lane-use sign, turn prohibition sign, lane marking, roadway design, separate turn signal indication, or other traffic control device. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:

1. Pedestrians lawfully within an associated crosswalk;
 2. Other vehicles lawfully within the intersection.
 - B. In addition, vehicular traffic turning left or making a u-turn movement to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
- (2) Vehicular traffic facing a green arrow signal indication, displayed alone or in combination with another signal indication, is permitted to cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications displayed at the same time. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:
 - A. Pedestrians lawfully within an associated crosswalk.
 - B. Other traffic lawfully using the intersection.
- (3)
 - A. Unless otherwise directed by a pedestrian signal indication, as provided in Section 313.05, pedestrians facing a circular green signal indication are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. The pedestrian shall yield the right-of-way to vehicles lawfully within the intersection or so close as to create an immediate hazard at the time that the green signal indication is first displayed.
 - B. Pedestrians facing a green arrow signal indication, unless otherwise directed by a pedestrian signal indication or other traffic control device, shall not cross the roadway.
- (b) Steady Yellow Signal Indication:
 - (1) Vehicular traffic facing a steady circular yellow signal indication is thereby warned that the related green movement or the related flashing arrow movement is being terminated or that a steady red signal indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. The provisions governing vehicular operation under the movement being terminated shall continue to apply while the steady circular yellow signal indication is displayed.
 - (2) Vehicular traffic facing a steady yellow arrow signal indication is thereby warned that the related green arrow movement or the related flashing arrow movement is being terminated. The provisions governing vehicular operation under the movement being terminated shall continue to apply while the steady yellow arrow signal indication is displayed.
 - (3) Pedestrians facing a steady circular yellow or yellow arrow signal indication, unless otherwise directed by a pedestrian signal indication as provided in Section 313.05 or other traffic control device, shall not start to cross the roadway.
- (c) Steady Red Signal Indication:
 - (1) A. Vehicular traffic facing a steady circular red signal indication, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, traffic shall stop before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, before then before entering the intersection; and shall remain stopped until a signal indication to proceed is displayed except as provided in subsections (c)(1), (2) and (3) of this section.

- B. Except when a traffic control device is in place prohibiting a turn on red or a steady red arrow signal indication is displayed, vehicular traffic facing a steady circular red signal indication is permitted, after stopping, to enter the intersection to turn right, or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be subject to the provisions that are applicable after making a stop at a stop sign.
- (2)
 - A. Vehicular traffic facing a steady red arrow signal indication shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, then before entering the intersection; and shall remain stopped until a signal indication or other traffic control device permitting the movement indicated by such red arrow is displayed.
 - B. When a traffic control device is in place permitting a turn on a steady red arrow signal indication, vehicular traffic facing a steady red arrow indication is permitted, after stopping, to enter the intersection to turn right or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be limited to the direction indicated by the arrow, and shall be subject to the provisions that are applicable after making a stop at a stop sign.
- (3) Unless otherwise directed by a pedestrian signal indication as provided in Section 313.05 or other traffic control device, pedestrians facing a steady circular red or steady red arrow signal indication shall not enter the roadway.
- (4) Local authorities by ordinance, or the Director of Transportation on State highways, may prohibit a right or a left turn against a steady red signal at any intersection, which shall be effective when signs giving notice thereof are posted at the intersection.
- (d) Flashing Green Signal Indication. A flashing green signal indication has no meaning and shall not be used.
- (e) Flashing Yellow Signal Indication:
 - (1)
 - A. Vehicular traffic, on an approach to an intersection, facing a flashing circular yellow signal indication, is permitted to cautiously enter the intersection to proceed straight through or turn right or left or make a u-turn movement except as such movement is modified by lane-use signs, turn prohibition signs, lane markings, roadway design, separate turn signal indications, or other traffic control devices. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:
 - 1. Pedestrians lawfully within an associated crosswalk;
 - 2. Other vehicles lawfully within the intersection.
 - B. In addition, vehicular traffic turning left or making a u-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.

- (2) A. Vehicular traffic, on an approach to an intersection, facing a flashing yellow arrow signal indication, displayed alone or in combination with another signal indication, is permitted to cautiously enter the intersection only to make the movement indicated by such arrow, or other such movement as is permitted by other signal indications displayed at the same time. Such vehicular traffic, including vehicles turning right or left or making a u-turn, shall yield the right-of-way to both of the following:
 - 1. Pedestrians lawfully within an associated crosswalk;
 - 2. Other vehicles lawfully within the intersection.
 - B. In addition, vehicular traffic turning left or making a u-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
 - (3) Pedestrians facing any flashing yellow signal indication at an intersection, unless otherwise directed by a pedestrian signal indication or other traffic control device, are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. Pedestrians shall yield the right-of-way to vehicles lawfully within the intersection at the time that the flashing yellow signal indication is first displayed.
 - (4) When a flashing circular yellow signal indication is displayed as a beacon to supplement another traffic control device, road users are notified that there is a need to pay additional attention to the message contained thereon or that the regulatory or warning requirements of the other traffic control device, which might not be applicable at all times, are currently applicable.
- (f) Flashing Red Signal Indication:
- (1) Vehicular traffic, on an approach to an intersection, facing a flashing circular red signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. The right to proceed shall be subject to the provisions that are applicable after making a stop at a stop sign.
 - (2) Pedestrians facing any flashing red signal indication at an intersection, unless otherwise directed by a pedestrian signal indication or other traffic control device, are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. Pedestrians shall yield the right-of-way to vehicles lawfully within the intersection at the time that the flashing red signal indication is first displayed.
 - (3) When a flashing circular red signal indication is displayed as a beacon to supplement another traffic control device, road users are notified that there is a need to pay additional attention to the message contained thereon or that the regulatory requirements of the other traffic control device, which might not be applicable at all times, are currently applicable. Use of this signal indication shall be limited to supplementing stop, do not enter, or wrong way signs, and to applications where compliance with the supplemented traffic control device requires a stop at a designated point.

- (g) General Application: In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.
- (h) Exception. This section does not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by Ohio R.C. 4511.61 and 4511.62. (ORC 4511.13)

313.04 LANE-USE CONTROL SIGNAL INDICATIONS.

- (a) The meanings of lane-use control signal indications are as follows:
 - (1) A steady downward green arrow: A road user is permitted to drive in the lane over which the arrow signal indication is located.
 - (2) A steady yellow "X": A road user is to prepare to vacate the lane over which the signal indication is located because a lane control change is being made to a steady red "X" signal indication.
 - (3) A steady white two-way left-turn arrow: A road user is permitted to use a lane over which the signal indication is located for a left turn, but not for through travel, with the understanding that common use of the lane by oncoming road users for left turns also is permitted.
 - (4) A steady white one-way left-turn arrow: A road user is permitted to use a lane over which the signal indication is located for a left turn, without opposing turns in the same lane, but not for through travel.
 - (5) A steady red "X": A road user is not permitted to use the lane over which the signal indication is located and that this signal indication shall modify accordingly the meaning of other traffic controls present.
(ORC 4511.131)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.99)

313.05 SPECIAL PEDESTRIAN CONTROL SIGNALS.

- (a) Whenever special pedestrian control signals exhibiting the words "walk" or "don't walk", or the symbol of a walking person or an upraised palm are in place, such signals shall indicate the following instructions:
 - (1) A steady walking person signal indication, which symbolizes "walk", means that a pedestrian facing the signal indication is permitted to start to cross the roadway in the direction of the signal indication, possibly in conflict with turning vehicles. The pedestrian shall yield the right-of-way to vehicles lawfully within the intersection at the time that the walking person signal indication is first shown.

- (2) A flashing upraised hand signal indication, which symbolizes “don’t walk”, means that a pedestrian shall not start to cross the roadway in the direction of the signal indication, but that any pedestrian who has already started to cross on a steady walking person signal indication shall proceed to the far side of the traveled way of the street or highway, unless otherwise directed by a traffic control device to proceed only to the median of a divided highway or only to some other island or pedestrian refuge area.
- (3) A steady upraised hand signal indication means that a pedestrian shall not enter the roadway in the direction of the signal indication.
- (4) Nothing in this section shall be construed to invalidate the continued use of pedestrian control signals utilizing the word “wait” if those signals were installed prior to March 28, 1985.
- (5) A flashing walking person signal indication has no meaning and shall not be used. (ORC 4511.14)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.99)

313.06 FLASHING TRAFFIC SIGNALS.

(Former Ohio R.C. 4511.15 from which Section 313.06 was derived was repealed by House Bill 349, effective April 20, 2012.)

313.07 UNAUTHORIZED SIGNS AND SIGNALS, HIDING FROM VIEW, ADVERTISING.

(a) No person shall place, maintain or display upon or in view of any street any unauthorized sign, signal, marking or device which purports to be, is an imitation of or resembles a traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or hides from view or interferes with the effectiveness of any traffic control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any street any traffic sign or signal bearing thereon any commercial advertising. This section does not prohibit either the erection upon private property adjacent to streets of signs giving useful directional information and of a type that cannot be mistaken for traffic control devices, or the erection upon private property of traffic control devices by the owner of real property in accordance with Ohio R.C. 4511.211 and 4511.432.

Every such prohibited sign, signal, marking or device is a public nuisance, and the Police Chief is authorized to remove it or cause it to be removed.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.16)

313.08 ALTERATION, INJURY, REMOVAL OF TRAFFIC CONTROL DEVICES.

- (a) No person without lawful authority, shall do any of the following:
- (1) Knowingly move, deface, damage, destroy or otherwise improperly tamper with any traffic control device, any railroad sign or signal, or any inscription, shield or insignia on the device, sign or signal, or any part of the device, sign or signal;
 - (2) Knowingly drive upon or over any freshly applied pavement marking material on the surface of a roadway while the marking material is in an undried condition and is marked by flags, markers, signs or other devices intended to protect it;
 - (3) Knowingly move, damage, destroy or otherwise improperly tamper with a manhole cover.
- (b) (1) Except as otherwise provided in this subsection, whoever violates subsection (a)(1) or (3) of this section is guilty of a misdemeanor of the third degree. If a violation of subsection (a)(1) or (3) of this section creates a risk of physical harm to any person, the offender is guilty of a misdemeanor of the first degree. If a violation of subsection (a)(1) or (3) of this section causes serious physical harm to property that is owned, leased, or controlled by a state or local authority, the offender is guilty of a felony and shall be prosecuted under appropriate state law.

- (2) Except as otherwise provided in this subsection, whoever violates subsection (a)(2) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the third degree.
(ORC 4511.17)

313.09 DRIVER'S DUTIES UPON APPROACHING AMBIGUOUS OR NON-WORKING TRAFFIC SIGNAL.

(a) The driver of a vehicle who approaches an intersection where traffic is controlled by traffic control signals shall do all of the following, if the signal facing the driver exhibits no colored lights, colored lighted arrows or exhibits a combination of such lights or arrows that fails to clearly indicate the assignment of right of way, or if the vehicle is a bicycle, the signals are otherwise malfunctioning, due to the failure of a vehicle detector to detect the presence of the bicycle:

- (1) Stop at a clearly marked stop line, but if none, stop before entering the crosswalk on the near side of the intersection, or, if none, stop before entering the intersection;
- (2) Yield the right of way to all vehicles in the intersection or approaching on an intersecting road, if the vehicles will constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.
- (3) Exercise ordinary care while proceeding through the intersection.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.132)

313.10 UNLAWFUL PURCHASE, POSSESSION OR SALE.

(a) As used in this section, "traffic control device" means any sign, traffic control signal or other device conforming to and placed or erected in accordance with the manual adopted under Ohio R.C. 4511.09 by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic, including signs denoting the names of streets and highways, but does not mean any pavement marking.

(b) No individual shall buy or otherwise possess or sell, a traffic control device, except when one of the following applies:

- (1) In the course of the individual's employment by the State or a local authority for the express or implied purpose of manufacturing, providing, erecting, moving or removing such a traffic control device;
- (2) In the course of the individual's employment by any manufacturer of traffic control devices other than a State or local authority;

- (3) For the purpose of demonstrating the design and function of a traffic control device to State or local officials;
- (4) When the traffic control device has been purchased from the State or a local authority at a sale of property that is no longer needed or is unfit for use;
- (5) The traffic control device has been properly purchased from a manufacturer for use on private property and the person possessing the device has a sales receipt for the device or other acknowledgment of sale issued by the manufacturer.

(c) This section does not preclude, and shall not be construed as precluding, prosecution for theft in violation of Ohio R.C. 2913.02 or a municipal ordinance relating to theft, or for receiving stolen property in violation of Ohio R.C. 2913.51 or a municipal ordinance relating to receiving stolen property.

(d) Whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.18)

313.11 PORTABLE SIGNAL PREEMPTION DEVICES PROHIBITED.

- (a)
 - (1) No person shall possess a portable signal preemption device.
 - (2) No person shall use a portable signal preemption device to affect the operation of a traffic control signal.

(b) Subsection (a)(1) of this section does not apply to any of the following persons and subsection (a)(2) of this section does not apply to any of the following persons when responding to an emergency call:

- (1) A peace officer, as defined in Ohio R.C. 109.71(A)(11), (12), (14) or (19);
- (2) A State highway patrol trooper;
- (3) A person while occupying a public safety vehicle as defined in Ohio R.C. 4511.01(E)(1), (3) or (4).

(c) Whoever violates subsection (a)(1) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the first degree.

(d) As used in this section, “portable signal preemption device” means a device that, if activated by a person, is capable of changing a traffic control signal to green out of sequence.
(ORC 4513.031)

TITLE FIVE - Vehicles

- Chap. 331. Operation Generally.
- Chap. 333. OVI; Willful Misconduct; Speed.
- Chap. 335. Licensing; Accidents.
- Chap. 337. Safety and Equipment.
- Chap. 339. Commercial and Heavy Vehicles.
- Chap. 341. Commercial Drivers.

CHAPTER 331 Operation Generally

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| <p>331.01 Driving upon right side of roadway; exceptions.</p> <p>331.02 Passing to right when proceeding in opposite directions.</p> <p>331.03 Overtaking, passing to left; driver's duties.</p> <p>331.04 Overtaking and passing upon right.</p> <p>331.05 Overtaking, passing to left of center.</p> <p>331.06 Additional restrictions on driving upon left side of roadway.</p> <p>331.07 Hazardous or no passing zones.</p> <p>331.08 Driving in marked lanes or continuous lines of traffic.</p> <p>331.09 Following too closely.</p> <p>331.10 Turning at intersections.</p> <p>331.11 Turning into private driveway, alley or building.</p> <p>331.12 "U" turns restricted.</p> <p>331.13 Starting and backing vehicles.</p> <p>331.14 Signals before changing course, turning or stopping.</p> <p>331.15 Hand and arm signals.</p> <p>331.16 Right of way at intersections.</p> <p>331.17 Right of way when turning left.</p> <p>331.18 Operation of vehicle at yield signs.</p> <p>331.19 Operation of vehicle at stop signs.</p> <p>331.20 Emergency or public safety vehicles at stop signals or signs.</p> <p>331.21 Right of way of public safety or coroner's vehicle.</p> <p>331.211 Report of vehicle failing to yield right of way to public safety vehicle.</p> | <p>331.22 Driving onto roadway from place other than roadway: duty to yield.</p> <p>331.23 Driving onto roadway from place other than roadway; stopping at sidewalk.</p> <p>331.24 Right of way of funeral procession.</p> <p>331.25 Driver's view and control to be unobstructed by load or persons.</p> <p>331.26 Driving upon street posted as closed for repair.</p> <p>331.27 Following and parking near emergency or safety vehicles.</p> <p>331.28 Driving over fire hose.</p> <p>331.29 Driving through safety zone.</p> <p>331.30 One-way streets and rotary traffic islands.</p> <p>331.31 Driving upon divided roadways.</p> <p>331.32 Entering and exiting controlled-access highway.</p> <p>331.33 Obstructing intersection, crosswalk or grade crossing.</p> <p>331.34 Failure to control; weaving; full time and attention.</p> <p>331.35 Occupying a moving trailer or manufactured or mobile home.</p> <p>331.36 Squealing tires, "peeling", cracking exhaust noises.</p> <p>331.37 Driving upon sidewalks, street lawns or curbs.</p> |
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| 331.38 | Stopping for school bus; discharging children. | 331.42 | Littering from motor vehicle. |
| 331.39 | Driving across grade crossing. | 331.43 | Wearing earplugs or earphones prohibited. |
| 331.40 | Stopping at grade crossing. | 331.44 | Text messaging while driving. |
| 331.41 | Shortcutting; avoiding traffic control devices. | 331.45 | Vehicular operation on street closed due to rise in water level. |

CROSS REFERENCES

See sectional histories for similar State law

Obedience to traffic control devices - see TRAF. 313.01

Operation of bicycles and motorcycles - see TRAF. 373.01
et seq.

School bus operation - see OAC Ch. 4501-3

331.01 DRIVING UPON RIGHT SIDE OF ROADWAY; EXCEPTIONS.

- (a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:
- (1) When overtaking and passing another vehicle proceeding in the same direction, or when making a left turn under the rules governing such movements;
 - (2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
 - (3) When driving upon a roadway divided into three or more marked lanes for traffic under the rules applicable thereon;
 - (4) When driving upon a roadway designated and posted with signs for one-way traffic;
 - (5) When otherwise directed by a police officer or traffic control device.
- (b) (1) Upon all roadways any vehicle proceeding at less than the prevailing and lawful speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, and far enough to the right to allow passing by faster vehicles if such passing is safe and reasonable, except under any of the following circumstances:
- A. When overtaking and passing another vehicle proceeding in the same direction;
 - B. When preparing for a left turn;
 - C. When the driver must necessarily drive in a lane other than the right-hand lane to continue on the driver's intended route.
- (2) Nothing in subsection (b)(1) of this section requires a driver of a slower vehicle to compromise the driver's safety to allow overtaking by a faster vehicle.

(c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic control devices designating certain lanes to the left of the center of the roadway for use by traffic not otherwise permitted to use the lanes, or except as permitted under subsection (a) (2) hereof.

This subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.25)

331.02 PASSING TO RIGHT WHEN PROCEEDING IN OPPOSITE DIRECTIONS.

(a) Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each operator shall give to the other one-half of the main traveled portion of the roadway or as nearly one-half as is reasonably possible.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.26)

331.03 OVERTAKING, PASSING TO LEFT; DRIVER'S DUTIES.

(a) The following rules govern the overtaking and passing of vehicles proceeding in the same direction:

- (1) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall, except as provided in subsection (a)(3) hereof, signal to the vehicle to be overtaken, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. When a motor vehicle overtakes and passes a bicycle, three feet or greater is considered a safe passing distance.
- (2) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and the operator shall not increase the speed of the operator's vehicle until completely passed by the overtaking vehicle.
- (3) The operator of a vehicle overtaking and passing another vehicle proceeding in the same direction on a divided street or highway as defined in Section 331.31, a limited access highway as defined in Ohio R.C. 5511.02 or a highway with four or more traffic lanes, is not required to signal audibly to the vehicle being overtaken and passed.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.27)

331.04 OVERTAKING AND PASSING UPON RIGHT.

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is making or about to make a left turn;
- (2) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(b) The driver of a vehicle may overtake and pass another vehicle only under conditions permitting such movement in safety. The movement shall not be made by driving off the roadway.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.28)

331.05 OVERTAKING, PASSING TO LEFT OF CENTER.

(a) No vehicle shall be driven to the left of the center of the roadway in overtaking and passing traffic proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made, without interfering with the safe operation of any traffic approaching from the opposite direction or any traffic overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for traffic approaching from the opposite direction before coming within 200 feet of any approaching vehicle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.29)

331.06 ADDITIONAL RESTRICTIONS ON DRIVING UPON LEFT SIDE OF ROADWAY.

(a) No vehicle shall be driven upon the left side of the roadway under the following conditions:

- (1) When approaching the crest of a grade or upon a curve in the highway, where the operator's view is obstructed within such a distance as to create a hazard in the event traffic might approach from the opposite direction;
- (2) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel;
- (3) When approaching within 100 feet of or traversing any intersection or railroad grade crossing.

(b) This section does not apply to vehicles upon a one-way roadway, upon a roadway where traffic is lawfully directed to be driven to the left side or under the conditions described in Section 331.01(a)(2).

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.30)

331.07 HAZARDOUS OR NO PASSING ZONES.

(a) Hazardous zones, commonly called "no passing zones," shall consist of an auxiliary yellow line marked on the roadway pavement and placed parallel to the normal center line or marked lane line. When the auxiliary yellow line appears on the left side in the driver's lane of travel and to the right of the normal center line or marked lane line, no driver shall drive across the auxiliary yellow line to overtake and pass another vehicle proceeding in the same direction. When auxiliary yellow lines appear on both sides of the normal center line or marked lane line, drivers proceeding in either direction shall not drive across such auxiliary yellow lines to overtake and pass another vehicle proceeding in the same direction. No driver shall, at any other time, drive across the yellow auxiliary line when it appears in the driver's lane of travel, except to make a lawfully permitted left-hand turn under the rules governing such movement. No passing signs may also be erected facing traffic to indicate the beginning and end of each no passing zone.

When appropriate signs or markings indicating hazardous or no passing zones are in place and clearly visible, every operator of a vehicle shall obey the directions of the signs or markings, notwithstanding the distance set out in Section 331.06.

(b) Subsection (a) of this section does not apply when all of the following apply:

- (1) The slower vehicle is proceeding at less than half the speed of the speed limit applicable to that location.
- (2) The faster vehicle is capable of overtaking and passing the slower vehicle without exceeding the speed limit.
- (3) There is sufficient clear sight distance to the left of the center or center line of the roadway to meet the overtaking and passing provisions of Section 331.05, considering the speed of the slower vehicle.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.31)

331.08 DRIVING IN MARKED LANES OR CONTINUOUS LINES OF TRAFFIC.

(a) Whenever any roadway has been divided into two or more clearly marked lanes for traffic or wherever traffic is lawfully moving in two or more substantially continuous lines in the same direction, the following rules apply:

- (1) A vehicle shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from such lane or line until the driver has first ascertained that such movement can be made with safety.
- (2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is posted with signs to give notice of such allocation.
- (3) Official signs may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, or restricting the use of a particular lane to only buses during certain hours or during all hours, and drivers of vehicles shall obey the directions of such signs.
- (4) Official traffic control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.33)

331.09 FOLLOWING TOO CLOSELY.

(a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the highway.

The driver of any truck, or motor vehicle drawing another vehicle, when traveling upon a roadway outside a business or residence district shall maintain a sufficient space, whenever conditions permit, between such vehicle and another vehicle ahead so an overtaking motor vehicle may enter and occupy such space without danger. This paragraph does not prevent overtaking and passing nor does it apply to any lane specially designated for use by trucks.

Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, shall maintain a sufficient space between such vehicles so an overtaking vehicle may enter and occupy such space without danger. This paragraph shall not apply to funeral processions.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.34)

331.10 TURNING AT INTERSECTIONS.

(a) The driver of a vehicle intending to turn at an intersection shall be governed by the following rules:

- (1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (3) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane of the roadway being entered lawfully available to the traffic moving in that lane.
- (4) Markers, buttons or signs may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such markers, buttons or signs are so placed, no operator of a vehicle shall turn such vehicle at an intersection other than as directed and required by such markers, buttons or signs.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.36)

331.11 TURNING INTO PRIVATE DRIVEWAY, ALLEY OR BUILDING.

(a) The driver of a vehicle intending to turn into a private road or driveway, alley or building from a public street or highway shall be governed by the following rules:

- (1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) Upon a roadway where traffic is proceeding in opposite directions, approach for a left turn and a left turn shall be made from that portion of the right half of the roadway nearest the center line thereof.
- (3) Upon a roadway where traffic is restricted to one direction, approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

It shall be the duty of the driver of any vehicle entering a private road or driveway, alley or building to yield the right of way to pedestrians lawfully using the sidewalk or sidewalk area extending across any alleyway, private road, driveway or building.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

331.12 "U" TURNS RESTRICTED.

(a) Except as provided in Section 313.03 and subsection (b) hereof, no vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, if the vehicle cannot be seen within 500 feet by the driver of any other vehicle approaching from either direction.

(b) The driver of an emergency vehicle or public safety vehicle, when responding to an emergency call, may turn the vehicle so as to proceed in the opposite direction. This subsection applies only when the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, and when the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This subsection does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.
(ORC 4511.37)

(c) Except as provided in subsection (b) hereof, no vehicle shall be turned so as to proceed in the opposite direction within an intersection, or upon any street in a business district, or upon a freeway, expressway or controlled-access highway, or where authorized signs are erected to prohibit such movement, or at any other location unless such movement can be made with reasonable safety to other users of the street and without interfering with the safe operation of any traffic that may be affected by such movement.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.37)

331.13 STARTING AND BACKING VEHICLES.

(a) No person shall start a vehicle which is stopped, standing or parked until such movement can be made with reasonable safety.

Before backing, operators of vehicles shall give ample warning, and while backing they shall exercise vigilance not to injure person or property on the street or highway.

No person shall back a motor vehicle on a freeway, except: in a rest area; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.38)

331.14 SIGNALS BEFORE CHANGING COURSE, TURNING OR STOPPING.

(a) No person shall turn a vehicle or move right or left upon a highway unless and until such person has exercised due care to ascertain that the movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.

When required, a signal of intention to turn or move right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning, except that in the case of a person operating a bicycle, the signal shall be made not less than one time but is not required to be continuous. A bicycle operator is not required to make a signal if the bicycle is in a designated turn lane, and a signal shall not be given when the operator's hands are needed for the safe operation of the bicycle.

No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give a signal.

Any stop or turn signal required by this section shall be given either by means of the hand and arm, or by signal lights that clearly indicate to both approaching and following traffic intention to turn or move right or left, except that any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lights when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet, whether a single vehicle or a combination of vehicles.

The signal lights required by this section shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.39)

331.15 HAND AND ARM SIGNALS.

(a) Except as provided in subsection (b) hereof, all signals required by this Traffic Code, when given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signals shall indicate as follows:

- (1) Left turn: Hand and arm extended horizontally;
- (2) Right turn: Hand and arm extended upward;
- (3) Stop or decrease speed: Hand and arm extended downward.

(b) As an alternative to subsection (a)(2) hereof, a person operating a bicycle may give a right turn signal by extending the right hand and arm horizontally and to the right side of the bicycle.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.40)

331.16 RIGHT OF WAY AT INTERSECTIONS.

(a) When two vehicles approach or enter an intersection from different streets or highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

(b) The right of way rule declared in subsection (a) hereof, is modified at through highways and otherwise as stated in this Traffic Code and Ohio R.C. Chapter 4511. (ORC 4511.41)

(c) Subject to compliance with any traffic control device, when two vehicles approach or enter a junction of two or more alleys from different directions at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.41)

331.17 RIGHT OF WAY WHEN TURNING LEFT.

(a) The operator of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right of way to any vehicle approaching from the opposite direction, whenever the approaching vehicle is within the intersection or so close to the intersection, alley, private road or driveway as to constitute an immediate hazard.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.42)

331.18 OPERATION OF VEHICLE AT YIELD SIGNS.

(a) The driver of a vehicle approaching a yield sign shall slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways. Whenever a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, the collision shall be prima-facie evidence of the driver's failure to yield the right of way.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.43(B))

331.19 OPERATION OF VEHICLE AT STOP SIGNS.

(a) Except when directed to proceed by a law enforcement officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.43(A))

331.20 EMERGENCY OR PUBLIC SAFETY VEHICLES AT STOP SIGNALS OR SIGNS.

(a) The driver of any emergency vehicle or public safety vehicle, when responding to an emergency call, upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety to traffic, but may proceed cautiously past such red or stop sign or signal with due regard for the safety of all persons using the street or highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.03)

331.21 RIGHT OF WAY OF PUBLIC SAFETY OR CORONER'S VEHICLE.

(a) Upon the approach of a public safety vehicle or coroner's vehicle, equipped with at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and the driver is giving an audible signal by siren, exhaust whistle or bell, no driver of any other vehicle shall fail to yield the right-of-way, immediately drive if practical to a position parallel to and as close as possible to, the right edge or curb of the street clear of any intersection, and stop and remain in that position until the public safety vehicle or coroner's vehicle has passed, except when otherwise directed by a police officer.

(b) This section does not relieve the driver of a public safety vehicle or coroner's vehicle from the duty to drive with due regard for the safety of all persons and property upon the street.

(c) This section applies to a coroner's vehicle only when the vehicle is operated in accordance with Ohio R.C. 4513.171. As used in this section, "coroner's vehicle" means a vehicle used by a coroner, deputy coroner or coroner's investigator that is equipped with a flashing, oscillating or rotating red or blue light and a siren, exhaust whistle, or bell capable of giving an audible signal.

(d) Except as otherwise provided in this subsection or Section 331.211, whoever violates subsection (a) of this section is guilty of a misdemeanor of the fourth degree on a first offense. On a second offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree, and, on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the second degree. (ORC 4511.45)

331.211 REPORT OF VEHICLE FAILING TO YIELD RIGHT OF WAY TO PUBLIC SAFETY VEHICLE.

(a) When the failure of a motor vehicle operator to yield the right-of-way to a public safety vehicle as required by Section 331.21(a) impedes the ability of the public safety vehicle to respond to an emergency, any emergency personnel in the public safety vehicle may report the license plate number and a general description of the vehicle and the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred.

(b) (1) Upon receipt of a report under subsection (a) of this section, the law enforcement agency may conduct an investigation to attempt to determine or confirm the identity of the operator of the vehicle at the time of the alleged violation.

- (2) If the identity of the operator at the time of an alleged violation of Section 331.21(a) is established, the law enforcement agency has probable cause to issue either a written warning or a citation for that violation, and the agency shall issue a written warning or a citation to the operator.
- (3) If the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency may issue a warning to the person who owned the vehicle at the time of the alleged violation. However, in the case of a leased or rented vehicle, the law enforcement agency shall issue the written warning to the person who leased or rented the vehicle at the time of the alleged violation.
- (c)
 - (1) Whoever violates Section 331.21(a) based on a report filed under subsection (a) of this section is guilty of a minor misdemeanor and shall be fined one hundred fifty dollars (\$150.00).
 - (2) If a person who is issued a citation for a violation of Section 331.21(a) based on a report filed under subsection (a) of this section does not enter a written plea of guilty and does not waive the person's right to contest the citation but instead appears in person in the proper court to answer the charge, the trier of fact cannot find beyond a reasonable doubt that the person committed that violation unless the emergency personnel who filed the report appears in person in the court and testifies.
- (d) As used in this section:
 - (1) "License plate" includes any temporary license placard issued under Ohio R.C. 4503.182 or similar law of another jurisdiction.
 - (2) "Public safety vehicle" does not include an unmarked public safety vehicle or a vehicle used by a public law enforcement officer or other person sworn to enforce the criminal and traffic laws of the State or a vehicle used by the Motor Carrier Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission. (ORC 4511.454)

331.22 DRIVING ONTO ROADWAY FROM PLACE OTHER THAN ROADWAY: DUTY TO YIELD.

(a) Subject to compliance with any traffic control device, the operator of a vehicle about to enter or cross a highway from an alley or from any place other than another roadway shall yield the right of way to all traffic approaching on the roadway to be entered or crossed.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.44)

331.23 DRIVING ONTO ROADWAY FROM PLACE OTHER THAN ROADWAY: STOPPING AT SIDEWALK.

(a) Subject to compliance with any traffic control device, the driver of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.431)

331.24 RIGHT OF WAY OF FUNERAL PROCESSION.

(a) As used in this section "funeral procession" means two or more vehicles accompanying the cremated remains or the body of a deceased person in the daytime when each of the vehicles has its headlights lighted and is displaying a purple and white or an orange and white pennant attached to each vehicle in such a manner as to be clearly visible to traffic approaching from any direction.

(b) Excepting public safety vehicles proceeding in accordance with Section 331.21 or when directed otherwise by a police officer, pedestrians and the operators of all vehicles shall yield the right of way to each vehicle that is a part of a funeral procession. Whenever the lead vehicle in a funeral procession lawfully enters an intersection, the remainder of the vehicles in the procession may continue to follow the lead vehicle through the intersection notwithstanding any traffic control devices or right-of-way provisions of this Traffic Code, provided that the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian.

(c) No person shall operate any vehicle as a part of a funeral procession without having the headlights of the vehicle lighted and without displaying a purple and white or an orange and white pennant in such a manner as to be clearly visible to traffic approaching from any direction.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.451)

331.25 DRIVER'S VIEW AND CONTROL TO BE UNOBSTRUCTED BY LOAD OR PERSONS.

(a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.70(A),(B),(D))

331.26 DRIVING UPON STREET POSTED AS CLOSED FOR REPAIR.

(a) No person shall drive upon, along or across a street or highway, or any part of a street or highway that has been closed in the process of its construction, reconstruction or repair, and posted with appropriate signs by the authority having jurisdiction to close such street or highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.71)

331.27 FOLLOWING AND PARKING NEAR EMERGENCY OR SAFETY VEHICLES.

(a) The driver of any vehicle, other than an emergency vehicle or public safety vehicle on official business, shall not follow any emergency vehicle or public safety vehicle traveling in response to an alarm closer than 500 feet, or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm, unless directed to do so by a police officer or a firefighter.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.72)

331.28 DRIVING OVER FIRE HOSE.

(a) No vehicle shall, without the consent of the Fire Chief or fire official in command, be driven over any unprotected fire hose that is laid down on any street or private driveway to be used at any fire or alarm of fire.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.73)

331.29 DRIVING THROUGH SAFETY ZONE.

(a) No vehicle shall at any time be driven through or within a safety zone.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.60)

331.30 ONE-WAY STREETS AND ROTARY TRAFFIC ISLANDS.

(a) Upon a roadway designated and posted with signs for one-way traffic a vehicle shall be driven only in the direction designated. A vehicle passing around a rotary traffic island shall be driven only to the right of the rotary traffic island.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.32)

331.31 DRIVING UPON DIVIDED ROADWAYS.

(a) Whenever any street has been divided into two roadways by an intervening space, or by a physical barrier, or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway, and no vehicle shall be driven over, across or within any such dividing space, barrier or median section, except through an opening, crossover or intersection established by public authority. This section does not prohibit the occupancy of such dividing space, barrier or median section for the purpose of an emergency stop or in compliance with an order of a police officer.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.35)

331.32 ENTERING AND EXITING CONTROLLED-ACCESS HIGHWAY.

(a) No person shall drive a vehicle onto or from any controlled-access highway except at such entrances and exits as are established by public authority.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

331.33 OBSTRUCTING INTERSECTION, CROSSWALK OR GRADE CROSSING.

(a) No driver shall enter an intersection or marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, notwithstanding any traffic control signal indication to proceed.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.712)

331.34 FAILURE TO CONTROL; WEAVING; FULL TIME AND ATTENTION.

(a) No person shall operate a vehicle without exercising reasonable and ordinary control over such vehicle.

(b) No person shall operate a vehicle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.

(c) No person shall operate a vehicle without giving his full time and attention to the operation of such vehicle.

(d) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

331.35 OCCUPYING A MOVING TRAILER OR MANUFACTURED OR MOBILE HOME.

(a) No person shall occupy any travel trailer or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.701)

331.36 SQUEALING TIRES, "PEELING," CRACKING EXHAUST NOISES.

(a) No person shall unnecessarily race the motor of any vehicle and no person shall operate any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the roadway, commonly called "peeling".

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

331.37 DRIVING UPON SIDEWALKS, STREET LAWNS OR CURBS.

(a) No person shall drive any vehicle, other than a bicycle, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway. (ORC 4511.711)

(b) No person shall drive a vehicle on a street lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.711)

331.38 STOPPING FOR SCHOOL BUS; DISCHARGING CHILDREN.

(a) The driver of a vehicle upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this subsection (a) hereof that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by subsection (b) hereof.

(b) Every school bus shall be equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, and an automatically extended stop warning sign of a type approved by the State Board of Education, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and County boards of developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are boarding or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the Board.

(c) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle overtaking the school bus shall comply with subsection (a) hereof.

(d) School buses operating on divided highways or on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

(e) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child or person's residence side of the road.

- (f) As used in this section:
 - (1) “Head start agency” has the same meaning as in Ohio R.C. 3301.32.
 - (2) “School bus”, as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the State Board of Education, is painted the color and displays the markings described in Ohio R.C. 4511.77, and is equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, irrespective of whether or not the bus has fifteen or more children aboard at any time. “School bus” does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.
- (g)
 - (1) Whoever violates subsection (a) of this section may be fined an amount not to exceed five hundred dollars (\$500.00). A person who is issued a citation for a violation of subsection (a) of this section is not permitted to enter a written plea of guilty and waive the person’s right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.
 - (2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender’s driver’s license, commercial driver’s license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (a)(7) of Ohio R.C. 4510.02. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the Registrar of Motor Vehicles, together with notice of the court’s action. (ORC 4511.75)

331.39 DRIVING ACROSS GRADE CROSSING.

- (a)
 - (1) Whenever any person driving a vehicle approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad, if any of the following circumstances exist at the crossing:
 - A. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.
 - B. A crossing gate is lowered.
 - C. A flagperson gives or continues to give a signal of the approach or passage of a train.
 - D. There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.
 - E. An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.
 - F. There is insufficient undercarriage clearance to safely negotiate the crossing.
 - (2) A person who is driving a vehicle and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (a)(1)A. to F. of this section exist at the crossing.

(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(ORC 4511.62)

331.40 STOPPING AT GRADE CROSSING.

- (a) (1) Except as provided in subsection (a)(2) hereof, the operator of any bus, any school vehicle, or any vehicle transporting material required to be placarded under 49 CFR Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle, and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.
- (2) This section does not apply at grade crossings when the Ohio Public Utilities Commission has authorized and approved an exempt crossing as provided in this subsection.
- A. Any local authority may file an application with the Commission requesting the approval of an exempt crossing. Upon receipt of such a request, the Commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The Commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the Commission shall notify each railroad operating over the crossing of the comment period.
- B. After considering any comments or other information received, the Commission may approve or reject the application. By order, the Commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing as ordered by the Commission and any other conditions ordered by the Commission are satisfied.
- C. By order, the Commission may rescind any exempt crossing designation made under this section if the Commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The Commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing designation. If the Commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.

- (3) As used in this section:
 - A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
 - B. "Bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.
 - C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this section.
- (4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 4511.63)
- (b)
 - (1) When authorized stop signs are erected at railroad grade crossings, the operator of any vehicle shall stop within fifty but not less than fifteen feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
 - (2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.61)

331.41 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.

(a) No person shall operate a vehicle across public or private property marked with signs "No Through Traffic" or words of similar import for the purpose of passing from one roadway to another.

(b) No person shall operate a vehicle across public or private property for the purpose of avoiding compliance with a traffic control device.

(c) It shall be prima-facie evidence of a violation of this section for the operator of a vehicle to cross public or private property as provided herein without using the service of such property, stopping the engine or both.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

331.42 LITTERING FROM MOTOR VEHICLE.

(a) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit litter from any motor vehicle in operation upon any street, road or highway, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(b) No operator of a motor vehicle in operation upon any street, road or highway shall allow litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.

(c) As used in this section, "litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4511.82)

331.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.

(a) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears. As used in this section, "earphones" means any headset, radio, tape player or other similar device that provides the listener with radio programs, music or other recorded information through a device attached to the head and that covers all or a portion of both ears. "Earphones" does not include speakers or other listening devices that are built into protective headgear.

(b) This section does not apply to:

- (1) Any person wearing a hearing aid;
- (2) Law enforcement personnel while on duty;
- (3) Fire personnel and emergency medical service personnel while on duty;
- (4) Any person engaged in the operation of equipment for use in the maintenance or repair of any street or highway; or
- (5) Any person engaged in the operation of refuse collection equipment.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.84)

331.44 TEXT MESSAGING WHILE DRIVING.

- (a) As used in this section:
- (1) “Text message” means a message sent, stored, or received via a mobile communication device. For purposes of this section, an e-mail message shall be considered a text message.
 - (2) “Mobile communication device” means any portable electronic device capable of transmitting or receiving data in the form of a text message or capable of accessing the Internet, including but not limited to a wireless telephone, a text-messaging device, a personal digital assistant, or a personal computer.
- (b) No person shall operate a motor vehicle while using a mobile communication device to:
- (1) Compose, send or read a text message, or
 - (2) Send, read, create, play or interact with Internet-based content.
- (c) Notwithstanding the provisions of subsection (b) hereof, this section shall not be construed to prohibit the use of a mobile communication device inside a motor vehicle by:
- (1) A driver using a mobile communication device to report a health or safety emergency, or
 - (2) A driver using a mobile communication device while the motor vehicle is parked, standing, or stopped and is removed from the flow of traffic, in accordance with applicable laws or rules, or is stopped due to the inoperability of such vehicle, or
 - (3) A driver using a mobile communication device in the course of the driver’s duties while operating an emergency or public safety vehicle.
- (d) Whoever violates this section is guilty of a minor misdemeanor.
(Ord. 2010-12. Passed 6-17-10.)

331.45 VEHICULAR OPERATION ON STREET CLOSED DUE TO RISE IN WATER LEVEL.

- (a) No person shall operate a vehicle on or onto a public street or highway that is temporarily covered by a rise in water level, including groundwater or an overflow of water, and that is clearly marked by a sign that specifies that the road is closed due to the rise in water level and that any person who uses the closed portion of the road may be fined up to two thousand dollars (\$2,000).
- (b) A person who is issued a citation for a violation of subsection (a) hereof is not permitted to enter a written plea of guilty and waive the person’s right to contest the citation in court, but instead must appear in person in the proper court to answer the charge.

- (c)
 - (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.
 - (2) In addition to the financial sanctions authorized or required under Section 501.99 and to any costs otherwise authorized or required under any provision of law, the court imposing the sentence upon an offender who is convicted of or pleads guilty to a violation of subsection (a) hereof shall order the offender to reimburse one or more rescuers for the cost any such rescuer incurred in rescuing the person, excluding any cost of transporting the rescued person to a hospital or other facility for treatment of injuries, up to a cumulative maximum of two thousand dollars (\$2,000). If more than one rescuer was involved in the emergency response, the court shall allocate the reimbursement proportionately, according to the cost each rescuer incurred. A financial sanction imposed under this section is a judgment in favor of the rescuer and, subject to a determination of indigency under division (B) of Ohio R.C. 2929.28, a rescuer may collect the financial sanction in the same manner as provided in Ohio R.C. 2929.28.
- (d) As used in this section:
 - (1) “Emergency medical service organization”, “firefighting agency” and “private fire company” have the same meanings as in Ohio R.C. 9.60.
 - (2) “Rescuer” means a state agency, political subdivision, firefighting service, private fire company, or emergency medical service organization.
(ORC 4511.714.)

CHAPTER 333
OVI; Willful Misconduct; Speed

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| <p>333.01 Driving or physical control while under the influence.</p> <p>333.02 Operation in willful or wanton disregard of safety.</p> <p>333.03 Maximum speed limits; assured clear distance ahead.</p> <p>333.031 Approaching a stationary public safety, emergency, or road service vehicle.</p> <p>333.04 Stopping vehicle; slow speed; posted minimum speeds.</p> | <p>333.05 Speed limitations over bridges.</p> <p>333.06 Speed exceptions for emergency or safety vehicles.</p> <p>333.07 Street racing prohibited.</p> <p>333.08 Operation without reasonable control.</p> <p>333.09 Reckless operation on streets, public or private property.</p> <p>333.10 Operation in violation of immobilization order.</p> |
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CROSS REFERENCES

See sectional histories for similar State law
 Drug of abuse defined - see Ohio R.C. 3719.011(A)
 Alcohol defined - see Ohio R.C. 4301.01(B)(1)
 Alteration of prima-facie speed limits - see Ohio R.C.
 4511.21, 4511.22(B), 4511.23
 Failure to control vehicle - see TRAF. 331.34
 Walking on highway while under the influence - see TRAF. 371.09

333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

- (a) (1) Operation Generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
- A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - B. The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
 - C. The person has a concentration of ninety-six-thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
 - E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

- F. The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.
- G. The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
- H. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.
- I. The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.
- J. Except as provided in subsection (m) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 - 1. The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 - 2. The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
 - 3. The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - 4. The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
 - 5. The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.

6. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
8. Either of the following applies:
 - a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and, as measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 - b. As measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
9. The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
10. The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
11. The State Board of Pharmacy has adopted a rule pursuant to Ohio R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is

impaired for purposes of operating any vehicle within this Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.

- (2) No person who, within twenty years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) or (B), or any other equivalent offense shall do both of the following:
 - A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
 - B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

(b) Operation After Under-Age Consumption. No person under twenty-one years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:

- (1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.
- (2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.
- (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
- (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections. (ORC 4511.99)

(d) Physical Control.

- (1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
- (2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
 1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 2. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.

- 3. Except as provided in subsection (d)(3) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in subsection (a)(1)J. hereof.
 - B. No person under twenty-one years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.
- (3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in subsection (a)(1)J. hereof, if both of the following apply:
 - A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (e) Evidence; Tests.
 - (1)
 - A. In any criminal prosecution or juvenile court proceeding for a violation of (a)(1)A. of this section or for any equivalent offense, that is vehicle-related the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.
 - B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a) or (b) of this section or for an equivalent offense that is vehicle related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio R.C. 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this section when a person submits to a blood, breath, urine or other bodily substance test at the request of a law enforcement officer under Ohio R.C. 4511.191, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this subsection may refuse to withdraw blood under this subsection, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

The bodily substance withdrawn under subsection (e)(1)B. hereof shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R.C. 3701.143.

C. As used in subsection (e)(1)B. of this section, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

- (2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.

- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis. If the chemical test was obtained pursuant to subsection (e)(1)B. hereof, the person tested may have a physician, a registered nurse, or a qualified technician, chemist or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in division (A)(5) of Ohio R.C. 4511.191, the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in division (A)(5) of Ohio R.C. 4511.191, the form to be read to the person to be tested, as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.
- (4) A. As used in subsections (e)(4)B. and C. of this section, "national highway traffic safety administration" means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.
- B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a), (b) or (d) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine, if a law enforcement officer has administered a field sobriety test to the operator or person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
1. The officer may testify concerning the results of the field sobriety test so administered.
 2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 3. If testimony is presented or evidence is introduced under subsection (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

- C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section. (ORC 4511.19; 4511.194)
- (f) Forensic Laboratory Reports.
- (1) Subject to subsection (f)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)B., C., D., E., F., G., H., I., or J. or (b)(1), (2), (3) or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
- A. The signature, under oath, of any person who performed the analysis;
- B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
- C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;
- D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.
- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (f)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
- (3) A report of the type described in subsection (f)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

(g) Immunity From Liability For Withdrawing Blood. Except as otherwise provided in this subsection, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this subsection also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this subsection is not available to a person who withdraws blood if the person engaged in willful or wanton misconduct.

As used in this subsection, “emergency medical technician-intermediate” and “emergency medical technician-paramedic” have the same meanings as in Ohio R.C. 4765.01.

(h) General OVI Penalty.

(1) Whoever violates any provision of subsections (a)(1)A. to I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under Ohio R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (h)(1)A. to E. of this section:

A. Except as otherwise provided in subsections (h)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsections (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of three consecutive days. As used in this subsection, three consecutive days means seventy-two consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers’ intervention program certified under Ohio R.C. 5119.38.

The court also may suspend the execution of any part of the three-day jail term under this subsection if it places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three days, requires the offender to attend for the suspended part of the term a drivers’ intervention program so certified, and sentences the

offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.1. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.1. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 5119.38. As used in this subsection, three consecutive days means seventy-two consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers' intervention program, or if the jail at which the offender is to serve the jail term imposed can provide a drivers' intervention program, the court shall sentence the offender to a mandatory jail term of at least six consecutive days.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.2. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.2. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

The court may require the offender, under a community control sanction imposed under Ohio R.C. 2929.25, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services, in addition to the required attendance at drivers' intervention program, that

- the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.
3. In all cases, a fine of not less than three hundred seventy-five dollars (\$375.00) and not more than one thousand seventy-five dollars (\$1,075).
 4. In all cases, a suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege for a definite period of one to three years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022.
- B. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to one violation of subsection (a) or (b) of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the following:
1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.
In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of twenty consecutive days. The court shall impose the twenty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.
In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.
 3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than five hundred twenty-five dollars (\$525.00) and not more than one thousand six hundred twenty-five dollars (\$1,625).
 4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of one to seven years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for ninety days. (ORC 4511.193)
- C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than eight hundred fifty dollars (\$850.00) and not more than two thousand seven hundred fifty dollars (\$2,750).
4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of two to twelve years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)

6. In all cases, the court shall order the offender to participate with a community addiction services provider authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.
- D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) or (b) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law.
- E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.
- (3) If an offender is sentenced to a jail term under subsection (h)(1)B.1. or 2. or (h)(1)C.1. or 2. of this section and if, within sixty days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. As an alternative to a mandatory jail term of ten consecutive days required by subsection (h)(1)B.1. of this section, the court, under this subsection, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of twenty consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of thirty consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty consecutive days required by subsection (h)(1)C.2. of this section, the court, under this subsection, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.
- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.

- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.
- (7) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.

(i) Vehicle Operation After Underage Alcohol Consumption Penalty. Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:

- (1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under subsection (i)(1) of this section as required under that section.
- (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) or (b) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13.
- (3) If the offender also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1416 and if the court imposes a jail term for the violation of subsection (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of Ohio R.C. 2929.24.
- (4) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28, in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the violation of subsection (b) of this section.
(ORC 4511.19)

(j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4511.194)

(k) Compliance With Ohio R.C. Chapter 5119 Standards.

- (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.
- (2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

(l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:

- (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
- (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(o) Conflict of Terms. All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)

(p) Indigent Drivers Alcohol Treatment Fund. Twenty-five dollars (\$25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193.
(ORC 4511.193)

(q) Definitions. As used in this section:

- (1) "Equivalent offense" means any of the following:
 - A. A violation of division (A) or (B) of Ohio R.C. 4511.19;
 - B. A violation of a municipal OVI ordinance;
 - C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
 - D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
 - E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
 - F. A violation of division (A) or (B) of Ohio R.C. 1547.11;
 - G. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine;
 - H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;
 - I. A violation of a former law of this State that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;
- (2) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:
 - A. Except as specifically authorized under this section, the term must be served in a jail.
 - B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to Ohio R.C. 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.

- (3) “Municipal OVI ordinance” and “municipal OVI offense” mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum, or plasma, breath or urine.
- (4) “Community residential sanction”, “continuous alcohol monitoring”, “jail”, “mandatory prison term”, “mandatory term of local incarceration”, “sanction” and “prison term” have the same meanings as in Ohio R.C. 2929.01.
- (5) “Drug of abuse” has the same meaning as in Ohio R.C. 4506.01.
- (6) “Equivalent offense that is vehicle-related” means an equivalent offense that is any of the following:
 - A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;
 - B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19;
 - C. A violation of a former law of this state that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19.(ORC 4511.181)

333.02 OPERATION IN WILLFUL OR WANTON DISREGARD OF SAFETY.

(a) No person shall operate a vehicle on any street or highway in willful or wanton disregard of the safety of persons or property. (ORC 4511.20)

(b) No person shall operate a vehicle on any public or private property other than streets or highways, in willful or wanton disregard of the safety of persons or property.

This subsection does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.201)

(d) Whenever a person is found guilty under this section of operating a motor vehicle in violation of this section relating to reckless operation, the trial court of any court of record, in addition to or independent of all other penalties provided by law, may impose a class five suspension of the offender’s driver’s or commercial driver’s license or permit or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. (ORC 4510.15)

333.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.

(a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead.

(b) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to Ohio R.C. 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:

- (1) A. Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when twenty miles per hour school speed limit signs are erected; except, that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(4) hereof and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(7) hereof. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic control devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.
- B. As used in this section, "school" means any school chartered under Ohio R.C. 3301.16 and any nonchartered school that during the preceding year filed with the Department of Education in compliance with rule 3301-35-08 of the Ohio Administrative Code, a copy of the school's report for the parents of the school's pupils certifying that the school meets Ohio minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone.
- C. As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway. Upon request from the Municipality for streets and highways under its jurisdiction, the Ohio Director of Transportation may extend the traditional school zone boundaries. The distances in subsections (b)(1)C.1. to 3. hereof shall not exceed 300 feet per approach per direction and are bounded by whichever of the following distances or combinations thereof the Director approves as most appropriate:
 1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
 2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;

3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of highway; Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in subsections (b)(1)A. and C. hereof.
- D. As used in this subsection, "crosswalk" has the meaning given that term in Section 301.09. The Director may, upon request by resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers necessary, designate a school zone on any portion of a State route lying within the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet on each approach direction of the State route;
- (2) Twenty-five miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys;
- (3) Thirty-five miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in subsections (b)(4) and (5) hereof;
- (4) Fifty miles per hour on controlled-access highways and expressways within the Municipality;
- (5) Fifty miles per hour on State routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this section;
- (6) Fifteen miles per hour on all alleys within the Municipality;
- (7) Fifty-five miles per hour at all times on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(10) and (12);
- (8) Sixty miles per hour for operators of any motor vehicle at all times on all portions of rural divided highways;
- (9) Sixty-five miles per hour for operators of any motor vehicle at all times on rural expressways without traffic control signals;
- (10) Seventy miles per hour for operators of any motor vehicle at all times on all rural freeways.
- (11) Fifty-five miles per hour for operators of any motor vehicle at all times on all portions of freeways in congested areas as determined by the Director and that are part of the interstate system and are located within a municipal corporation or within an interstate freeway outerbelt;

- (12) Sixty-five miles per hour for operators of any motor vehicle at all times on all portions of freeways in urban areas as determined by the Director and that are part of the interstate system and are part of an interstate freeway outerbelt;

(c) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsection (b)(1)A. to (b)(6) hereof, or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (d) hereof. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.

- (d) No person shall operate a motor vehicle upon a street or highway as follows:
- (1) At a speed exceeding fifty-five miles per hour, except upon a highway, expressway or freeway as provided in subsection (b)(8), (9), (10) and (12) hereof;
 - (2) At a speed exceeding sixty miles per hour upon a highway as provided in subsection (b)(8) hereof;
 - (3) At a speed exceeding sixty-five miles per hour upon an expressway as provided in subsection (b)(9) hereof, except upon a freeway as provided in subsection (b)(10) hereof;
 - (4) At a speed exceeding seventy miles per hour upon a freeway as provided in subsection (b)(10) hereof;
 - (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2) or (L)(2).

(e) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (c) hereof also the speed which subsections (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.

(f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b)(1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d) hereof.

(g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.

(h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.

(i) As used in this section:

- (1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.
- (2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
- (3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
- (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
- (5) "Rural" means outside urbanized areas, as designated in accordance with 23 USC 101, and outside of a business or urban district.

(j) (1) A violation of any provision of this section is one of the following:

- A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;
- B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
- C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.

- (2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of Ohio R.C. 4511.21 or of any provision of a municipal ordinance that is substantially similar to Ohio R.C. 4511.21 and operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, faster than fifty miles an hour in other portions of a municipal corporation, or faster than thirty-five miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.

- (3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine. (ORC 4511.21)

333.031 APPROACHING A STATIONARY PUBLIC SAFETY, EMERGENCY OR ROAD SERVICE VEHICLE.

(a) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, emergency vehicle, road service vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle that is displaying the appropriate visual signals by means of flashing, oscillating or rotating lights, as prescribed in Section 337.16, shall do either of the following:

- (1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.
- (2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.

(b) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(c) No person shall fail to drive a motor vehicle in compliance with subsection (a)(1) or (2) of this section when so required by subsection (a) of this section.

- (d) (1) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (2) Notwithstanding Section 303.99(b), upon a finding that a person operated a motor vehicle in violation of subsection (c) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation. (ORC 4511.213)

333.04 STOPPING VEHICLE; SLOW SPEED; POSTED MINIMUM SPEEDS.

(a) No person shall stop or operate a vehicle at such an unreasonably slow speed as to impede or block the normal and reasonable movement of traffic, except when stopping or reduced speed is necessary for safe operation or to comply with law.

(b) Whenever, in accordance with Ohio R.C. 4511.22(B), the minimum speed limit of a controlled-access highway, expressway or freeway has been declared and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. No person shall operate a motor vehicle below the speed limits posted upon such signs except when necessary for safe operation or in compliance with law.

(c) In a case involving a violation of this section, the trier of fact, in determining whether the vehicle was being operated at an unreasonably slow speed, shall consider the capabilities of the vehicle and its operator.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.22)

333.05 SPEED LIMITATIONS OVER BRIDGES.

(a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed that can be maintained with safety to such bridge or structure, when such structure is posted with authorized signs stating such maximum speed. Such signs shall be erected and maintained at a distance of at least 100 feet before each end of such structure.

(b) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed and the existence of such signs shall constitute prima-facie evidence of the maximum speed which can be maintained with safety to such bridge or structure.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.23)

333.06 SPEED EXCEPTIONS FOR EMERGENCY OR SAFETY VEHICLES.

The prima-facie speed limitations set forth in Section 333.03 do not apply to emergency vehicles or public safety vehicles when they are responding to emergency calls and are equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and when the drivers thereof sound audible signals by bell, siren or exhaust whistle. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons using the street or highway. (ORC 4511.24)

333.07 STREET RACING PROHIBITED.

(a) As used in this section, "street racing" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds.

Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as the participants. The operation of two or more vehicles side by side either at speeds in excess of prima-facie lawful speeds established by Section 333.03 or rapidly accelerating from a common starting point to a speed in excess of such prima-facie lawful speeds shall be prima-facie evidence of street racing.

(b) No person shall participate in street racing upon any public road, street or highway in this Municipality.

(c) Whoever violates this section is guilty of street racing, a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege for not less than thirty days or more than three years. No judge shall suspend the first thirty days of any suspension of an offender's license, permit, or privilege imposed under this subsection. (ORC 4511.251)

333.08 OPERATION WITHOUT REASONABLE CONTROL.

(a) No person shall operate a motor vehicle, agricultural tractor, or agricultural tractor that is towing, pulling, or otherwise drawing a unit of farm machinery on any street, highway, or property open to the public for vehicular traffic without being in reasonable control of the vehicle, agricultural tractor or unit of farm machinery.

(b) Whoever violates this section is guilty of operating a motor vehicle or agricultural tractor without being in control of it, a minor misdemeanor. (ORC 4511.202)

333.09 RECKLESS OPERATION ON STREETS, PUBLIC OR PRIVATE PROPERTY.

(a) No person shall operate a vehicle on any street or highway without due regard for the safety of persons or property.

(b) No person shall operate a vehicle on any public or private property other than streets or highways, without due regard for the safety of persons or property.

This subsection does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

333.10 OPERATION IN VIOLATION OF IMMOBILIZATION ORDER.

(a) No person shall operate a motor vehicle or permit the operation of a motor vehicle upon any public or private property used by the public for vehicular travel or parking knowing or having reasonable cause to believe that the motor vehicle has been ordered immobilized pursuant to an immobilization order issued under Ohio R.C. 4503.233.

(b) A motor vehicle that is operated by a person during a violation of subsection (a) hereof shall be criminally forfeited in accordance with the procedures contained in Ohio R.C. 4503.234.

(c) Whoever violates this section is guilty of a misdemeanor of the second degree. (ORC 4503.236)

CHAPTER 335 Licensing; Accidents

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| <p>335.01 Driver's license or commercial driver's license required.</p> <p>335.02 Permitting operation without valid license; one license permitted.</p> <p>335.021 Ohio driver's license required for in state residents.</p> <p>335.03 Driving with temporary instruction permit; curfew.</p> <p>335.031 Driving with probationary license; curfew.</p> <p>335.04 Certain acts prohibited.</p> <p>335.05 Wrongful entrustment of a motor vehicle.</p> <p>335.06 Display of license.</p> <p>335.07 Driving under suspension or license restriction.</p> <p>335.071 Driving under OVI suspension.</p> <p>335.072 Driving under financial responsibility law suspension or cancellation; driving under a nonpayment of judgement suspension.</p> | <p>335.073 Driving without complying with license reinstatement requirements.</p> <p>335.074 Driving under license forfeiture or child support suspension.</p> <p>335.08 Operation or sale without certificate of title.</p> <p>335.09 Display of license plates.</p> <p>335.10 Expired or unlawful license plates.</p> <p>335.11 Use of illegal license plates; transfer of registration.</p> <p>335.111 Registration within thirty days of residency.</p> <p>335.12 Stopping after accident upon streets; collision with unattended vehicle.</p> <p>335.13 Stopping after accident upon property other than street.</p> <p>335.14 Vehicle accident resulting in damage to realty.</p> |
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CROSS REFERENCES

See sectional histories for similar State law

Deposit of driver's license as bond - see Ohio R.C. 2937.221

Motor vehicle licensing law - see Ohio R.C. Ch. 4503

Driver's license law - see Ohio R.C. Ch. 4507

Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. Ch. 4510

State point system suspension - see Ohio R.C. 4510.03.6

State accident reports - see Ohio R.C. 4509.01(J), 4509.06, 4509.74, 5502.11

Motorized bicycle operator's license - see Ohio R.C. 4511.521

Glass removal from street after accident - see TRAF. 311.01

335.01 DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE REQUIRED.

- (a) (1) No person, except those expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motor vehicle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid driver's license issued under Ohio R.C. Chapter 4507 or a commercial driver's license issued under Ohio R.C. Chapter 4506.
- (2) No person, except a person expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motorcycle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid license as a motorcycle operator that was issued upon application by the Registrar of Motor Vehicles under Ohio R.C. Chapter 4507. The license shall be in the form of an endorsement, as determined by the Registrar, upon a driver's or commercial driver's license, if the person has a valid license to operate a motor vehicle or commercial motor vehicle, or in the form of a restricted license as provided in Ohio R.C. 4507.14, if the person does not have a valid license to operate a motor vehicle or commercial motor vehicle.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a)(1) or (2) of this section may be admitted into evidence as prima-facie evidence that the person did not have either a valid driver's or commercial driver's license at the time of the alleged violation of subsection (a)(1) of this section or a valid license as a motorcycle operator either in the form of an endorsement upon a driver's or commercial driver's license or a restricted license at the time of the alleged violation of subsection (a)(2) of this section. The person charged with a violation of subsection (a)(1) or (2) of this section may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates this section is guilty of operating a motor vehicle or motorcycle without a valid license and shall be punished as follows:

- (1) If the trier of fact finds that the offender never has held a valid driver's or commercial driver's license issued by this state or any other jurisdiction, or, in a case involving the operation of a motorcycle by the offender, if the offender has never held a valid license as a motorcycle operator, either in the form of an endorsement upon a driver's or commercial driver's license or in the form of a restricted license, except as otherwise provided in this subsection, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours.

The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If the offender previously has been convicted of or pleaded guilty to any violation of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

- (2) If the offender's driver's or commercial driver's license or permit or, in a case involving the operation of a motorcycle by the offender, the offender's driver's or commercial driver's license bearing the motorcycle endorsement or the offender's restricted license was expired at the time of the offense, except as otherwise provided in this subsection, the offense is a minor misdemeanor. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

(d) The court shall not impose a license suspension for a first violation of this section or if more than three years have passed since the offender's last violation of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance.

(e) If the offender is sentenced under subsection (c)(2) hereof, if within three years of the offense the offender previously was convicted of or pleaded guilty to one or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, and if the offender's license was expired for more than six months at the time of the offense, the court may impose a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4510.12)

335.02 PERMITTING OPERATION WITHOUT VALID LICENSE; ONE LICENSE PERMITTED.

(a) No person shall permit the operation of a motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking knowing the operator does not have a valid driver's license issued to the operator by the Registrar of Motor Vehicles under Ohio R.C. Chapter 4507 or a valid commercial driver's license issued under Ohio R.C. Chapter 4506.

(b) No person shall receive a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, unless and until he surrenders to the Registrar all valid licenses issued to him by another jurisdiction recognized by the State of Ohio. No person shall be permitted to have more than one valid license at any time. (ORC 4507.02)

- (c) (1) Except as otherwise provided in this subsection, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000) and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect

criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.02 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

- (2) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree. (ORC 4507.02; 4507.99)

335.021 OHIO DRIVER'S LICENSE REQUIRED FOR IN STATE RESIDENTS.

(a) Any person who becomes a resident of this State, within thirty days of becoming a resident, shall surrender any driver's license issued by another state to the Registrar of Motor Vehicles or a Deputy Registrar. If such a person intends to operate a motor vehicle upon the public roads or highways, the person shall apply for a driver's license in this State. If the person fails to apply for a driver's license within thirty days of becoming a resident, the person shall not operate any motor vehicle in this Municipality under a license issued by another state.

- (b)
 - (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.
 - (2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(c) For purposes of subsection (a) of this section, "resident" means any person to whom any of the following applies:

- (1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.
- (2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01. (ORC 4507.213)

335.03 DRIVING WITH TEMPORARY INSTRUCTION PERMIT; CURFEW.

(a) No holder of a temporary instruction permit issued under Ohio R.C. 4507.05(A) shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in violation of the following conditions:

- (1) If the permit is issued to a person who is at least fifteen years six months of age, but less than sixteen years of age:
 - A. The permit and identification card are in the holder's immediate possession;
 - B. The holder is accompanied by an eligible adult who actually occupies the seat beside the permit holder and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Ohio R.C. 4511.19(A);
 - C. The total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.
- (2) If the permit is issued to a person who is at least sixteen years of age:
 - A. The permit and identification card are in the holder's immediate possession;

- B. The holder is accompanied by a licensed operator who is at least twenty-one years of age and is actually occupying a seat beside the driver and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Ohio R.C. 4511.19(A);
- C. The total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(b) Except as provided in subsection (b) hereof, no holder of a temporary instruction permit that is issued under Ohio R.C. 4507.05(A) and that is issued on or after July 1, 1998, and who has not attained the age of eighteen years, shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m.

The holder of a permit issued under Ohio R.C. 4507.05(A) on or after July 1, 1998, who has not attained the age of eighteen years, may operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m. if, at the time of such operation, the holder is accompanied by the holder's parent, guardian, or custodian, and the parent, guardian or custodian holds a current valid driver's or commercial driver's license issued by this State and is actually occupying a seat beside the permit holder, and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Section 333.01(a).

(c) As used in this section:

(1) "Eligible adult" means any of the following:

- A. An instructor of a driver education course approved by the Department of Education or a driver training course approved by the Department of Public Safety;
- B. Any of the following persons who holds a current valid driver's or commercial driver's license issued by this State:
 - 1. A parent, guardian or custodian of the permit holder;
 - 2. A person twenty-one years of age or older who acts in loco parentis of the permit holder.

(2) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4507.05)

335.031 DRIVING WITH PROBATIONARY LICENSE; CURFEW.

- (a) (1) A. No holder of a probationary driver's license who has held the license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m. unless the holder is accompanied by the holder's parent or guardian.
- B. No holder of a probationary driver's license who has held the license for twelve months or longer shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of one a.m. and five a.m. unless the holder is accompanied by the holder's parent or guardian.

- (2) A. Subject to subsection (c)(1) of this section, subsection (a)(1)A. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:
 - 1. Traveling to or from work between the hours of midnight and six a.m. provided that the holder has in the holder's immediate possession written documentation from the holder's employer.
 - 2. Traveling to or from an official function sponsored by the school the holder attends between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;
 - 3. Traveling to or from an official religious event between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.
- B. Subsection (a)(1)B. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:
 - 1. Traveling to or from work between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from the holder's employer.
 - 2. Traveling to or from an official function sponsored by the school the holder attends between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;
 - 3. Traveling to or from an official religious event between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.
- (3) An employer, school official or official affiliated with a religious event is not liable in damages in a civil action for any injury, death or loss to person or property that allegedly arises from, or is related to, the fact that the employer, school official, or official affiliated with a religious event provided the holder of a probationary driver's license with the written documentation described in subsection (a)(2) of this section.

The Registrar of Motor Vehicles shall make available at no cost a form to serve as the written documentation described in subsection (a)(2) of this section, and employers, school officials, officials affiliated with religious events, and holders of probationary driver's licenses may utilize that form or may choose to utilize any other written documentation to meet the requirements of that subsection.
- (4) No holder of a probationary driver's license who has held the license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking with more than one person who is not a family member occupying the vehicle unless the probationary license holder is accompanied by the probationary license holder's parent, guardian or custodian.

(b) It is an affirmative defense to a violation of subsection (a)(1)A. or B. of this section if, at the time of the violation, an emergency existed that required the holder of the probationary driver's license to operate a motor vehicle in violation of subsection (a)(1)A. or B. of this section; or the holder was an emancipated minor.

- (c) (1) If a person is issued a probationary driver's license prior to attaining the age of seventeen years and the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed a moving violation during the six-month period commencing on the date on which the person is issued the probationary driver's license, the court with jurisdiction over the violation may order that the holder must be accompanied by the holder's parent or guardian whenever the holder is operating a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking for a period not to exceed six months or the date the holder attains the age of seventeen years, whichever occurs first.
- (2) Any person who is subject to the operating restrictions established under subsection (c)(1) of this section as a result of a first moving violation may petition the court for driving privileges without being accompanied by the holder's parent or guardian during the period of time determined by the court under that subsection. In granting the driving privileges, the court shall specify the purposes of the privileges and shall issue the person appropriate forms setting forth the privileges granted. If a person is convicted of, pleads guilty to, or is adjudicated in juvenile court of having committed a second or subsequent moving violation, the court with jurisdiction over the violation may terminate any driving privileges previously granted under this division.
- (3) No person shall violate any operating restriction imposed under subsection (c)(1) or (2) of this section.

(d) No holder of a probationary license shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking unless the total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(e) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether each occupant of the motor vehicle is wearing all of the available elements of a properly adjusted occupant restraining device as required by subsection (d) hereof, or for the sole purpose of issuing a ticket, citation, or summons if the requirement in that subsection has been or is being violated, or for causing the arrest of or commencing a prosecution of a person for a violation of that requirement.

(f) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (a)(1)A. or B. hereof has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for such a violation or for causing the arrest of or commencing a prosecution of a person for such violation.

- (g) As used in this section:
- (1) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.
 - (2) "Family member" of a probationary license holder includes any of the following:
 - A. A spouse;
 - B. A child or stepchild;
 - C. A parent, stepparent, grandparent, or parent-in-law;
 - D. An aunt or uncle;
 - E. A sibling, whether or the whole or half blood or by adoption, a brother-in-law or a sister-in-law;
 - F. A son or daughter of the probationary license holder's stepparent if the stepparent has not adopted the probationary license holder;
 - G. An eligible adult, as defined in Ohio R.C. 4507.05.
 - (3) "Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles, streetcars, or trackless trolleys on the highways or streets. "Moving violation" does not include a violation of Ohio R.C. 4513.263 or a substantially equivalent municipal ordinance, or a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, vehicle size or load limitations, vehicle fitness requirements, or vehicle registration.

(h) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4507.071)

335.04 CERTAIN ACTS PROHIBITED.

- (a) No person shall do any of the following:
- (1) Display, or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, suspended or altered;
 - (2) Lend to a person not entitled thereto, or knowingly permit a person not entitled thereto to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;
 - (3) Display or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit not issued to the person so displaying the same;
 - (4) Fail to surrender to the Registrar of Motor Vehicles, upon the Registrar's demand, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit that has been suspended or canceled;
 - (5) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit, or any renewal or duplicate thereof, knowingly conceal a material fact, or present any physician's statement required under Ohio R.C. 4507.08 or 4507.081 when knowing the same to be false or fictitious.
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 4507.30)

335.05 WRONGFUL ENTRUSTMENT OF A MOTOR VEHICLE.

(a) No person shall permit a motor vehicle owned by the person or under the person's control to be driven by another if any of the following apply:

- (1) The offender knows or has reasonable cause to believe that the other person does not have a valid driver's or commercial driver's license or permit or valid nonresident driving privileges.
- (2) The offender knows or has reasonable cause to believe that the other person's driver's or commercial driver's license or permit or nonresident operating privileges have been suspended or canceled under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or this Traffic Code.
- (3) The offender knows or has reasonable cause to believe that the other person's act of driving the motor vehicle would violate any prohibition contained in Ohio R.C. Chapter 4509.
- (4) The offender knows or has reasonable cause to believe that the other person's act of driving would violate Ohio R.C. 4511.19 or any substantially equivalent municipal ordinance.
- (5) The offender knows or has reasonable cause to believe that the vehicle is the subject of an immobilization waiver order issued under Ohio R.C. 4503.235 and the other person is prohibited from operating the vehicle under that order.

(b) Without limiting or precluding the consideration of any other evidence in determining whether a violation of subsection (a)(1), (2), (3), (4) or (5) of this section has occurred, it shall be prima-facie evidence that the offender knows or has reasonable cause to believe that the operator of the motor vehicle owned by the offender or under the offender's control is in a category described in subsection (a)(1), (2), (3), (4) or (5) of this section if any of the following applies:

- (1) Regarding an operator allegedly in the category described in subsection (a)(1), (3) or (5) of this section, the offender and the operator of the motor vehicle reside in the same household and are related by consanguinity or affinity.
- (2) Regarding an operator allegedly in the category described in subsection (a)(2) of this section, the offender and the operator of the motor vehicle reside in the same household, and the offender knows or has reasonable cause to believe that the operator has been charged with or convicted of any violation of law or ordinance, or has committed any other act or omission, that would or could result in the suspension or cancellation of the operator's license, permit or privilege.
- (3) Regarding an operator allegedly in the category described in subsection (a)(4) of this section, the offender and the operator of the motor vehicle occupied the motor vehicle together at the time of the offense.

(c) Whoever violates this section is guilty of wrongful entrustment of a motor vehicle and shall be punished as provided in subsections (c) to (h) of this section.

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a)(1), (2) or (3) of this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28,

the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02.

- (2) A. If, within three years of a violation of subsection (a)(1), (2) or (3) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of division (A)(1), (2) or (3) of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
- B. Whoever violates subsection (a)(4) or (5) of this section is guilty of a misdemeanor of the first degree.
- (3) For any violation of this section, in addition to the penalties imposed under Section 303.99, the court may impose a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02, and, if the vehicle involved in the offense is registered in the name of the offender, the court may order one of the following:
 - A. Except as otherwise provided in subsection (c)(3)B. or C. of this section, the court may order, for thirty days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under Ohio R.C. 4503.233.
 - B. If the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the court may order, for sixty days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under Ohio R.C. 4503.233.
 - C. If the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the court may order the criminal forfeiture to the state of the vehicle involved in the offense. If issued, the order shall be issued and enforced under Ohio R.C. 4503.234.

If title to a motor vehicle that is subject to an order for criminal forfeiture under this subsection is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national automobile dealer's association. The proceeds from any fine imposed under this subsection shall be distributed in accordance with division (C)(2) of Ohio R.C. 4503.234.

(d) If a court orders the immobilization of a vehicle under subsection (c) of this section, the court shall not release the vehicle from the immobilization before the termination of the period of immobilization ordered unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(e) If a court orders the criminal forfeiture of a vehicle under subsection (c) of this section, upon receipt of the order from the court, neither the Registrar of Motor Vehicles nor any deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the order. The period of denial shall be five years after the date the order is issued, unless, during that five-year period, the court with jurisdiction of the offense that resulted in the order terminates the forfeiture and notifies the Registrar of the termination. If the court terminates the forfeiture and notifies the Registrar, the Registrar shall take all necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer the registration of the vehicle.

(f) This section does not apply to motor vehicle rental dealers or motor vehicle leasing dealers, as defined in Ohio R.C. 4549.65.

(g) Evidence of a conviction of, plea of guilty to, or adjudication as a delinquent child for a violation of this section or a substantially similar municipal ordinance shall not be admissible as evidence in any civil action that involves the offender or delinquent child who is the subject of the conviction, plea, or adjudication and that arises from the wrongful entrustment of a motor vehicle.

(h) For purposes of this section, a vehicle is owned by a person if, at the time of a violation of this section, the vehicle is registered in the person's name.
(ORC 4511.203)

335.06 DISPLAY OF LICENSE.

(a) The operator of a motor vehicle shall display the operator's driver's license, or furnish satisfactory proof that the operator has a driver's license, upon demand of any peace officer or of any person damaged or injured in any collision in which the licensee may be involved. When a demand is properly made and the operator has the operator's driver's license on or about the operator's person, the operator shall not refuse to display the license. A person's failure to furnish satisfactory evidence that the person is licensed under Ohio R.C. Chapter 4507 when the person does not have the person's license on or about the person's person shall be prima-facie evidence of the person's not having obtained a driver's license.

- (b) (1) Except as provided in subsection (b)(2) hereof, whoever violates this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.35 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree. (ORC 4507.35)

335.07 DRIVING UNDER SUSPENSION OR LICENSE RESTRICTION.

(a) Except as provided under subsection (b) hereof and Sections 335.072 and 335.074, no person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under any provision of the Ohio Revised Code, other than Ohio R.C. Chapter 4509, or under any applicable law in any other jurisdiction in which the person's license or permit was issued shall operate any motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this Municipality during the period of suspension unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges.

(b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality in violation of any restriction of the person's driver's or commercial driver's license or permit imposed under division (D) of Ohio R.C. 4506.10 or under Ohio R.C. 4507.14.

(c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under suspension at the time of the alleged violation of subsection (a) of this section or the person operated a motor vehicle in violation of a restriction at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsection (a) or (b) of this section may offer evidence to rebut this prima-facie evidence.

- (d) (1) Whoever violates subsection (a) or (b) hereof, is guilty of a misdemeanor of the first degree. The court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.
- (2) A. Except as provided in subsection (d)(2)B. or C. of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or a substantially equivalent municipal ordinance, the court, in addition to or independent of any other sentence that it imposes upon the offender, may order the immobilization of the vehicle involved in the offense for thirty days and the impoundment of that vehicle's license plates for thirty days in accordance with Ohio R.C. 4503.233.
- B. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two violations of Ohio R.C. 4510.11 or any combination of two violations of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the immobilization of the vehicle involved in the offense for sixty days and the impoundment of that vehicle's license plates for sixty days in accordance with Ohio R.C. 4503.233.

- C. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 4510.11, or any combination of three or more violations of Ohio R.C. 4501.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the criminal forfeiture of the vehicle involved in the offense to the State.

(e) Any order for immobilization and impoundment under this section shall be issued and enforced under Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(f) Any order of criminal forfeiture under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of the copy of the order from the court, neither the Ohio Registrar of Motor Vehicles nor a deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that lead to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar shall then take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

(g) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section. (ORC 4510.11)

(h) Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender under this section and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of driving under a twelve-point suspension, a misdemeanor of the first degree. The court shall sentence the offender to a minimum term of three days in jail. No court shall suspend the first three days of jail time imposed pursuant to this subsection. (ORC 4510.037)

335.071 DRIVING UNDER OVI SUSPENSION.

(a) No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under Ohio R.C. 4511.19, 4511.191, or 4511.196 or under Ohio R.C. 4510.07 for a conviction of a violation of a municipal OVI ordinance shall operate any motor vehicle upon the public roads or highways within this Municipality during the period of the suspension.

(b) Whoever violates this section is guilty of driving under OVI suspension. The court shall sentence the offender under Ohio R.C. Chapter 2929, subject to the differences authorized or required by this section.

- (1) Except as otherwise provided in subsection (b)(2) or (3) of this section, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

- A. A mandatory jail term of three consecutive days. The three-day term shall be imposed, unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than thirty consecutive days of house arrest with electronic monitoring. A period of house arrest with electronic monitoring imposed under this subsection shall not exceed six months. If the court imposes a mandatory three-day jail term under this subsection, the court may impose a jail term in addition to that term, provided that in no case shall the cumulative jail term imposed for the offense exceed six months.
 - B. A fine of not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000).
 - C. A license suspension under subsection (e) of this section.
- (2) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of this section or one equivalent offense, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:
- A. A mandatory jail term of ten consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The ten-day mandatory jail term shall be imposed unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than ninety consecutive days of house arrest with electronic monitoring. The period of house arrest with electronic monitoring shall not exceed one year.
 - B. Notwithstanding the fines provided for in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars (\$500.00) and not more than two thousand five hundred dollars (\$2,500).
 - C. A license suspension under subsection (e) of this section.
- (3) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of this section or two or more equivalent offenses, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:
- A. A mandatory jail term of thirty consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The court shall not sentence the offender to a term of house arrest with electronic monitoring in lieu of the mandatory portion of the jail term.
 - B. Notwithstanding the fines set forth in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars (\$500.00) and not more than two thousand five hundred dollars (\$2,500).
 - C. A license suspension under subsection (e) of this section.

(c) No court shall impose an alternative sentence of house arrest with electronic monitoring under subsection (b)(1) or (2) of this section unless, within sixty days of the date of sentencing, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the jail term imposed, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing.

An offender sentenced under this section to a period of house arrest with electronic monitoring shall be permitted work release during that period.

(d) Fifty per cent of any fine imposed by a court under subsection (b)(1), (2) or (3) of this section shall be deposited into the county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation pursuant to division (H) of Ohio R.C. 4511.191.

(e) In addition to or independent of all other penalties provided by law or ordinance, the trial judge of any court of record or the mayor of a mayor's court shall impose on an offender who is convicted of or pleads guilty to a violation of this section a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.

When permitted as specified in Ohio R.C. 4510.021, if the court grants limited driving privileges during a suspension imposed under this section, the privileges shall be granted on the additional condition that the offender must display restricted license plates, issued under Ohio R.C. 4503.231, on the vehicle driven subject to the privileges, except as provided in division (B) of that section.

A suspension of a commercial driver's license under this section shall be concurrent with any period of suspension or disqualification under Ohio R.C. 3123.58 or 4506.16. No person who is disqualified for life from holding a commercial driver's license under Ohio R.C. 4506.16 shall be issued a driver's license under Ohio R.C. Chapter 4507 during the period for which the commercial driver's license was suspended under this section, and no person whose commercial driver's license is suspended under this section shall be issued a driver's license under Ohio R.C. Chapter 4507 during the period of the suspension.

(f) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense that is a misdemeanor of the first degree under this section for which the offender is sentenced. (ORC 4510.14)

- (g) (1) If a person is convicted of or pleads guilty to a violation of a municipal ordinance that is substantially equivalent to Ohio R.C. 4510.14, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, shall do whichever of the following is applicable:
- A. If, within six years of the current offense, the offender has not been convicted of or pleaded guilty to a violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for thirty days of the vehicle involved in the offense and the impoundment for thirty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.
 - B. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for sixty days of the vehicle involved in the offense and the impoundment for sixty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.

- C. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02 or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the criminal forfeiture to the State of the vehicle the offender was operating at the time of the offense.
- (2) An order for immobilization and impoundment of a vehicle under this section shall be issued and enforced in accordance with Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.
- (3) An order for criminal forfeiture of a vehicle under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of a copy of the order from the court, neither the Registrar of Motor Vehicles nor a Deputy Registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar then shall take the necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.
(ORC 4510.161)
- (h) As used in this section:
 - (1) "Electronic monitoring" has the same meaning as in Ohio R.C. 2929.01.
 - (2) "Equivalent offense" means any of the following:
 - A. A violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to subsection (a) of this section;
 - B. A violation of a former law of this State that was substantially equivalent to subsection (a) of this section.
 - (3) "Jail" has the same meaning as in Ohio R.C. 2929.01.
 - (4) "Mandatory jail term" means the mandatory term in jail of three, ten, or thirty consecutive days that must be imposed under subsection (b)(1), (2) or (3) of this section upon an offender convicted of a violation of subsection (a) of this section and in relation to which all of the following apply:
 - A. Except as specifically authorized under this section, the term must be served in a jail.
 - B. Except as specifically authorized under this section, the term cannot be suspended, reduced, or otherwise modified pursuant to any provision of the Ohio Revised Code.
(ORC 4510.14)

**335.072 DRIVING UNDER FINANCIAL RESPONSIBILITY LAW
SUSPENSION OR CANCELLATION; DRIVING UNDER A
NONPAYMENT OF JUDGMENT SUSPENSION.**

(a) No person, whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to Ohio R.C. Chapter 4509, shall operate any motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during

the period of the suspension or cancellation, except as specifically authorized by Ohio R.C. Chapter 4509. No person shall operate a motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period in which the person is required by Ohio R.C. 4509.45 to file and maintain proof of financial responsibility for a violation of Ohio R.C. 4509.101, unless proof of financial responsibility is maintained with respect to that vehicle.

(b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality if the person's driver's or commercial driver's license or temporary instruction permit or nonresident operating privilege has been suspended pursuant to Ohio R.C. 4509.37 or 4509.40 for nonpayment of a judgment.

(c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth and social security number of a person charged with a violation of subsection (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under either a financial responsibility law suspension at the time of the alleged violation of subsection (a) of this section or a nonpayment of judgment suspension at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsection (a) or (b) of this section may offer evidence to rebut this prima-facie evidence.

(d) Whoever violates subsection (a) of this section is guilty of driving under financial responsibility law suspension or cancellation and shall be punished as provided in subsection (d) hereof. Whoever violates subsection (b) of this section is guilty of driving under a nonpayment of judgment suspension and shall be punished as provided in subsection (d) hereof.

- (1) Except as otherwise provided in subsection (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.16, or any combination of two violations of Ohio R.C. 4510.16 or Ohio R.C. 4510.11 or 4510.111, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree.
- (3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.16)

(e) No person who has knowingly failed to maintain proof of financial responsibility in accordance with Ohio R.C. 4509.101 shall produce any document or present to a peace officer an electronic wireless communications device that is displaying any text or images with the purpose to mislead a peace officer upon the request of a peace officer for proof of financial responsibility made in accordance with Ohio R.C. 4509.101. Whoever violates this subsection (e) hereof is guilty of falsification, a misdemeanor of the first degree. (ORC 4509.102)

335.073 DRIVING WITHOUT COMPLYING WITH LICENSE REINSTATEMENT REQUIREMENTS.

(a) No person whose driver's license, commercial driver's license, temporary instruction permit, or nonresident's operating privilege has been suspended shall operate any motor vehicle upon a public road or highway or any public or private property after the suspension has expired unless the person has complied with all license reinstatement requirements imposed by the court, the Bureau of Motor Vehicles, or another provision of the Ohio Revised Code.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima-facie evidence that the license of the person had not been reinstated by the person at the time of the alleged violation of subsection (a) hereof. The person charged with a violation of subsection (a) hereof may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates this section is guilty of failure to reinstate a license and shall be punished as follows:

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of a violation of subsection (a) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of Ohio R.C. 4510.21(A) or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
- (3) In all cases, the court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary driver's license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4510.21)

335.074 DRIVING UNDER LICENSE FORFEITURE OR CHILD SUPPORT SUSPENSION.

(a) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality whose driver's or commercial driver's license has been suspended pursuant to Ohio R.C. 2151.354, 2151.87, 2935.27, 3123.58, 4301.99, 4510.032, 4510.22 or 4510.33.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under suspension at the time of the alleged violation of subsection (a) of this section. The person charged with a violation of subsection (a) of this section may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates subsection (a) of this section is guilty of driving under suspension and shall be punished as provided in subsection (c) of this section.

- (1) Except as otherwise provided in subsection (c)(2) of this section, the offense is an unclassified misdemeanor. The offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of subsection (A) of Ohio R.C. 4510.111, or any combination of two or more violations of subsection (A) of Ohio R.C. 4510.111, or Ohio R.C. 4510.11 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree and the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.111)

335.08 OPERATION OR SALE WITHOUT CERTIFICATE OF TITLE.

- (a) No person shall do any of the following:
- (1) Operate in this Municipality a motor vehicle for which a certificate of title is required without having that certificate in accordance with Ohio R.C. Chapter 4505 or, if a physical certificate of title has not been issued for a motor vehicle, operate the motor vehicle in this Municipality knowing that the ownership information relating to the vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;
 - (2) Display or display for sale or sell as a dealer or acting on behalf of a dealer, a motor vehicle without having obtained a manufacturer's or importer's certificate, a certificate of title, or an assignment of a certificate of title for it as provided in Ohio R.C. Chapter 4505;
 - (3) Fail to surrender any certificate of title or any certificate of registration or license plates upon cancellation of the same by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4505;

- (4) Fail to surrender the certificate of title to a clerk of a court of common pleas as provided in Ohio R.C. Chapter 4505 in case of the destruction or dismantling or change of a motor vehicle in such respect that it is not the motor vehicle described in the certificate of title;
- (5) Violate any rules adopted pursuant to Ohio R.C. Chapter 4505;
- (6) Except as otherwise provided in Ohio R.C. Chapter 4505 and Chapter 4517, sell at wholesale a motor vehicle the ownership of which is not evidenced by an Ohio certificate of title, or the current certificate of title issued for the motor vehicle, or the manufacturer's certificate of origin, and all title assignments that evidence the seller's ownership of the motor vehicle, and an odometer disclosure statement that complies with Ohio R.C. 4505.06 and subchapter IV of the "Motor Vehicle Information and Cost Savings Act", 86 Stat. 961 (1972), 15 U.S.C. 1981;
- (7) Operate in this Municipality a motor vehicle knowing that the certificate of title to the vehicle or ownership of the vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) This section does not apply to persons engaged in the business of warehousing or transporting motor vehicles for the purpose of salvage disposition.

(c) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both. (ORC 4505.18)

335.09 DISPLAY OF LICENSE PLATES.

- (a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the front and rear of the motor vehicle a license plate that bears the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any county identification sticker and any validation sticker issued under Ohio R.C. 4503.19 and 4503.191, as follows:
 - A. A manufacturer of motor vehicles or dealer therein, the holder of an in transit permit, and the owner or operator of a motorcycle, motorized bicycle or moped, motor-driven cycle or motor scooter, autocycle, cab-enclosed motorcycle, manufactured home, mobile home, trailer or semitrailer shall display a license plate on the rear only.
 - B. A motor vehicle that is issued two license plates shall display the validation sticker only on the rear license plate, except that a commercial tractor that does not receive an apportioned license plate under the international registration plan shall display the validation sticker on the front of the commercial tractor.
 - C. An apportioned vehicle receiving an apportioned license plate under the international registration plan shall display the license plate only on the front of a commercial tractor and on the rear of all other vehicles.
- (2) All license plates shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs their visibility.
- (3) No person to whom a temporary license placard or windshield sticker has been issued for the use of a motor vehicle under Ohio R.C. 4503.182, and no operator of that motor vehicle, shall fail to display the temporary license placard in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle, or fail to display the windshield sticker in plain view on the rear window of the motor vehicle. No temporary license placard or windshield sticker shall be covered by any material that obstructs its visibility.

(b) A law enforcement officer shall only issue a ticket, citation or summons, or cause the arrest or commence a prosecution, for the failure to display a license plate in plain view on the front of a parked motor vehicle if the officer first determines that another offense has occurred and either places the operator or vehicle owner under arrest or issues a ticket, citation, or summons to the operator or vehicle owner for the other offense.

- (c) (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) of this section is guilty of a minor misdemeanor.
- (2) Whoever violates subsection (a) of this section by failing to display a license plate in plain view on the front of a motor vehicle as required under subsection (a) of this section while the motor vehicle is otherwise legally parked is guilty of a minor misdemeanor and may be fined not more than one hundred dollars (\$100.00).
A person who is subject to the penalty prescribed in subsection (c)(2) of this section is not subject to the charging of points under Ohio R.C. 4510.036.
- (3) The offense established under subsection (a) of this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense. (ORC 4503.21)

335.10 EXPIRED OR UNLAWFUL LICENSE PLATES.

(a) No person who is the owner of a motor vehicle which is parked or operated upon the public streets or highways shall fail to annually file the application for registration or to pay the tax therefor, as required by Ohio R.C. Chapter 4503. (ORC 4503.11)

(b) No person shall operate, drive or park upon the public streets or highways a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration. (ORC 4549.11)

(c) No person who is the owner of a motor vehicle and a resident of Ohio shall operate, drive or park the motor vehicle upon the public streets or highways, while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of Ohio relating to the registration and identification of motor vehicles. (ORC 4549.12)

(d) No person shall park or operate any vehicle upon any public street or highway upon which is displayed an expired license plate or an expired validation sticker.

(e) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates not legally registered and issued for such vehicle, or upon which are displayed any license plates that were issued on an application for registration that contains any false statement by the applicant.

- (f) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.
- (2) Whoever violates subsection (b) hereof is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.
- (3) Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor.
(ORC 4549.11; 4549.12)

335.11 USE OF ILLEGAL LICENSE PLATES; TRANSFER OF REGISTRATION.

(a) No person shall operate or drive a motor vehicle upon the streets in this Municipality if it displays a license plate or a distinctive number or identification mark that meets any of the following criteria:

- (1) Is fictitious;
- (2) Is a counterfeit or an unlawfully made copy of any distinctive number or identification mark;
- (3) Belongs to another motor vehicle, provided that this section does not apply to a motor vehicle that is operated on the streets in this Municipality when the motor vehicle displays license plates that originally were issued for a motor vehicle that previously was owned by the same person who owns the motor vehicle that is operated on the streets in this Municipality, during the thirty-day period described in subsection (c) hereof.

(b) Whoever violates subsection (a)(1), (2) or (3) of this section is guilty of operating a motor vehicle bearing an invalid license plate or identification mark, a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense. (ORC 4549.08)

(c) Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle expires, and the original owner shall immediately remove the license plates from the motor vehicle. The transfer of the registration and, where applicable, the license plates from the motor vehicle for which they originally were issued to a succeeding motor vehicle purchased by the same person in whose name the original registration and license plates were issued shall be done within a period not to exceed thirty days. During that thirty-day period, the license plates from the motor vehicle for which they originally were issued may be displayed on the succeeding motor vehicle, and the succeeding motor vehicle may be operated on the streets of the Municipality.

(d) Whoever violates subsection (c) of this section is guilty of a misdemeanor of the fourth degree. (ORC 4503.12)

335.111 REGISTRATION WITHIN THIRTY DAYS OF RESIDENCY.

(a) Within thirty days of becoming a resident of this State, any person who owns a motor vehicle operated or driven upon the public roads or highways shall register the vehicle in this State. If such a person fails to register a vehicle owned by the person, the person shall not operate any motor vehicle in this Municipality under a license issued by another state.

- (b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.
- (2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(c) For purposes of subsection (a) of this section, "resident" means any person to whom any of the following applies:

- (1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.
- (2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01. (ORC 4503.111)

335.12 STOPPING AFTER ACCIDENT UPON STREETS; COLLISION WITH UNATTENDED VEHICLE.

- (a)
 - (1) In the case of a motor vehicle accident or collision with persons or property on a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, immediately shall stop the operator's motor vehicle at the scene of the accident or collision. The operator shall remain at the scene of the accident or collision until the operator has given the operator's name and address and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, to all of the following:
 - A. Any person injured in the accident or collision;
 - B. The operator, occupant, owner or attendant of any motor vehicle damaged in the accident or collision;
 - C. The police officer at the scene of the accident or collision.
 - (2) In the event an injured person is unable to comprehend and record the information required to be given under subsection (a)(1) of this section, the other operator involved in the accident or collision shall notify the nearest police authority concerning the location of the accident or collision, and the operator's name, address and the registered number of the motor vehicle the operator was operating. The operator shall remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance.
 - (3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.
- (b)
 - (1) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after an accident is a misdemeanor of the first degree.
 - (2) If the accident or collision results in serious physical harm to a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.
 - (3) If the accident or collision results in the death of a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.
 - (4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.02)

335.13 STOPPING AFTER ACCIDENT UPON PROPERTY OTHER THAN STREET.

- (a)
 - (1) In the case of a motor vehicle accident or collision resulting in injury or damage to persons or property on any public or private property other than a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, shall stop at the scene of the accident or collision. Upon request of any person who is injured or damaged, or any other person, the operator shall give that person the operator's name and address, and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, and, if available, exhibit the operator's driver's or commercial driver's license.
 - (2) If the operator of the motor vehicle involved in the accident or collision does not provide the information specified in subsection (a)(1) of this section, the operator shall give that information, within twenty-four hours after the accident or collision, to the Police Department.
 - (3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required under subsection (a)(1) of this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.
- (b)
 - (1) Whoever violates subsection (a) of this section is guilty of failure to stop after a nonpublic road accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after a nonpublic road accident is a misdemeanor of the first degree.
 - (2) If the accident or collision results in serious physical harm to a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.
 - (3) If the accident or collision results in the death of a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.
 - (4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.021)

335.14 VEHICLE ACCIDENT RESULTING IN DAMAGE TO REALTY.

(a) The driver of any vehicle involved in an accident resulting in damage to real property, or personal property attached to real property, legally upon or adjacent to a public road or highway immediately shall stop and take reasonable steps to locate and notify the owner or person in charge of the property of that fact, of the driver's name and address, and of the registration number of the vehicle the driver is driving and, upon request and if available, shall exhibit the driver's or commercial driver's license.

If the owner or person in charge of the property cannot be located after reasonable search, the driver of the vehicle involved in the accident resulting in damage to the property, within twenty-four hours after the accident, shall forward to the police authority in the municipality in which the accident or collision occurred, the same information required to be given to the owner or person in control of the property and give the location of the accident and a description of the damage insofar as it is known.

(b) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident involving the property of others, a misdemeanor of the first degree.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.03)

CHAPTER 337 Safety and Equipment

337.01	Driving unsafe vehicles.	337.17	Focus and aim of headlights.
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337.12	Cowl, fender and back-up lights.	337.28	Use of sunscreening, nontransparent and reflectorized materials.
337.13	Display of lighted lights.	337.29	Bumper heights.
337.14	Use of headlight beams.	337.30	Directional signals required.
337.15	Lights of less intensity on slow-moving vehicles.		
337.16	Number of lights; limitations on flashing, oscillating or rotating lights.		

CROSS REFERENCES

See sectional histories for similar State law
 Warning devices for commercial vehicles disabled upon freeways -
 see Ohio R.C. 4513.28
 Slow moving vehicle emblem - see OAC Ch. 4501.13
 Motorized bicycle lights and equipment - see Ohio R.C. 4511.521
 Vehicle lighting - see OAC 4501-15
 Use of stop and turn signals - see TRAF. 331.14
 Wheel protectors for commercial vehicles - see TRAF. 339.05
 Vehicles transporting explosives - see TRAF. 339.06
 Towing requirements - see TRAF. 339.07
 Use of studded tires and chains - see TRAF. 339.11
 Bicycle equipment - see TRAF. 373.05 et seq.

337.01 DRIVING UNSAFE VEHICLES.

(a) No person shall drive or move, or cause or knowingly permit to be driven or moved, on any street any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property.

(b) Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.

(c) The provisions of this chapter with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or agricultural tractors except as made applicable to such articles of machinery. (ORC 4513.02)

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.02 LIGHTED LIGHTS; MEASUREMENT OF DISTANCES AND HEIGHTS.

(a) Every vehicle, other than a motorized bicycle, operated upon a street or highway shall display lighted lights and illuminating devices as required by this chapter during all of the following times:

- (1) The time from sunset to sunrise;
- (2) At any other time when, due to insufficient natural light or unfavorable atmospheric conditions, persons, vehicles, and substantial objects on the street or highway are not discernible at a distance of one thousand feet ahead;
- (3) At any time when the windshield wipers of the vehicle are in use because of precipitation on the windshield.

Every motorized bicycle shall display at such times lighted lights meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521. No motor vehicle, during any time specified in this section, shall be operated upon a street or highway using only parking lights as illumination.

(b) Whenever in this chapter a requirement is declared as to the distance from which certain lights and devices shall render objects visible, or within which such lights or devices shall be visible, such distance shall be measured upon a straight level unlighted street under normal atmospheric conditions unless a different condition is expressly stated.

(c) Whenever in this chapter a requirement is declared as to the mounted height of lights or devices, it shall mean from the center of such light or device to the level ground upon which the vehicle stands.

(d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause the operator of a vehicle being operated upon a street or highway to stop the vehicle solely because the officer observes that a violation of subsection (a)(3) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that subsection, or causing the arrest of or commencing a prosecution of a person for a violation of that subsection.

(e) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.03)

337.03 HEADLIGHTS ON MOTOR VEHICLES AND MOTORCYCLES.

(a) Every motor vehicle, other than a motorcycle, shall be equipped with at least two headlights with at least one near each side of the front of the motor vehicle.

(b) Every motorcycle shall be equipped with at least one and not more than two headlights.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.04)

337.04 TAIL LIGHT; ILLUMINATION OF REAR LICENSE PLATE.

(a) Every motor vehicle, trailer, semitrailer, pole trailer or vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least one tail light mounted on the rear which, when lighted, shall emit a red light visible from a distance of 500 feet to the rear, provided that in the case of a train of vehicles only the tail light on the rear-most vehicle need be visible from the distance specified.

(b) Either a tail light or a separate light shall be so constructed and placed as to illuminate with a white light the rear registration plate, when such registration plate is required, and render it legible from a distance of fifty feet to the rear. Any tail light, together with any separate light for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlights or auxiliary driving lights are lighted, except where separate lighting systems are provided for trailers for the purpose of illuminating such registration plate.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.05)

337.05 REAR RED REFLECTORS.

(a) Every new motor vehicle sold after September 6, 1941, and operated on a street, other than vehicles of the type mentioned in Section 337.06 or a commercial tractor to which a trailer or semitrailer is attached, shall carry at the rear, either as a part of the tail lights or separately, two red reflectors of such size and characteristics and so maintained as to be visible at night from all distances within 300 feet to fifty feet from such vehicle.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.06)

337.06 SAFETY LIGHTING ON COMMERCIAL VEHICLES.

(a) Buses, trucks, commercial tractors, trailers, semitrailers and pole trailers, when operated upon any street, shall be equipped with clearance lights, marker lights, reflectors and stop lights as required by State regulations. Such equipment shall be lighted at all times mentioned in Section 337.02 except that clearance lights and side marker lights need not be lighted on a vehicle operated where there is sufficient light to reveal any person or substantial object on the street at a distance of 500 feet.

Such equipment shall be in addition to all other lights specifically required by Section 337.02 to Section 337.15, inclusive. Vehicles operated under the jurisdiction of the Ohio Public Utilities Commission are not subject to this section.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.07)

337.07 OBSCURED LIGHTS ON VEHICLES IN COMBINATION.

(a) Whenever motor and other vehicles are operated in combination during the time that lights are required, any light, except tail lights, which by reason of its location on a vehicle of the combination would be obscured by another vehicle of the combination need not be lighted, but this section does not affect the requirement that lighted clearance lights be displayed on the front of the foremost vehicle required to have clearance lights or that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.
(ORC 4513.08)

337.08 RED LIGHT OR RED FLAG ON EXTENDED LOADS.

(a) Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in Section 337.02, a red light or lantern plainly visible from a distance of at least 500 feet to the side and rear. The red light or lantern required by this section is in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than sixteen inches square.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.09)

337.09 LIGHTS ON PARKED OR STOPPED VEHICLES.

(a) Except in case of an emergency, whenever a vehicle is parked or stopped upon a roadway open to traffic or shoulder adjacent thereto, whether attended or unattended during the times mentioned in Section 337.02, such vehicle shall be equipped with one or more lights which shall exhibit a white or amber light on the roadway side visible from a distance of 500 feet to the front of such vehicle, and a red light visible from a distance of 500 feet to the rear. No lights need be displayed upon any such vehicle when it is stopped or parked where there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon such street. Any lighted headlights upon a parked vehicle shall be depressed or dimmed.
(ORC 4513.10)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.10 LIGHTS ON SLOW-MOVING VEHICLES; EMBLEM REQUIRED.

(a) All vehicles other than bicycles, including animal-drawn vehicles and vehicles referred to in Section 337.01(c), not specifically required to be equipped with lights or other lighting devices by Section 337.02 to 337.09, shall at all times specified in Section 337.02, be equipped with at least one light displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle, and also shall be equipped with two lights displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one light displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlights.

Lights and reflectors required or authorized by this section shall meet standards adopted by the Ohio Director of Public Safety.

(b) All boat trailers, farm machinery and other machinery, including all road construction machinery, upon a street or highway, except when being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used, or when operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, or the Municipal or County Engineer, when such construction area is marked in accordance with requirements of the Director and the Manual of Uniform Traffic Control Devices, as set forth in Ohio R.C. 4511.09, which is designed for operation at a speed of twenty-five miles per hour or less shall be operated at a speed not exceeding twenty-five miles per hour, and shall display a triangular slow-moving vehicle emblem (SMV). The emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. The Ohio Director of Public Safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for SMV emblems referred to in this section shall correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.

A unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour may be operated on a street or highway at a speed greater than twenty-five miles per hour provided it is operated in accordance with this section.

As used in this subsection (b), "machinery" does not include any vehicle designed to be drawn by an animal.

(c) The use of the SMV emblem shall be restricted to animal-drawn vehicles, and to the slow-moving vehicles specified in subsection (b) hereof operating or traveling within the limits of the highway. Its use on slow-moving vehicles being transported upon other types of vehicles or on any other type of vehicle or stationary object on the highway is prohibited.

- (d) (1) No person shall sell, lease, rent or operate any boat trailer, farm machinery or other machinery defined as a slow-moving vehicle in subsection (b) hereof, except those units designed to be completely mounted on a primary power unit, which is manufactured or assembled on or after April 1, 1966, unless the vehicle is equipped with a slow-moving vehicle emblem mounting device as specified in subsection (b) hereof.
- (2) No person shall sell, lease, rent, or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the unit displays a slow-moving vehicle emblem as specified in subsection (b) of this section and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS).

(e) Any boat trailer, farm machinery, or other machinery defined as a slow-moving vehicle in subsection (b) of this section, in addition to the use of the slow-moving vehicle emblem, and any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour, in addition to the display of a speed identification symbol may be equipped with a red flashing light that shall be visible from a distance of not less than one thousand feet to the rear at all times specified in Section 337.02. When a double-faced light is used, it shall display amber light to the front and red light to the rear.

In addition to the lights described in this subsection, farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating or rotating amber light, as permitted by Section 337.16, and also may display simultaneously flashing turn signals or warning lights, as permitted by that section.

(f) Every animal-drawn vehicle upon a street or highway shall at all times be equipped in one of the following ways:

- (1) With a slow-moving vehicle emblem complying with subsection (b) hereof;
- (2) With alternate reflective material complying with rules adopted under this subsection (f);
- (3) With both a slow-moving vehicle emblem and alternate reflective material as specified in this subsection (f).

The Ohio Director of Public Safety, subject to Ohio R.C. Chapter 119, shall adopt rules establishing standards and specifications for the position of mounting of the alternate reflective material authorized by this subsection (f). The rules shall permit, as a minimum, the alternate reflective material to be black, gray or silver in color. The alternate reflective material shall be mounted on the animal-drawn vehicle so as to be visible at all times specified in Section 337.02, from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps.

(g) Every unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour shall display a slow-moving vehicle emblem and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/ASAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS) when the unit is operated upon a street or highway, irrespective of the speed at which the unit is operated on the street or highway. The speed identification symbol shall indicate the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate. The display of the speed identification symbol shall be in accordance with the standard prescribed in this subsection.

If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour and is towing, pulling or otherwise drawing a unit of farm machinery, the unit of farm machinery shall display a slow-moving vehicle emblem and a speed identification symbol that is the same as the speed identification symbol that is displayed on the agricultural tractor.

(h) When an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour, the operator shall possess some documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.

(i) As used in this section, "boat trailer" means any vehicle designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less.

(j) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.11)

337.11 SPOTLIGHT AND AUXILIARY LIGHTS.

(a) Any motor vehicle may be equipped with not more than one spotlight and every lighted spotlight shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle, nor more than 100 feet ahead of the vehicle.

(b) Any motor vehicle may be equipped with not more than three State approved auxiliary driving lights mounted on the front of the vehicle, which when used shall conform to State regulations.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.12)

337.12 COWL, FENDER AND BACK-UP LIGHTS.

(a) Any motor vehicle may be equipped with side cowl or fender lights or lights on each side thereof which shall emit a white or amber light without glare.

(b) Any motor vehicle may be equipped with back-up lights, either separately or in combination with another light. No back-up lights shall be continuously lighted when the motor vehicle is in forward motion.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.13)

337.13 DISPLAY OF LIGHTED LIGHTS.

(a) At all times mentioned in Section 337.02 at least two State approved lighted lights shall be displayed conforming to State regulations, one near each side of the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles. (ORC 4513.14)

(b) However, on a motorcycle, there shall be displayed at least one and not more than two lighted lights as required herein.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.14)

337.14 USE OF HEADLIGHT BEAMS.

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 337.02, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons, vehicles and substantial objects at a safe distance in advance of the vehicle, except that upon approaching an oncoming vehicle, the lights or beams shall be so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.15)

337.15 LIGHTS OF LESS INTENSITY ON SLOW-MOVING VEHICLES.

(a) Any motor vehicle may be operated under the conditions specified in Section 337.02 when it is equipped with two lighted lights upon the front thereof capable of revealing persons and substantial objects seventy-five feet ahead in lieu of lights required in Section 337.13, provided that such vehicle shall not be operated at a speed in excess of twenty miles per hour.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.16)

337.16 NUMBER OF LIGHTS; LIMITATIONS ON FLASHING, OSCILLATING OR ROTATING LIGHTS.

(a) Whenever a motor vehicle equipped with headlights also is equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candle power, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.

(b) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights or auxiliary driving lights, that projects a beam of light of an intensity greater than 300 candle power, shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

- (c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, road service vehicles servicing or towing a disabled vehicle, rural mail delivery vehicles, vehicles transporting preschool children as provided in Ohio R.C. 4513.182, highway maintenance vehicles, funeral hearses, funeral escort vehicles and similar equipment operated by the Department or local authorities, which shall be equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light, but shall not display a flashing, oscillating or rotating light of any other color, nor to vehicles or machinery permitted by Section 337.10 to have a flashing red light.
- (2) When used on a street or highway, farm machinery and vehicles escorting farm machinery may be equipped with and display a flashing, oscillating, or rotating amber light, and the prohibition contained in subsection (c)(1) hereof does not apply to such machinery or vehicles. Farm machinery also may display the lights described in Section 337.10.

(d) Except a person operating a public safety vehicle, as defined in Section 301.27, or a school bus, no person shall operate, move or park upon or permit to stand within the right of way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light; and except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the State or Municipality, operating a public safety vehicle when on duty, no person shall operate, move or park upon, or permit to stand within the right of way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

(e) This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.

(f) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.17)

337.17 FOCUS AND AIM OF HEADLIGHTS.

(a) No person shall use any lights mentioned in Section 337.02 to 337.16, inclusive, upon any motor vehicle, trailer or semitrailer unless the lights are equipped, mounted and adjusted as to focus and aim in accordance with State regulations.

(b) The headlights on any motor vehicle shall comply with the headlamp color requirements contained in federal motor vehicle safety standard number 108, 49 C.F.R. 571.108. No person shall operate a motor vehicle in violation of this subsection.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.19)

337.18 MOTOR VEHICLE AND MOTORCYCLE BRAKES.

(a) The following requirements govern as to brake equipment on vehicles:

- (1) Every motor vehicle, other than a motorcycle, when operated upon a street or highway, shall be equipped with brakes adequate to control the movement of and to stop and hold such motor vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, then on such motor vehicles manufactured or assembled after January 1, 1942, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.
- (2) Every motorcycle, when operated upon a street or highway, shall be equipped with at least one adequate brake, which may be operated by hand or by foot.
- (3) Every motorized bicycle shall be equipped with brakes meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521.

- (4) When operated upon the streets or highways of this Municipality, the following vehicles shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle designed to be applied by the driver of the towing motor vehicle from its cab, and also designed and connected so that, in case of a breakaway of the towed vehicle, the brakes shall be automatically applied:
 - A. Except as otherwise provided in this section, every trailer or semitrailer, except a pole trailer, with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 1942;
 - B. Every manufactured home or travel trailer with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 2001.
- (5) Every watercraft trailer with a gross weight or manufacturer's gross vehicle weight rating of three thousand pounds or more that is manufactured or assembled on or after January 1, 2008, shall have separate brakes equipped with hydraulic surge or electrically operated brakes on two wheels.
- (6) In any combination of motor-drawn trailers or semitrailers equipped with brakes, means shall be provided for applying the rearmost brakes in approximate synchronism with the brakes on the towing vehicle, and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost brakes; or both of the above means, capable of being used alternatively, may be employed.
- (7) Every vehicle and combination of vehicles, except motorcycles and motorized bicycles, and except trailers and semitrailers of a gross weight of less than 2,000 pounds, and pole trailers, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other sources of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.
- (8) The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.
- (9) Every motor vehicle or combination of motor-drawn vehicles shall be capable at all times and under all conditions of loading of being stopped on a dry, smooth, level road free from loose material, upon application of the service or foot brake, within the following specified distances, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

	<u>From a speed of 20 miles per hour</u>	
	<u>Stopping distance</u>	<u>Deceleration in</u>
	<u>in feet</u>	<u>feet per second</u>
		<u>per second</u>
Brakes on all wheels	30	14
Brakes not on all four wheels	40	10.7
(10) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (ORC 4513.20)		

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.19 HORN, SIREN AND THEFT ALARM SIGNAL.

(a) Every motor vehicle when operated upon a street shall be equipped with a horn which is in good working order and capable of emitting sound audible, under normal conditions, from a distance of not less than 200 feet.

(b) No motor vehicle shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal. Every emergency or public safety vehicle shall be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the Ohio Director of Public Safety. Such equipment shall not be used except when such vehicle is operated in response to an emergency call or is in the immediate pursuit of an actual or suspected violator of the law, in which case the driver of the emergency or public safety vehicle shall sound such equipment when it is necessary to warn pedestrians and other drivers of the approach thereof.

(c) No person shall use the horn of a motor vehicle except to give warning to other drivers or pedestrians.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.21)

337.20 MUFFLER; MUFFLER CUTOUT; EXCESSIVE SMOKE, GAS OR NOISE.

(a) Every motor vehicle and motorcycle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, by-pass or similar device upon a motor vehicle on a highway. Every motorcycle muffler shall be equipped with baffle plates.

(b) No person shall own, operate or have in the person's possession any motor vehicle or motorcycle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle, or equipped in any other way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle, other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation.

(c) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.22)

**337.21 REAR-VIEW MIRROR; CLEAR VIEW TO FRONT, BOTH SIDES
AND REAR.**

(a) Every motor vehicle and motorcycle shall be equipped with a mirror so located as to reflect to the operator a view of the street to the rear of such vehicle or motorcycle. Operators of vehicles and motorcycles shall have a clear and unobstructed view to the front and to both sides of their vehicles or motorcycles and shall have a clear view to the rear of their vehicles or motorcycles by mirror.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.23)

**337.22 WINDSHIELD AND WINDSHIELD WIPER; SIGN OR
POSTER THEREON.**

(a) No person shall drive any motor vehicle on a street or highway, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.

- (b) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.
- (2) Subsection (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:
- A. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.
 - B. It does not conceal the vehicle identification number.
- (3) Subsection (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:
- A. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.
 - B. It is mounted not more than six inches below the upper edge of the windshield and is outside the area swept by the vehicle's windshield wipers.

(c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.24)

337.23 LIMITED LOAD EXTENSION ON LEFT SIDE OF PASSENGER VEHICLE.

(a) No passenger-type vehicle shall be operated on a street with any load carried on such vehicle which extends more than six inches beyond the line of the fenders on the vehicle's left side. (ORC 4513.30)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.24 MOTOR VEHICLE STOP LIGHTS.

(a) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a street or highway shall be equipped with two or more stop lights, except that passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles shall be equipped with at least one stop light. Stop lights shall be mounted on the rear of the vehicle, actuated upon application of the service brake, and may be incorporated with other rear lights. Such stop lights when actuated shall emit a red light visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the stop lights on the rear-most vehicle need be visible from the distance specified.

Such stop lights when actuated shall give a steady warning light to the rear of a vehicle or train of vehicles to indicate the intention of the operator to diminish the speed of or stop a vehicle or train of vehicles.

When stop lights are used as required by this section, they shall be constructed or installed so as to provide adequate and reliable illumination and shall conform to the appropriate rules and regulations established under Ohio R.C. 4513.19.

Historical motor vehicles as defined in Ohio R.C. 4503.181, not originally manufactured with stop lights, are not subject to this section.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.071)

337.25 AIR CLEANER REQUIRED.

(a) No person shall operate a motor vehicle with an internal combustion engine unless the carburetion system of the vehicle is protected with an air filter, a flame arresting device, or any other accepted method of protection that is adequate for this purpose. If the original device or system is replaced, it shall be replaced with one that is equal to or better than the original equipment.

(b) This section does not apply to a person doing automotive repair work on a motor vehicle that necessitates this device being removed while the work is performed.

(c) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

337.26 CHILD RESTRAINT SYSTEM USAGE.

(a) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor safety standards:

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.

(b) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased or otherwise under the control of a nursery school, or day-care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.

(c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsection (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01 or a vehicle that is regulated under Ohio R.C. 5104.011, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.

(d) When any child who is at least eight years of age but not older than fifteen years of age and who is not otherwise required by subsection (a), (b) or (c) hereof to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in Ohio R.C. 4513.263.

(e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of subsection (c) or (d) of this section or causing the arrest of or commencing a prosecution of a person for a violation of subsection (c) or (d) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed.

(f) The Ohio Director of Public Safety shall adopt such rules as are necessary to carry out this section.

(g) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat or an occupant restraining device as required by this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.

(h) This section does not apply when an emergency exists that threatens the life of any person operating or occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician or chiropractor as noted on the affidavit.

(i) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation or summons issued for violating this section.

(j) Whoever violates subsection (a), (b), (c) or (d) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:

- (1) Except as otherwise provided in subsection (j)(2) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) nor more than seventy-five dollars (\$75.00).
- (2) If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a), (b), (c) or (d) of this section or of a state law or municipal ordinance that is substantially similar to any of those subsections, the offender is guilty of a misdemeanor of the fourth degree.
(ORC 4511.81)

337.27 DRIVERS AND PASSENGERS REQUIRED TO WEAR SEAT BELTS.

- (a) As used in this section:
- (1) "Automobile" means any commercial tractor, passenger car, commercial car or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States Secretary of Transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.
 - (2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum Federal vehicle safety standards established by the United States Department of Transportation.
 - (3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.
 - (4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as provided in Ohio R.C. 4501.01.
 - (5) "Vehicle" and "motor vehicle", as used in the definitions of the terms set forth in subsection (a)(4) hereof, have the same meanings as provided in Chapter 301.
 - (6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in Ohio R.C. 2307.71 and an asbestos claim, as defined in Ohio R.C. 2307.91, but does not include a civil action for damages for breach of contract or another agreement between persons.
- (b) No person shall do either of the following:
- (1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;
 - (2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in subsection (b)(3) hereof is wearing all of the available elements of a properly adjusted occupant restraining device;
 - (3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;
 - (4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(c) Subsection (b)(3) hereof does not apply to a person who is required by Section 337.26 to be secured in a child restraint device or booster seat. Subsection (b)(1) hereof does not apply to a person who is an employee of the United States Postal Service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees. Subsections (b)(1) and (3) hereof do not apply to a person who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states that the person has a physical impairment that makes use of an occupant restraining device impossible or impractical.

(d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (b) hereof has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(e) All fines collected for violations of subsection (b) hereof shall be forwarded to the Treasurer of State for deposit as provided in Ohio R.C. 4513.263.

- (f) (1) Subject to subsection (f)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of subsection (b)(1) or (3) or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device, in violation of subsection (b)(2) of this section, shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But the trier of fact may determine based on evidence admitted consistent with the Ohio rules of evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in Ohio R.C. 2307.011 in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.
- (2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:

- A. It seeks to recover damages for injury or death to the occupant.
 - B. The defendant in question is the manufacturer, designer, distributor or seller of the passenger car.
 - C. The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.
- (g) (1) Whoever violates subsection (b)(1) of this section shall be fined thirty dollars (\$30.00).
- (2) Whoever violates subsection (b)(3) of this section shall be fined twenty dollars (\$20.00).
- (3) Except as otherwise provided in this subsection, whoever violates subsection (b)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(4) of this section, whoever violates subsection (b)(4) of this section is guilty of a misdemeanor of the third degree. (ORC 4513.263)

337.28 USE OF SUNSCREENING, NONTRANSPARENT AND REFLECTORIZED MATERIALS.

(a) Requirements.

- (1) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State with any suncreening material, or other product or material which has the effect of making the windshield or windows nontransparent or would alter the windows' color, increase its reflectivity, or reduce its light transmittance, unless the product or material satisfies one of the following exceptions:
- A. Any manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle until such standard is subsequently repealed or reduced. In "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) "manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale.
 - B. Any sunscreening material or other product or material applied to the windshield when used in conjunction with the safety glazing materials of such window, has a light transmittance of not less than seventy per cent plus or minus three per cent and is not red or yellow in color.
 - C. Any sunscreening material or other product or material applied to the side windows to the immediate right or left the driver, so long as such material, when used in conjunction with the safety glazing materials of such windows, has a light transmittance of not less than fifty per cent plus or minus three per cent and is not red or yellow in color.

- D. Any sunscreening material or other product or material applied to a window not otherwise listed in subsections (a)(1)A. to C. or E. of this section, except that outside left and right rear view mirrors are required if the sunscreening material is applied to the rear window and the sunscreening material, when used in conjunction with the safety glazing material of such window, has a light transmittance of less than fifty per cent plus or minus three per cent.
 - E. Any sunscreening material or other product or material applied along the top of the windshield and that does not extend downward beyond the AS-1 line or five inches from the top of the windshield, whichever is closer to the top, is not regulated by this section.
- (2) No person shall install in any motor vehicle any glass or other material that fails to conform to the specifications of this section.
 - (3) No used motor vehicle dealer or new motor vehicle dealer, as defined in Ohio R.C. 4517.01, shall sell any motor vehicle that fails to conform to the specifications of this section.
 - (4) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings or rear window.
 - (5) No person shall operate on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State that is equipped with privacy drapes, louvers, curtains or blinds unless the drapes, louvers, curtains or blinds are open and secure during vehicle operation.
 - (6) All motor vehicles, beginning with the 1990 model year, must be equipped with labels identifying sunscreening material. All sunscreening material must indicate the manufacturer's name and the percentage level of light transmission of the material permanently installed between the material and the surface to which the material is applied or affixed. Such label must be legible and must be placed in the lower left-hand corner of the vehicle window when viewed from the outside. (OAC 4501-41-03)
- (b) Exemptions. The provisions of this section do not apply to:
- (1) A motor vehicle registered in this State in the name of a person, or the person's parent, legal guardian or spouse who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or an affidavit signed by an optometrist licensed to practice in this State under Ohio R.C. Chapter 4725 that states that the person has a physical condition that makes it necessary to equip such motor vehicle with sunscreening material which would be of a light transmittance and/or luminous reflectance in violation of this section. Such affidavit shall be in the possession of the person so afflicted or the driver at all times while in the motor vehicle;
 - (2) The windows to the rear of the driver in chauffeured limousines as defined herein;
 - (3) The windows to the rear of the driver in those vehicles designed and used to transport corpses which include hearses and other vehicles adapted for such use; and

- (4) The manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle as provided in subsection (a) hereof. (OAC 4501-41-05)
- (c) Definitions. As used in this section, certain terms are defined as follows:
- (1) "Motor vehicle" has the same meaning as specified in Section 301.20.
 - (2) "Sunscreening material" means products or materials, including film, glazing and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduce the effects of the sun with respect to light reflectance or transmittance.
 - (3) "Transmittance" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.
 - (4) "Windshield" means the front exterior viewing device of a motor vehicle.
 - (5) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield or any roof-mounted viewing device.
 - (6) "Manufacturer" unless otherwise specified in this section, means any person who engages in the manufacturing or assembling of sunscreening products or materials or any person who fabricates, laminates or tempers a safety glazing material, incorporating, during the manufacturing process, the capacity to reflect or reduce the transmission of light.
 - (7) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an arrangement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing. (OAC 4501-41-02)
- (d) Penalty. Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.241)

337.29 BUMPER HEIGHTS.

- (a) Definitions.
- (1) "Passenger car" means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.
 - (2) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.
 - (3) "Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.

- (4) "Manufacturer" has the same meaning as in Ohio R.C. 4501.01.
- (5) "Gross vehicle weight rating" means the manufacturer's gross vehicle weight rating established for the vehicle.
- (6) "Body floor height" means the vertical distance between top of the frame rail and the bottom of the passenger compartment (cab) floor. In the event that the vehicle is a truck body, floor height will be measured by the vertical distance between the passenger compartment (cab) floor and the floor of the truck bed.
- (7) "Bumper height" means the vertical distance between the ground and the highest point of the bottom of the bumper, measured when the vehicle is laden on a level surface with the vehicle tires inflated to the manufacturer's recommended pressure.
- (8) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.
- (9) "Wheel track distance" means the distance on the ground between the center of the tire tread on one side of the vehicle, and the center of the tire tread on the opposite side. (OAC 4501-43-02)

(b) Prohibitions; Application.

- (1) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle, or truck registered in this State that does not conform to the requirements of this section.
- (2) No person shall modify any motor vehicle registered in this State in such a manner as to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation, and no person shall disconnect any part of the original suspension system of the vehicle to defeat the safe operation of that system including the installation of inverted, altered or modified suspension system component parts which results in elevation of the height of the vehicle bumper or frame unit which is not in compliance with this section.
- (3) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State without a bumper on the front and rear of the vehicle if such vehicle was equipped with bumpers as standard equipment by the manufacturer.
- (4) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State if the difference in height between the body floor and the top of the frame exceeds four inches.
- (5) Nothing contained in this section shall be construed to prohibit either of the following:
 - A. The installation upon a passenger car, multipurpose passenger vehicle or truck registered in this State of heavy duty equipment, including shock absorbers and overload springs as long as such equipment does not cause the vehicle to be in violation of this section;
 - B. The operation on a street or highway of a passenger car, multipurpose passenger vehicle or truck registered in this State with normal wear to the suspension system if the normal wear does not adversely affect the control of the vehicle.

- (6) This section does not apply to any specially designed or modified passenger car, multipurpose passenger vehicle or truck when operated off a street or highway in races and similar events.
 - (7) A specially designed or modified passenger car, multipurpose passenger vehicle or truck which does not conform to this section shall not be operated on a street or highway.
(OAC 4501-43-03)
- (c) Specifications.
- (1) The horizontal bumper shall be at least 4.5 inches in vertical height, centered on the vehicle's centerline, and extend no less than the width of the respective wheel track distances. Bumpers shall be horizontal load bearing bumpers and attached to the vehicle frame to effectively transfer impact when engaged.
 - (2) Maximum bumper heights shall be determined by the type of vehicle at time of manufacture. If other than a passenger vehicle, the maximum bumper height shall be determined by the gross vehicle weight rating (GVWR) at the time of manufacture. The height shall be measured in terms of the vertical distance between the ground and the bottom of the bumper. Maximum bumper heights are as follows:

	<u>Front (inches)</u>	<u>Rear (inches)</u>
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

- (3) If the body and/or truck bed height is altered the difference in height between the body floor and/or the truck bed floor to the top of the frame rail shall not exceed four inches.
- (4) For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer's design in order to conform with the maximum bumper requirements of this section, the bumper height shall be measured from a level surface to the bottom of the vehicle frame rail at the most forward and rearward points of the frame rail. Frame rail height if bumper modified or altered:

	<u>Front (inches)</u>	<u>Rear (inches)</u>
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

- (5) The height restriction in this subsection (c) applies to the distance from the ground to the bottom of the frame rail under any one or more of the following conditions:
- A. A motor vehicle is not equipped with a front and rear bumper.
 - B. The bumper height relative to the frame rails has been altered.
 - C. A supplemental bumper has been installed or an addition to the original or replacement has been made.
- (OAC 4501-43-04)

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.30 DIRECTIONAL SIGNALS REQUIRED.

- (a) (1) No person shall operate any motor vehicle manufactured or assembled on or after January 1, 1954, unless the vehicle is equipped with electrical or mechanical directional signals.
- (2) No person shall operate any motorcycle or motor-driven cycle manufactured or assembled on or after January 1, 1968, unless the vehicle is equipped with electrical or mechanical directional signals.

(b) "Directional signals" means an electrical or mechanical signal device capable of clearly indicating an intention to turn either to the right or to the left and which shall be visible from both the front and rear.

(c) All mechanical signal devices shall be self-illuminating devices when in use at the times mentioned in Section 337.02.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.261)

CHAPTER 339

Commercial and Heavy Vehicles

339.01	Oversize or overweight vehicle operation on State routes; State permit.	339.07	Towing requirements.
339.02	Use of local streets; local permit and conditions.	339.08	Loads dropping or leaking; removal required; tracking mud.
339.03	Maximum width, height and length.	339.09	Shifting load; loose loads.
339.04	Route and load information.	339.10	Vehicles with spikes, lugs and chains.
339.05	Wheel protectors.	339.11	Use of studded tires and chains.
339.06	Vehicles transporting explosives.	339.12	Loads which may drop or be blown from vehicle to be covered.
		339.13	Time regulations for heavy vehicle use of Route 647.

CROSS REFERENCES

See sectional histories for similar State law

Weighing vehicle; removal of excess load - see Ohio R.C. 4513.33

Arrest notice of driver - see Ohio R.C. 5577.14

Slower moving vehicles to be driven in right-hand lane - see TRAF. 331.01(b)

339.01 OVERSIZE OR OVERWEIGHT VEHICLE OPERATION ON STATE ROUTES; STATE PERMIT.

(a) No person shall operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in Ohio R.C. 5577.01 to 5577.09, inclusive, or otherwise not in conformity with Ohio R.C. 4513.01 to 4513.37, inclusive, upon any State route within the Municipality, except pursuant to special written permit issued by the Ohio Director of Transportation, or upon any local truck route. Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer.

No holder of a permit issued by the Ohio Director of Transportation shall be required to obtain any local permit or license or pay any local fee or charge for movement on any State route within the Municipality; however, it shall be unlawful to operate any such vehicle or combination of vehicles upon any roadway within the Municipality which is not a State route, except as provided in Section 339.02. (ORC 4513.34)

- (b) (1) No person shall violate the terms of a permit issued under this section that relate to gross load limits.
- (2) No person shall violate the terms of a permit issued under this section that relate to axle load by more than 2000 pounds per axle or group of axles.
- (3) No person shall violate the terms of a permit issued under this section that relate to an approved route except upon order of a law enforcement officer or authorized agent of the issuing authority.

(c) Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor. (ORC 4513.99)

339.02 USE OF LOCAL STREETS; LOCAL PERMIT AND CONDITIONS.

(a) Use of Local Streets. No person shall operate a vehicle exceeding a size as specified in Section 339.03 or exceeding a gross weight of five tons, upon any street in the Municipality other than a State route, except those local streets designated as a truck route and marked as such by appropriate traffic signs, and except when such operation is necessary to load or unload property, to go to or from the usual place of storage of such vehicle or to perform any other legitimate business or act other than passage through the Municipality. Operators of vehicles so deviating from either a State route or a designated truck route within the Municipality shall confine such deviation to that required in order to accomplish the purpose of the departure.

(b) Local Permit and Conditions. Upon application and for good cause, the Police Chief may issue a local permit authorizing an applicant to move an oversize or overweight vehicle or combination of vehicles upon local streets.

No permittee shall be required to obtain a special permit from the Ohio Director of Transportation for the movement of the vehicle or combination of vehicles on streets or highways under local jurisdiction; however, the approval of the Ohio Director of Transportation shall be required for movement upon State routes as provided in Section 339.01.

The Police Chief may grant a permit for a single or round trip, or for such period of time, not to exceed one year, as the Police Chief in his discretion deems advisable, or for the duration of any construction project. The Police Chief may limit or prescribe terms or conditions of operation for such vehicle or combination of vehicles by designating the route, hours, speed or such other restrictions as may be necessary for the preservation of the public peace, property, health and safety. The Police Chief may require the posting of bond or other security necessary to compensate for any damage to a roadway or road structure.

For each such permit, the Police Chief shall charge ten dollars (\$10.00), and for each hour of time or any part thereof spent by each police officer in supervising the movement of such vehicle, the applicant shall pay the sum of twenty-five dollars (\$25.00) per hour per officer. The charge can be prorated into fifteen minute increments.

Signs shall be posted to apprise drivers of the limitations imposed by this section. Such signs shall be in accordance with the standards for traffic control devices of the State Department of Transportation. No driver shall disobey the instructions indicated on any such sign.

Violation of any of the limitations, terms or conditions of the permit granted by the Police Chief shall be cause for immediate revocation or suspension of such permit, and denial of request for any future permit. Such violation shall also subject the violator to the penalty prescribed by subsection (d) hereof.

(c) Special Weight Limits in Alley. No truck with a capacity of one ton or more shall travel north in the alley between Walnut and Hickory Streets, and between Fourth and Fifth Streets. Trucks may travel south out of the alley.

The Chief of Police of the City shall cause the alley to be clearly sign-posted to give notice that such truck traffic is prohibited. (Ord. 5352. Passed 6-22-64.)

(d) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

339.03 MAXIMUM WIDTH, HEIGHT AND LENGTH.

(a) No vehicle shall be operated upon the public highways, streets, bridges and culverts within the Municipality, whose dimensions exceed those specified in this section.

- (b) No such vehicle shall have a width in excess of:
- (1) 104 inches for passenger bus type vehicles operated exclusively within municipal corporations;
 - (2) 102 inches, excluding such safety devices as are required by law, for passenger bus type vehicles operated over freeways, and such other State roads with minimum pavement widths of twenty-two feet, except those roads or portions of roads over which operation of 102-inch buses is prohibited by order of the Ohio Director of Transportation;
 - (3) 132 inches for traction engines;
 - (4) 102 inches for recreational vehicles, excluding safety devices and retracted awnings and other appurtenances of six inches or less in width and except that the Director may prohibit the operation of 102-inch recreational vehicles on designated State highways or portions of highways;
 - (5) 102 inches, including load, for all other vehicles, except that the Director may prohibit the operation of 102-inch vehicles on such State highways or portions of State highways as the Director designates.
- (c) No such vehicle shall have a length in excess of:
- (1) 66 feet for passenger bus type vehicles and articulated passenger bus type vehicles operated by a regional transit authority pursuant to Ohio R.C. 306.30 to 306.54;
 - (2) 45 feet for all other passenger bus type vehicles;
 - (3) 53 feet for any semitrailer when operated in a commercial tractor-semitrailer combination, with or without load, except that the Director may, by journal entry, prohibit the operation of any such commercial tractor-semitrailer combination on such State highways or portions of State highways as the Director designates;
 - (4) 28.5 feet for any semitrailer or trailer when operated in a commercial tractor-semitrailer-trailer or commercial tractor-semitrailer-semi-trailer combination, except that the Director may prohibit the operation of any such commercial tractor-semitrailer-trailer or commercial tractor-semitrailer-semi-trailer combination on such State highways or portions of State highways as the Director designates;
 - (5) A. 97 feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations when operated on any interstate, United States route, or State route, including reasonable access travel on all other roadways for a distance not to exceed one road mile from any interstate, United States route, or State route, not to exceed three saddlemounted vehicles, but which may include one fullmount;
B. 75 feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations, when operated on any roadway not designated as an interstate, United States route, or State route, not to exceed three saddlemounted vehicles, but which may include one fullmount;
 - (6) 65 feet for any other combination of vehicles coupled together, with or without load, except as provided in subsections (c)(3) and (4) and in subsection (e) hereof;
 - (7) 45 feet for recreational vehicles.
 - (8) 50 feet for all other vehicles except trailers and semitrailers, with or without load.

(d) No such vehicle shall have a height in excess of thirteen feet six inches, with or without load.

(e) An automobile transporter or boat transporter shall be allowed a length of sixty-five feet and a stinger-steered automobile transporter or stinger-steered boat transporter shall be allowed a length of seventy-five feet, except that the load thereon may extend no more than four feet beyond the rear of such vehicles and may extend no more than three feet beyond the front of such vehicles, and except further that the Director may prohibit the operation of any stinger-steered automobile transporter or stinger-steered boat transporter or a B-train assembly on any State highway or portion of any State highway that the Director designates.

(f) The widths prescribed in subsection (b) shall not include side mirrors, turn signal lamps, marker lamps, handholds for cab entry and egress, flexible fender extensions, mud flaps, splash and spray suppressant devices, and load-induced tire bulge.

The width prescribed in subsection (b)(5) shall not include automatic covering devices, tarp and tarp hardware, and tiedown assemblies, provided these safety devices do not extend more than three inches from each side of the vehicle.

The lengths prescribed in subsections (c)(2) to (8) hereof shall not include safety devices, bumpers attached to the front or rear of such bus or combination, nonproperty carrying devices or components that do not extend more than twenty-four inches beyond the rear of the vehicle and are needed for loading or unloading, B-train assembly used between the first and second semitrailer of a commercial tractor-semitrailer-semitrailer combination, energy conservation devices as provided in any regulations adopted by the Secretary of the United States Department of Transportation, or any noncargo-carrying refrigeration equipment attached to the front of trailers and semitrailers. In special cases, vehicles whose dimensions exceed those prescribed by this section may operate in accordance with rules adopted by the Ohio Director of Transportation.

(g) This section does not apply to fire engines, fire trucks or other vehicles or apparatus belonging to any municipal corporation or to the volunteer fire department of any municipal corporation or used by such department in the discharge of its functions. This section does not apply to vehicles and pole trailers used in the transportation of wooden and metal poles, nor to the transportation of pipes or well-drilling equipment, nor to farm machinery and equipment. The owner or operator of any vehicle, machinery or equipment not specifically enumerated in this section but the dimensions of which exceed the dimensions provided by this section, when operating the same on the highways and streets of this State shall comply with the rules of the Director governing such movement, that the Director may adopt. Ohio R.C. 119.01 to 119.13 apply to any rules the Director adopts under this section, or the amendment or rescission of the rules, and any person adversely affected shall have the same right of appeal as provided in those sections.

This section does not require the State, the Municipality, County, township or any railroad or other private corporation to provide sufficient vertical clearance to permit the operation of such vehicle, or to make any changes in or about existing structures now crossing streets, roads and other public thoroughfares in the Municipality.

(h) As used in this section, "recreational vehicle" has the same meaning as in Ohio R.C. 4501.01. (ORC 5577.05)

(i) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense or subsequent offense, the person is guilty of a misdemeanor of the fourth degree. (ORC 5577.99)

339.04 ROUTE AND LOAD INFORMATION.

Drivers of vehicles described in this chapter shall be required, upon request by a police officer, to give full and true information as to the route they are following and the name of the consignor and consignee and place of delivery or removal and the location of any consignment being hauled or goods being removed, and upon a designation by such police officer of a route to be followed, shall immediately adopt and pursue such route.

339.05 WHEEL PROTECTORS.

(a) No person shall drive or operate, or cause to be driven or operated, any commercial car, trailer or semitrailer, used for the transportation of goods or property, the gross weight of which, with load, exceeds three tons, upon the streets, bridges and culverts within this Municipality unless such vehicle is equipped with suitable metal protectors or substantial flexible flaps on the rearmost wheels of such vehicle or combination of vehicles to prevent, as far as practicable, the wheels from throwing dirt, water or other materials on the windshields of following vehicles. Such protectors or flaps shall have a ground clearance of not more than one-third of the distance from the center of the rearmost axle to the center of the flaps under any conditions of loading of the vehicle, and they shall be at least as wide as the tires they are protecting. If the vehicle is so designed and constructed that such requirements are accomplished by means of fenders, body construction or other means of enclosure, then no such protectors or flaps are required. Rear wheels not covered at the top by fenders, bodies or other parts of the vehicle shall be covered at the top by protective means extending at least to the center line of the rearmost axle.

(ORC 5577.11)

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

339.06 VEHICLES TRANSPORTING EXPLOSIVES.

(a) Any person operating any vehicle transporting explosives upon a street or highway shall at all times comply with the following requirements:

- (1) Such vehicle shall be marked or placarded on each side and on the rear with the word "EXPLOSIVES" in letters not less than eight inches high, or there shall be displayed on the rear of such vehicle a red flag not less than twenty-four inches square marked with the word "DANGER" in white letters six inches high, or shall be marked or placarded in accordance with Section 177.823 of the United States Department of Transportation Regulations.
- (2) Such vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at convenient points on such vehicle. (ORC 4513.29)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

339.07 TOWING REQUIREMENTS.

(a) When one vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby, and such drawbar or other connection shall not exceed fifteen feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered.

(b) When one vehicle is towing another and the connection consists only of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve inches square.

(c) In addition to such drawbar or other connection, each trailer and each semitrailer which is not connected to a commercial tractor by means of a fifth wheel shall be coupled with stay chains or cables to the vehicle by which it is being drawn. The chains or cables shall be of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle in case the drawbar or other connection should break or become disengaged. In case of a loaded pole trailer, the connecting pole to the drawing vehicle shall be coupled to the drawing vehicle with stay chains or cables of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle.

(d) Every trailer or semitrailer, except pole and cable trailers and pole and cable dollies operated by a public utility, as defined in Ohio R.C. 5727.01, shall be equipped with a coupling device which shall be so designed and constructed that the trailer will follow substantially in the path of the vehicle drawing it, without whipping or swerving from side to side. Vehicles used to transport agricultural produce or agricultural production materials between a local place of storage and supply and the farm, when drawn or towed on a street or highway at a speed of twenty-five miles per hour or less, and vehicles designed and used exclusively to transport a boat between a place of storage and a marina, or in and around a marina, when drawn or towed on a street or highway for a distance of no more than ten miles and at a speed of twenty-five miles per hour or less shall have a drawbar or other connection, including the hitch mounted on the towing vehicle, which shall be of sufficient strength to pull all the weight towed thereby. Only one such vehicle used to transport agricultural produce or agricultural production materials as provided in this section may be towed or drawn at one time, except as follows:

- (1) An agricultural tractor may tow or draw more than one such vehicle;
- (2) A pickup truck or straight truck designed by the manufacturer to carry a load of not less than one-half ton and not more than two tons may tow or draw not more than two such vehicles that are being used to transport agricultural produce from the farm to a local place of storage. No vehicle being so towed by such a pickup truck or straight truck shall be considered to be a motor vehicle. (ORC 4513.32)

(e) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

339.08 LOADS DROPPING OR LEAKING; REMOVAL REQUIRED; TRACKING MUD.

(a) No vehicle shall be driven or moved on any street, highway or other public place unless such vehicle is so constructed, loaded or covered as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand or other substances may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway.

(b) Except for a farm vehicle used to transport agricultural produce or agricultural production materials or a rubbish vehicle in the process of acquiring its load, no vehicle loaded with garbage, swill, cans, bottles, waste paper, ashes, refuse, trash, rubbish, waste, wire, paper, cartons, boxes, glass, solid waste or any other material of an unsanitary nature that is susceptible to blowing or bouncing from a moving vehicle shall be driven or moved on any street, highway or other public place unless the load is covered with a sufficient cover to prevent the load or any part of the load from spilling onto the street, highway or other public place.
(ORC 4513.31)

(c) No person shall operate any vehicle so as to track or drop mud, stones, gravel or other similar material on any street, highway or other public place.

(d) It shall be the duty of the driver of a vehicle who unlawfully drops or deposits mud, stones, gravel or other similar material or permits the load or any portion thereof to be dropped or deposited upon any street, highway or other public place to immediately remove the same or cause it to be removed.

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

339.09 SHIFTING LOAD; LOOSE LOADS.

(a) In addition to any other lawful requirements of load distribution, no person shall operate any vehicle upon a street or highway unless such vehicle is so laden as to prevent its contents from shifting or otherwise unbalancing the vehicle to such an extent as to interfere with the safe operation of the same.

(b) No motor vehicle or trailer shall be driven unless the tailboard or tailgate, tarpaulins, chains (except ground or contact chains), ropes, stakes, poles, and the like, or any part of the load, are securely fastened to prevent dangling, flapping, swinging or falling from the side, end or top of the load or body. All projecting cargo shall be properly guarded by a red flag or cloth or a red light or lantern as required by Section 337.08.

(c) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

339.10 VEHICLES WITH SPIKES, LUGS AND CHAINS.

(a) No person shall drive over the improved streets of this Municipality a traction engine or tractor with tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind extending beyond the cleats, or no person shall tow or in any way pull another vehicle over the improved streets of this Municipality, which towed or pulled vehicle has tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind. "Traction engine" or "tractor," as used in this section, applies to all self-propelling engines equipped with metal-tired wheels operated or propelled by any form of engine, motor or mechanical power. (ORC 5589.08)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 5589.99)

339.11 USE OF STUDDED TIRES AND CHAINS.

(a) For purposes of this section, "studded tire" means any tire designed for use on a vehicle, and equipped with metal studs or studs of wear-resisting material that project beyond the tread of the traction surface of the tire. "Motor vehicle," "street or highway," "public safety vehicle" and "school bus" have the same meanings as given those terms in Chapter 301.

- (b) (1) Except as provided in subsection (b)(2) hereof, no person shall operate any motor vehicle, other than a public safety vehicle or bus, that is equipped with studded tires on any street or highway, except during the period extending from November 1 of each year through April 15 of the succeeding year.
- (2) A person may operate a motor vehicle that is equipped with retractable studded tires with the studs retracted at any time of the year, but shall operate the motor vehicle with the studs extended only as provided in subsection (b)(1) hereof.

(c) This section does not apply to the use of tire chains when there is snow or ice on the streets or highways where such chains are being used, or the immediate vicinity thereof.
(ORC 5589.081)

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 5589.99)

339.12 LOADS WHICH MAY DROP OR BE BLOWN FROM VEHICLE TO BE COVERED.

(a) All vehicles using alleys, streets and highways of the City shall, when hauling dirt, coal, ashes, fly ash, gravel, sand, rubbish, garbage, or anything else of an unsightly or unsanitary nature, which can fall or be blown from the vehicle onto the alleys, streets, highways, sidewalks and property adjacent thereto, must cover the vehicle with a tarpaulin or other cover which shall prevent any dust, dirt, coal, ashes, fly ash, gravel, sand, rubbish, garbage or anything else of an unsightly or unsanitary nature, or any material from being dropped or being blown from the vehicle. (Ord. 6234. Passed 11-2-72.)

(b) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

339.13 TIME REGULATIONS FOR HEAVY VEHICLE USE OF ROUTE 647.

(a) During the time between 7:00 a.m. and 9:15 a.m., 11:00 a.m. and 12:00 noon, and 2:25 p.m. and 3:45 p.m. on such days as the Martins Ferry City School District schools are in session, no person shall operate an agricultural tractor, truck, trailer, bus, semitrailer or pole trailer in the City on State Route 647 from the west corporation limits of this City to Zane Highway.

(b) The Director of Public Safety is hereby directed to post signs on State Route 647 giving notice of the provisions of subsection (a) hereof.
(Ord. 6067. Passed 9-16-71.)

(c) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

CHAPTER 341 Commercial Drivers

341.01	Definitions.	341.04	Prohibitions.
341.02	Exemptions.	341.05	Criminal offenses.
341.03	Prerequisites to operation of a commercial motor vehicle.	341.06	Employment of drivers of commercial vehicles.

CROSS REFERENCES

See sectional histories for similar State law
 Disqualification - see Ohio R.C. 4506.16
 Suspension or revocation of license - see Ohio R.C. 4507.16
 Warning devices when disabled on freeways - see Ohio R.C. 4513.28
 Arrest notice of driver - see Ohio R.C. 5577.14
 Load limits - see TRAF. Ch. 339

341.01 DEFINITIONS.

As used in this chapter:

- (a) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:
 - (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
 - (2) Two hundred ten liters of breath;
 - (3) One hundred milliliters of urine.
- (b) "Commercial driver's license" means a license issued in accordance with Ohio R.C. Chapter 4506 that authorizes an individual to drive a commercial motor vehicle.
- (c) "Commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:
 - (1) Any combination of vehicles with a gross vehicle weight or combined gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight or gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
 - (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of 26,001 pounds or more;
 - (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen or more passengers including the driver;

- (4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than sixteen passengers including the driver;
- (5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;
- (6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.
- (d) "Controlled substance" means all of the following:
 - (1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;
 - (2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;
 - (3) Any drug of abuse.
- (e) "Disqualification" means any of the following:
 - (1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;
 - (2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;
 - (3) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.
- (f) "Drive" means to drive, operate or be in physical control of a motor vehicle.
- (g) "Driver" means any person who drives, operates or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.
- (h) "Driver's license" means a license issued by the Ohio Bureau of Motor Vehicles that authorizes an individual to drive.
- (i) "Drug of abuse" means any controlled substance, dangerous drug as defined in Ohio R.C. 4729.01 or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.
- (j) "Employer" means any person, including the Federal Government, any state and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.
- (k) "Endorsement" means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.
- (l) "Farm truck" means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this subsection and is not used in the operations of a motor carrier, as defined in Ohio R.C. 4923.01.

- (m) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of a death.
- (n) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this State, regardless of the penalty that may be imposed.
- (o) "Foreign jurisdiction" means any jurisdiction other than a state.
- (p) "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.
- (q) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as amended.
- (r) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer or semitrailer operated exclusively on a rail.
- (s) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, local, Canadian or Mexican jurisdiction declaring that a driver, commercial motor vehicle or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.
- (t) "Public safety vehicle" has the same meaning as in divisions (E)(1) and (3) of Ohio R.C. 4511.01.
- (u) "Recreational vehicle" includes every vehicle that is defined as a recreational vehicle in Ohio R.C. 4501.01 and is used exclusively for purposes other than engaging in business for profit.
- (v) "School bus" has the same meaning as in Ohio R.C. 4511.01.
- (w) "State" means a state of the United States and includes the District of Columbia.
- (x) "Tester" means a person or entity acting pursuant to a valid agreement entered into pursuant to Ohio R.C. 4506.09.
- (y) "United States" means the fifty states and the District of Columbia.
- (z) "Vehicle" has the same meaning as in Ohio R.C. 4511.01.
(ORC 4506.01)

341.02 EXEMPTIONS.

Section 341.02 has been deleted from the Codified Ordinances. Former Ohio R.C. 4506.02 from which Section 341.02 was derived was repealed by Am. Sub. H.B. No. 68, effective June 29, 2005. The exemptions are now contained in Section 341.03.

341.03 PREREQUISITES TO OPERATION OF A COMMERCIAL MOTOR VEHICLE.

- (a) Except as provided in subsections (b) and (c) of this section, the following shall apply:
- (1) No person shall drive a commercial motor vehicle on a highway in this Municipality unless the person holds, and has in the person's possession, any of the following:
 - A. A valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the Registrar of Motor Vehicles, or by another jurisdiction recognized by this State;
 - B. A valid examiner's commercial driving permit issued under Ohio R.C. 4506.13;

- C. A valid restricted commercial driver's license and waiver for farm-related service industries issued under Ohio R.C. 4506.24;
- D. A valid commercial driver's license temporary instruction permit issued by the Registrar, provided that the person is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license and who meets the requirements of Ohio R.C. 4506.06(B).

- (2) No person who has been a resident of this State for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.

(b) Nothing in subsection (a) of this section applies to any qualified person when engaged in the operation of any of the following:

- (1) A farm truck;
- (2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, or joint fire district;
- (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;
- (4) A recreational vehicle;
- (5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under Ohio R.C. Chapter 4506 and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;
- (6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserved technicians.
- (7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the Public Utilities Commission pursuant to Ohio R.C. Chapter 4905, 4921, or 4923.
- (8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise.
- (9) A police SWAT team vehicle.
- (10) A police vehicle used to transport prisoners.

(c) Nothing contained in subsection (b)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this State concerning the safe operation of commercial motor vehicles.

(d) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 4506.03)

341.04 PROHIBITIONS.

- (a) No person shall do any of the following:
- (1) Drive a commercial motor vehicle while having in the person's possession or otherwise under the person's control more than one valid driver's license issued by this State, any other state or by a foreign jurisdiction;
 - (2) Drive a commercial motor vehicle on a highway in this Municipality in violation of an out-of-service order, while the person's driving privilege is suspended, revoked or canceled, or while the person is subject to disqualification;
 - (3) Drive a motor vehicle on a highway in this Municipality under authority of a commercial driver's license issued by another state or a foreign jurisdiction, after having been a resident of this State for thirty days or longer.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 4506.04)

341.05 CRIMINAL OFFENSES.

(a) No person who holds a commercial driver's license, or commercial driver's license temporary instruction permit or who operates a motor vehicle for which a commercial driver's license or permit is required shall do any of the following:

- (1) Drive a commercial motor vehicle while having a measureable or detectable amount of alcohol or of a controlled substance in the person's blood, breath or urine;
- (2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one per cent or more by whole blood or breath;
- (3) Drive a commercial motor vehicle while having an alcohol concentration of forty-eight-thousandths of one per cent or more by blood serum or blood plasma;
- (4) Drive a commercial motor vehicle while having an alcohol concentration of fifty-six-thousandths of one per cent or more by urine;
- (5) Drive a motor vehicle while under the influence of a controlled substance;
- (6) Drive a motor vehicle in violation of Ohio R.C. 4511.19 or a municipal OVI ordinance as defined in Ohio R.C. 4511.181;
- (7) Use a motor vehicle in the commission of a felony;
- (8) Refuse to submit to a test under Ohio R.C. 4506.17 or 4511.191;
- (9) Operate a commercial motor vehicle while the person's commercial driver's license or permit or other commercial driving privileges are revoked, suspended, canceled, or disqualified;
- (10) Cause a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter;
- (11) Fail to stop after an accident in violation of Sections 335.12 to 335.14;
- (12) Drive a commercial motor vehicle in violation of any provision of Ohio R.C. 4511.61 to 4511.63 or any federal or local law or ordinance pertaining to railroad-highway grade crossings;
- (13) Use a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in Ohio R.C. 3719.01 or the possession with intent to manufacture, distribute, or dispose a controlled substance.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 4506.15)

341.06 EMPLOYMENT OF DRIVERS OF COMMERCIAL VEHICLES.

(a) Each employer shall require every applicant for employment as a driver of a commercial motor vehicle to provide the applicant's employment history for the ten years preceding the date the employment application is submitted to the prospective employer. The following information shall be submitted:

- (1) A list of the names and addresses of the applicant's previous employers for which the applicant was the operator of a commercial motor vehicle;
- (2) The dates the applicant was employed by these employers;
- (3) The reason for leaving each of these employers.

(b) No employer shall knowingly permit or authorize any driver employed by the employer to drive a commercial motor vehicle during any period in which any of the following apply:

- (1) The driver's commercial driver's license is suspended, revoked or canceled by any state or a foreign jurisdiction;
- (2) The driver has lost the privilege to drive, or currently is disqualified from driving, a commercial motor vehicle in any state or foreign jurisdiction;
- (3) The driver, the commercial motor vehicle the driver is driving, or the motor carrier operation is subject to an out-of-service order in any state or foreign jurisdiction;
- (4) The driver has more than one driver's license.

(c) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of Section 341.05.

(d) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle if the driver does not hold a valid, current commercial driver's license or commercial driver's license temporary instruction permit bearing the proper class or endorsements for the vehicle. No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of the restrictions on the driver's commercial driver's license or commercial driver's license temporary instruction permit.

- (e)
 - (1) Whoever violates subsection (a), (b) or (d) of this section is guilty of a misdemeanor of the first degree.
 - (2) Whoever violates subsection (c) of this section may be assessed a fine not to exceed ten thousand dollars. (ORC 4506.20)

TITLE SEVEN - Parking
 Chap. 351. Parking Generally.
 Chap. 353. Parking Meters.

CHAPTER 351
Parking Generally

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|---|--|
| 351.01 Police may remove unattended vehicle which obstructs traffic.
351.02 Registered owner prima-facie liable for unlawful parking.
351.03 Prohibited standing or parking places.
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CROSS REFERENCES

See sectional histories for similar State law
 Owner nonliability, lease defense - see Ohio R.C. 4511.071
 Police may remove ignition key from unattended vehicle - see TRAF. 303.03
 Parking near stopped fire apparatus - see TRAF. 331.27
 Lights on parked or stopped vehicles - see TRAF. 337.09

351.01 POLICE MAY REMOVE UNATTENDED VEHICLE WHICH OBSTRUCTS TRAFFIC.

Whenever any police officer finds a vehicle unattended upon any street, bridge or causeway, or in any tunnel, where such vehicle constitutes an obstruction to traffic, such officer may provide for the removal of such vehicle to the nearest garage or other place of safety. (ORC 4511.67)

351.02 REGISTERED OWNER PRIMA-FACIE LIABLE FOR UNLAWFUL PARKING.

In any hearing on a charge of illegally parking a motor vehicle, testimony that a vehicle bearing a certain license plate was found unlawfully parked as prohibited by the provisions of this Traffic Code, and further testimony that the record of the Ohio Registrar of Motor Vehicles shows that the license plate was issued to the defendant, shall be prima-facie evidence that the vehicle which was unlawfully parked, was so parked by the defendant. A certified registration copy, showing such fact, from the Registrar shall be proof of such ownership.

351.03 PROHIBITED STANDING OR PARKING PLACES.

(a) No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this Traffic Code, or while obeying the directions of a police officer or a traffic control device, in any of the following places:

- (1) On a sidewalk, curb or street lawn area, except a bicycle;
 - (2) In front of a public or private driveway;
 - (3) Within an intersection;
 - (4) Within ten feet of a fire hydrant;
 - (5) On a crosswalk;
 - (6) Within twenty feet of a crosswalk at an intersection;
 - (7) Within thirty feet of, and upon the approach to, any flashing beacon, stop sign or traffic control device;
 - (8) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the end of a safety zone, unless a different length is indicated by a traffic control device;
 - (9) Within fifty feet of the nearest rail of a railroad crossing;
 - (10) Within twenty feet of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within seventy-five feet of the entrance when it is properly posted with signs;
 - (11) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
 - (12) Alongside any vehicle stopped or parked at the edge or curb of a street;
 - (13) Upon any bridge or other elevated structure upon a street, or within a street tunnel;
 - (14) At any place where signs prohibit stopping, standing or parking, or where the curbing or street is painted yellow, or at any place in excess of the maximum time limited by signs;
 - (15) Within one foot of another parked vehicle;
 - (16) On the roadway portion of a freeway, expressway or thruway.
 - (17) Within any lawfully designated fire lane.
- (Ord. 98-43. Passed 7-2-98.)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.68)

351.04 PARKING NEAR CURB; HANDICAPPED LOCATIONS ON PUBLIC AND PRIVATE LOTS AND GARAGES.

(a) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the curb side wheels of the vehicle parallel with and not more than twelve inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.

- (b)
 - (1) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a state route unless an unoccupied roadway width of not less than twenty-five feet is available for free-moving traffic.
 - (2)
 - A. No angled parking space that is located on a state route within a municipal corporation is subject to elimination, irrespective of whether there is or is not at least twenty-five feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space.
 - B. Replacement, repainting or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space does not constitute an intent by the municipal corporation to eliminate the angled parking space.
- (c)
 - (1)
 - A. Except as provided in subsection (c)(1)B. hereof, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.
 - B. The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.
 - (2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in subsection (c)(2) of this section irrespective of whether or not the space is metered.

(d) Notwithstanding any provision of this Code or any rule, air compressors, tractors, trucks and other equipment, while being used in the construction, reconstruction, installation, repair or removal of facilities near, on, over or under a street, may stop, stand or park where necessary in order to perform such work, provided a flagperson is on duty, or warning signs or lights are displayed as may be prescribed by the Ohio Director of Transportation.

(e) Special parking locations and privileges for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces shall be provided and designated by the Municipality and all agencies and instrumentalities thereof at all offices and facilities, where parking is provided, whether owned, rented or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators and ramps. All elevated signs posted in accordance with this subsection and Ohio R.C. 3781.111 (C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure

not less than five feet. If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.

- (f) (1) A. No person shall stop, stand or park any motor vehicle at special parking locations provided under subsection (e) hereof, or at special clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with subsection (e) hereof, unless one of the following applies:
 - 1. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or special license plates;
 - 2. The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.
- B. Any motor vehicle that is parked in a special marked parking location in violation of subsection (f)(1)A. of this section may be towed or otherwise removed from the parking location by the Police Department. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles.
- C. If a person is charged with a violation of subsection (f)(1)A. of this section, it is an affirmative defense to the charge that the person suffered an injury not more than seventy-two hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in Ohio R.C. 4503.44(A)(1).
- (2) No person shall stop, stand or park any motor vehicle in an area that is commonly known as an access aisle, which area is marked by diagonal stripes and is located immediately adjacent to a special parking location provided under subsection (e) of this section or at a special clearly marked parking location provided in or on a privately owned parking lot, parking garage, or other parking area and designated in accordance with that subsection.

(g) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or special license plates, or when a motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.

- (h) As used in this section:
- (1) "Handicapped person" means any person who has lost the use of one or both legs, or one or both arms, who is blind, deaf or so severely handicapped as to be unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary or other handicapping condition.
 - (2) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in Ohio R.C. 4503.44.
 - (3) "Special license plates" and "removable windshield placard" mean any license plates or removable windshield placard or temporary removable windshield placard issued under Ohio R.C. 4503.41 or 4503.44, and also mean any substantially similar license plates or removable windshield placard or temporary removable windshield placard issued by a state, district, country or sovereignty.
- (i) (1) Whoever violates subsection (a) or (c) of this section is guilty of a minor misdemeanor.
- (2) A. Whoever violates subsection (f)(1)A.1. or 2. of this section is guilty of a misdemeanor and shall be punished as provided in subsection (i)(2)A. and B. of this section. Except as otherwise provided in subsection (i)(2)A. of this section, an offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00). An offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not more than one hundred dollars (\$100.00) if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:
1. At the time of the violation of subsection (f)(1)A.1. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid or special license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in subsection (f)(1)A.1. of this section.
 2. At the time of the violation of subsection (f)(1)A.2. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or special handicapped license plates that then were valid but the offender or the person neglected to display the card or license plates as described in subsection (f)(1)A.2. of this section.
- B. In no case shall an offender who violates subsection (f)(1)A.1. or 2. of this section be sentenced to any term of imprisonment.
- An arrest or conviction for a violation of subsection (f)(1)A.1. or 2. of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.
- (3) Whoever violates subsection (f)(2) of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00).

In no case shall an offender who violates subsection (f)(2) of this section be sentenced to any term of imprisonment. An arrest or conviction for a violation of subsection (f)(2) of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 4511.69)

351.05 MANNER OF ANGLE PARKING.

(a) Upon streets where angle parking is permitted, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway as is indicated by appropriate signs or markings.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.06 SELLING, WASHING OR REPAIRING VEHICLE UPON ROADWAY.

(a) No person shall stop, stand or park a vehicle upon any roadway for the principal purpose of:

- (1) Displaying such vehicle for sale;
- (2) Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.07 UNATTENDED VEHICLE: DUTY TO STOP ENGINE, REMOVE KEY, SET BRAKE AND TURN WHEELS.

(a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake, and, when the motor vehicle is standing upon any grade, turning the front wheels to the curb or side of the highway.

The requirements of this section relating to the stopping of the engine, locking of the ignition and removing the key from the ignition of a motor vehicle do not apply to any of the following:

- (1) A motor vehicle that is parked on residential property;
- (2) A motor vehicle that is locked, regardless of where it is parked;
- (3) An emergency vehicle;
- (4) A public safety vehicle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.661)

351.08 OPENING VEHICLE DOOR ON TRAFFIC SIDE.

(a) No person shall open the door of a vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.70(C), (D))

351.09 TRUCK LOADING ZONES.

(a) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a truck loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty minutes.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.10 BUS STOPS AND TAXICAB STANDS.

(a) No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately posted, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone, and then only for a period not to exceed three minutes, if such stopping is not prohibited therein by posted signs.

(b) The operator of a bus shall not stop, stand or park such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop so designated and posted as such, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated and posted as such. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking provisions at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

(e) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.11 PARKING IN ALLEYS AND NARROW STREETS; EXCEPTIONS.

(a) No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when directed to by a police officer or traffic control signal.

Except as otherwise provided by law, no person shall stop, stand or park a vehicle within an alley except while actually loading and unloading, and then only for a period not to exceed thirty minutes.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.12 PROHIBITION AGAINST PARKING ON STREETS OR HIGHWAYS.

(a) Upon any street or highway outside a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the street or highway if it is practicable to stop, park or so leave such vehicle off the paved or main traveled part of such street or highway. In every event, a clear and unobstructed portion of the street or highway opposite such standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such street or highway.

This section does not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a street or highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.66)

351.13 PARKING OF COMMERCIAL VEHICLES, TRAILERS, RECREATIONAL VEHICLES AND BOATS.

(a) Definitions.

(1) Commercial vehicle. "Commercial vehicle" means any vehicle with the current state issued license plates attached with the designation "truck" or "commercial" or any vehicle including a trailer, used for the hauling of any machinery, device, materials or equipment in connection with a commercial enterprise, whether such vehicle is marked or identified by lettering, symbols or signs relating to such commercial purpose or enterprise or not having attached thereto a state issued license plate with the designation "truck" or "commercial vehicle".

(2) Parking. "Parking", "parked" or "park" means the stopping or standing of vehicles whether or not occupied, other than temporarily for the purpose of and while actively engaged in loading or unloading merchandise or passengers.

- (3) Trailers; motor homes. “House trailer”, “travel trailer” and “motor bus home” include all self-propelled vehicles of the type commonly referred to as recreational vehicles or campers, having self-contained facilities for sleeping and/or cooking whether or not the same are provided with toilet or other sanitary facilities, and whether or not the same are classified as house trailers by Ohio R.C. 4501.01.

(b) No commercial vehicle, motor bus, motor bus home, recreation vehicle, house trailer, travel trailer or other trailer as defined in Ohio R.C. 4501.01, and no boat or boat trailer shall be parked or be left standing on any street or alley within the City limits at any time. However, this section shall not apply to motor vehicles registered as commercial vehicles that have a gross vehicle weight that shall not exceed 10,000 pounds, limited to two axle construction and a limit of four wheels. Motor homes, tractor trailers and boats may be parked on the streets for the purpose of loading and unloading for a period not to exceed three hours. In addition, those vehicles used for conveying the necessary tools and materials to the premises where labor is being performed and the use of such tools and materials are required, shall be permitted, provided they are not parked or left standing for a period not to exceed twelve hours. In addition, those commercial vehicles or trailers being loaded or unloaded, used to deliver or hoist property or merchandise for the completion of delivery shall be permitted, if such loading or unloading, or other activity referred to in this section is conducted diligently and without unnecessary delay. This section shall not apply to commercial vehicles or buses conveying passengers to any public meeting, assembly, church, convention or entertainment during the actual session of a public meeting, assembly, church, convention or entertainment.

(Ord. 99-24. Passed 6-5-99.)

(c) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.14 MAXIMUM STREET PARKING TIME; PARKING ON PUBLIC OR PRIVATE PROPERTY.

(a) No person who is the owner, agent, operator or other person in charge of any vehicle, licensed or unlicensed, shall permit the vehicle to remain parked, standing or abandoned upon any street for a continuous period longer than forty-eight hours. This subsection (a) shall not be construed as affecting any other parking regulations now in effect or that may hereafter become effective but shall be construed as an additional parking limitation. The purpose of this subsection is to prohibit continuous long-time parking and the storage of vehicles on streets.

(b) The parking of vehicles on public or private property, excluding dedicated streets and ways set out for public travel regulated elsewhere, shall be prohibited if done so without the consent of the owner of private property or the proper governmental agency in charge of the public property.

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

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

(e) The provisions of subsection (b) through (d) shall not be applicable unless the private or public property is posted in a conspicuous manner setting forth the prohibition of parking or the conditions and regulations under which parking is permitted.

(f) If any vehicle is found upon public or private proeprty in violation of any of the provisions of this section and the identity of the driver cannot be determined, the owner or person in whose name such vehicle is registered shall be held prima-facie responsible for such violation. (Ord. 5581. Passed 11-17-66.)

(g) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.15 WAIVER.

(a) If the owner or operator of any vehicle who has violated Section 351.03(d) or Section 351.11 and has received a ticket for same, appears at the Police Department within twenty-four hours after the issuance of the ticket, presents the ticket to the officer in charge and at the same time deposits twenty dollars (\$20.00) in a parking meter established at the Police Department, the owner or operator of such vehicle shall not be subject to the penalty prescribed under such section.

(b) If the owner or operator of any vehicle who has violated Section 351.14(a) and has received a ticket for same appears at the Police Department within twenty-four hours after the issuance of the ticket, presents the ticket to the officer in charge and at the same time deposits fifty dollars (\$50.00) in a parking meter established at the Police Department, the owner or operator of such vehicle shall not be subject to the penalty prescribed under Section 351.14.

(c) If the owner or operator of any vehicle who violates any provision of this chapter, other than 351.03(d), 351.04(f), 351.11, 351.13 or 351.14 (a), and receives a ticket for such violation appears at the Police Department within twenty-four hours after the issuance of the ticket, presents the ticket to the officer in charge and at the same time deposits ten dollars (\$10.00) in a parking meter established at the Police Department, the owner or operator of such vehicle shall not be subject to the penalty prescribed under the applicable section. (Ord. 98-41. Passed 7-2-98.)

CHAPTER 353 Parking Meters

353.01	Definitions.	353.06	Violation; prima-facie liability of owner.
353.02	Designation of individual parking spaces.	353.07	Overtime parking.
353.03	Parking meter installation.	353.08	Waiver.
353.04	Regulation of parking in individual parking spaces.	353.99	Penalty.
353.05	Time of operation; amounts of deposit.		

CROSS REFERENCES

Parking regulations - see TRAF. Ch. 351

Using slugs - see GEN. OFF. 545.11

Tampering with coin machines - see GEN. OFF. 545.12

353.01 DEFINITIONS.

As used in this chapter:

- (a) "Parking" means the standing of a vehicle upon a street whether the vehicle is occupied or not, and whether it is accompanied or not by an operator, for a period of time in excess of two minutes.
- (b) "Mechanical parking time indicator" or "parking meter" means a device which indicates the length of time during which a vehicle may be parked in a particular place; which has a receptacle or chamber for receiving and storing coins of United States money; a slot or place in which such coins may be deposited; brief instructions as to its operation; a timing mechanism to indicate the passage of the interval of time during which parking is permissible and which shall also display an appropriate signal when the permitted interval of time has elapsed.
- (c) "Individual parking space" means a portion of the paved surface of a street of sufficient length and depth from the sidewalk curb to accommodate a parked vehicle. (Ord. 3949. Passed 5-8-48.)

353.02 DESIGNATION OF INDIVIDUAL PARKING SPACES.

The Director of Public Safety is directed to designate and mark off such individual parking spaces as he believes proper along streets in the congested traffic area for the parking of vehicles. At each place where individual parking spaces are so marked off, each vehicle shall be parked entirely within an individual parking space. (Ord. 3949. Passed 5-8-48.)

353.03 PARKING METER INSTALLATION.

The Director of Public Safety is directed to place, install and remove parking meters upon the curb side or in the immediate vicinity of individual parking spaces designated and marked off in the congested area where parking is restricted. All such parking meters shall be under the management, supervision and control of the Director of Public Safety.
(Ord. 3949. Passed 5-8-48.)

353.04 REGULATION OF PARKING IN INDIVIDUAL PARKING SPACES.

(a) Whenever a vehicle is parked in an individual parking space where a parking meter has been installed, the person parking the vehicle shall deposit appropriate coins in the parking meter, if the meter displays the signal showing that legal parking is only permitted on such deposit.

(b) The Director of Public Safety shall determine the length of time that parking is permissible in an individual parking space. Notice to the public shall be given by appropriate signs setting forth the length of time for which parking is permitted and the conditions thereof. The notice may be upon the parking meter stand or in the immediate vicinity. Any vehicle which remains in an individual parking space after the prescribed time for parking has lapsed is illegally parked, but in no event shall it be considered illegal parking if the meter signal shows that a proper deposit has been made for such parking.
(Ord. 4719. Passed 11-18-56.)

353.05 TIME OF OPERATION; AMOUNTS OF DEPOSIT.

(a) In parking meter zones, all parking is prohibited on Monday through Friday between 8:00 a.m. and 6:00 p.m., and on Saturday on the West side of Fifth Street in front of the United States Post Office between 8:00 a.m. and 12:00 p.m. noon, unless the owner or operator of a vehicle parked in a parking space shall, upon entering the space, deposit coins in the parking meter as herein provided.

(b) The provisions herein for the use of parking meters shall not apply to parking on Sundays and the following holidays: Martin Luther King Day, Memorial Day, Fourth of July, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day, and New Years Day.

(c) Whenever a vehicle is parked in an individual parking space where a parking meter has been installed, the person parking such vehicle shall deposit a five-cent coin of the United States money in the meter for twelve minutes; a ten cent coin for each twenty-four minutes; or a twenty-five cent coin for one hour (sixty minutes); such deposit is non-accumulative.
(Ord. 2006-09. Passed 3-16-06.)

353.06 VIOLATION; PRIMA-FACIE LIABILITY OF OWNER.

All parking is prohibited in any parking space where a meter is installed which displays a signal showing that parking is not permitted unless a deposit of the appropriate coin or coins is made as provided in this chapter. Any vehicle parked in contravention of this provision shall be deemed to be illegally parked. The fact that a vehicle is in an individual parking space when the time signal on the parking meter shows no parking permitted unless a deposit of a proper coin is made, shall be deemed prima-facie evidence of illegal parking of the motor vehicle by its owner.
(Ord. 3949. Passed 5-8-48.)

353.07 OVERTIME PARKING.

No person shall cause, allow or permit any vehicle registered in the name of, or operated by, such person to be parked overtime or beyond the period of legal parking time established for any parking meter zone as herein described.

No person shall permit a vehicle to remain or be placed in any parking place adjacent to any parking meter, while the meter is displaying a signal indicating that the vehicle occupying the parking space has already been parked beyond the period of time prescribed for the parking space. (Ord. 3949. Passed 5-8-48.)

353.08 WAIVER.

(a) If the owner or operator of any vehicle which is parked in violation of any provision of this chapter receives a ticket for being illegally parked, appears at the Police Department within one hour after the issuance of the ticket, presents the ticket to the officer in charge and at the same time deposits two dollars (\$2.00) in a parking meter established at the Police Department, the owner or operator of such vehicle shall not be subject to the penalty provided under Section 303.99.

(b) Each owner or operator may, within twenty-four hours of the time when a ticket for parking in violation of any provision of this chapter was attached to such vehicle, pay three dollars (\$3.00) at the Police Department as a penalty for and in full satisfaction of the violation.

(c) The failure of the owner or operator to make payment within twenty-four hours shall render such owner or operator subject to the penalty provided under Section 303.99. (Ord. 98-42. Passed 7-2-98.)

353.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for general Code penalty if no specific penalty is provided.)

TITLE NINE - Pedestrians, Bicycles and Motorcycles

Chap. 371. Pedestrians.

Chap. 373. Bicycles and Motorcycles.

Chap. 375. Snowmobiles, Off-Highway Motorcycles, and
All Purpose Vehicles.

CHAPTER 371 Pedestrians

371.01	Right of way in crosswalk.	371.07	Right of way on sidewalk.
371.02	Right of way of blind person.	371.08	Yielding to public safety vehicle.
371.03	Crossing roadway outside crosswalk; diagonal crossings at intersections.	371.09	Walking on highway while under the influence.
371.04	Moving upon right half of crosswalk.	371.10	On bridges or railroad crossings.
371.05	Walking along highways.	371.11	Persons operating motorized wheelchairs.
371.06	Use of highway for soliciting; riding on outside of vehicles.	371.12	Electric personal assistive mobility devices.

CROSS REFERENCES

See sectional histories for similar State law

Pedestrian defined - see TRAF. 301.22

Pedestrian prohibited on freeways - see TRAF. 303.06

Obedience to traffic control devices - see TRAF.

313.01, 313.03

Pedestrian control signals - see TRAF. 313.05

371.01 RIGHT OF WAY IN CROSSWALK.

(a) When traffic control signals are not in place, not in operation or are not clearly assigning the right of way, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield or if required by Section 313.09, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(c) Subsection (a) hereof does not apply under the conditions stated in Section 371.03(b).

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

(e) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.46)

371.02 RIGHT OF WAY OF BLIND PERSON.

(a) As used in this section "blind person" or "blind pedestrian" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

The driver of every vehicle shall yield the right of way to every blind pedestrian guided by a guide dog, or carrying a cane which is predominately white or metallic in color, with or without a red tip.

(b) No person, other than a blind person, while on any public highway, street, alley or other public thoroughfare shall carry a white metallic cane, with or without a red tip.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.47)

371.03 CROSSING ROADWAY OUTSIDE CROSSWALK; DIAGONAL CROSSINGS AT INTERSECTIONS.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all traffic upon the roadway.

(c) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

(e) This section does not relieve the operator of a vehicle from exercising due care to avoid colliding with any pedestrian upon any roadway.

(f) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.48)

371.04 MOVING UPON RIGHT HALF OF CROSSWALK.

(a) Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.49)

371.05 WALKING ALONG HIGHWAYS.

(a) Where a sidewalk is provided and its use is practicable, no pedestrian shall walk along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.

(d) Except as otherwise provided in Section 313.03 and 371.01, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.

(e) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.50)

371.06 USE OF HIGHWAY FOR SOLICITING; RIDING ON OUTSIDE OF VEHICLES.

(a) No person while on a roadway outside a safety zone shall solicit a ride from the driver of any vehicle.

- (b) (1) Except as provided in subsection (b)(2) hereof, no person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.
 - (2) Council, by ordinance, may authorize the issuance of a permit to a charitable organization to allow a person acting on behalf of the organization to solicit charitable contributions from the occupant of a vehicle by standing on a highway, other than a freeway, as provided in Ohio R.C. 4511.051(A), that is under the jurisdiction of the Municipality. The permit shall be valid for only one period or time, which shall be specified in the permit, in any calendar year. Council also may specify the locations where contributions may be solicited and may impose any other restrictions on or requirements regarding the manner in which the solicitations are to be conducted that Council considers advisable.
 - (3) As used herein, "charitable organization" means an organization that has received from the Internal Revenue Service a currently valid ruling or determination letter recognizing the tax-exempt status of the organization pursuant to Section 501(c)(3) of the "Internal Revenue Code."
- (c) No person shall hang onto, or ride on the outside of any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.
- (d) No operator shall knowingly permit any person to hang onto, or ride on the outside of, any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.
- (e) No driver of a truck, trailer or semitrailer shall knowingly permit any person who has not attained the age of sixteen years to ride in the unenclosed or unroofed cargo storage area of the driver's vehicle if the vehicle is traveling faster than twenty-five miles per hour, unless either of the following applies:
 - (1) The cargo storage area of the vehicle is equipped with a properly secured seat to which is attached a seat safety belt that is in compliance with federal standards for an occupant restraining device as defined in Ohio R.C. 4513.263(A)(2), the seat and seat safety belt were installed at the time the vehicle was originally assembled and the person riding in the cargo storage area is in the seat and is wearing the seat safety belt;
 - (2) An emergency exists that threatens the life of the driver or the person being transported in the cargo storage area of the truck, trailer or semitrailer.
- (f) No driver of a truck, trailer or semitrailer shall permit any person, except for those workers performing specialized highway or street maintenance or construction under authority of a public agency to ride in the cargo storage area or on a tailgate of the driver's vehicle while the tailgate is unlatched.

- (g) (1) Except as otherwise provided in this subsection, whoever violates any provision of subsections (a) to (d) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the third degree.
- (2) Whoever violates subsection (e) or (f) of this section is guilty of a minor misdemeanor. (ORC 4511.51)

371.07 RIGHT OF WAY ON SIDEWALK.

- (a) The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.441)

371.08 YIELDING TO PUBLIC SAFETY VEHICLE.

- (a) Upon the immediate approach of a public safety vehicle as stated in Section 331.21, every pedestrian shall yield the right of way to the public safety vehicle.
- (b) This section shall not relieve the driver of a public safety vehicle from the duty to exercise due care to avoid colliding with any pedestrian.
- (c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.452)

371.09 WALKING ON HIGHWAY WHILE UNDER THE INFLUENCE.

- (a) A pedestrian who is under the influence of alcohol, any drug of abuse, or any combination of them, to a degree that renders the pedestrian a hazard shall not walk or be upon a highway.
- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.481)

371.10 ON BRIDGES OR RAILROAD CROSSINGS.

(a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

(b) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.511)

371.11 PERSONS OPERATING MOTORIZED WHEELCHAIRS.

(a) Every person operating a motorized wheelchair shall have all of the rights and duties applicable to a pedestrian that are contained in this Traffic Code, except those provisions which by their nature can have no application.
(ORC 4511.491)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.99)

371.12 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES.

- (a) (1) Electric personal assistive mobility devices may be operated on the public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles in accordance with this section.
- (2) Except as otherwise provided in this section, those sections of this Traffic Code that by their nature are applicable to an electric personal assistive mobility device apply to the device and the person operating it whenever it is operated upon any public street, highway, sidewalk, or path or upon any portion of a roadway set aside for the exclusive use of bicycles.
- (b) No operator of an electric personal assistive mobility device shall do any of the following:
- (1) Fail to yield the right-of-way to all pedestrians and human-powered vehicles at all times;
 - (2) Fail to give an audible signal before overtaking and passing a pedestrian;
 - (3) Operate the device at night unless the device or its operator is equipped with or wearing both of the following:
 - A. A lamp pointing to the front that emits a white light visible from a distance of not less than five hundred feet;

- B. A red reflector facing the rear that is visible from all distances from one hundred feet to six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle.
- (4) Operate the device on any portion of a street or highway that has an established speed limit of fifty-five miles per hour or more;
- (5) Operate the device upon any path set aside for the exclusive use of pedestrians or other specialized use when an appropriate sign giving notice of the specialized use is posted on the path;
- (6) If under eighteen years of age, operate the device unless wearing a protective helmet on the person's head with the chin strap properly fastened;
- (7) If under sixteen years of age, operate the device unless, during the operation, the person is under the direct visual and audible supervision of another person who is eighteen years of age or older and is responsible for the immediate care of the person under sixteen years of age.

(c) No person who is under fourteen years of age shall operate an electric personal assistive mobility device.

(d) No person shall distribute or sell an electric personal assistive mobility device unless the device is accompanied by a written statement that is substantially equivalent to the following: "WARNING: TO REDUCE THE RISK OF SERIOUS INJURY, USE ONLY WHILE WEARING FULL PROTECTIVE EQUIPMENT - HELMET, WRIST GUARDS, ELBOW PADS, AND KNEE PADS". (ORC 4511.512)

(e) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour. (ORC 4501.01)

(f) Whoever violates subsection (b) or (c) hereof is guilty of a minor misdemeanor and shall be punished as follows:

- (1) The offender shall be fined ten dollars (\$10.00).
- (2) If the offender previously has been convicted of or pleaded guilty to a violation of division (B) or (C) of Ohio R.C. 4511.512 or a substantially similar municipal ordinance, the court, in addition to imposing the fine required under subsection (f)(1) hereof, shall do one of the following:
 - A. Order the impoundment for not less than one day but not more than thirty days of the electric personal assistive mobility device that was involved in the current violation of that section. The court shall order the device to be impounded at a safe indoor location designated by the court and may assess storage fees of not more than five dollars (\$5.00) per day, provided the total storage, processing, and release fees assessed against the offender or the device in connection with the device's impoundment or subsequent release shall not exceed fifty dollars (\$50.00).

- B. If the court does not issue an impoundment order pursuant to subsection (f)(2)A. hereof, issue an order prohibiting the offender from operating any electric personal assistive mobility device on the public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles for not less than one day but not more than thirty days.

(g) Whoever violates subsection (d) hereof is guilty of a minor misdemeanor.
(ORC 4511.512)

CHAPTER 373 Bicycles and Motorcycles

373.01	Code application to bicycles.	373.12	Impounding of bicycles or motorized scooters.
373.02	Riding upon seats; handle bars; helmets and glasses.	373.13	Parental responsibility.
373.03	Attaching bicycle or sled to vehicle.	373.14	License tag required.
373.04	Riding bicycles and motorcycles abreast.	373.15	License application; fee.
373.05	Signal device on bicycle.	373.16	Inspection of bicycles.
373.06	Lights and reflector on bicycle; brakes.	373.17	Issuance of license.
373.07	Riding bicycle on right side of roadway; obedience to traffic rules; passing.	373.18	Attachment of license tag.
373.08	Reckless operation; control, course and speed.	373.19	Sale or transfer; tag surrender or reassignment.
373.09	Parking of bicycle.	373.20	New license tags required annually.
373.10	Riding on sidewalks.	373.21	Motorized bicycle operation, equipment and license.
373.11	Bicycles in recreation areas.	373.22	Motorized scooter operation and equipment.

CROSS REFERENCES

See sectional histories for similar State law
 Motorcycle protective equipment - see OAC Ch. 4501-17
 Motorized bicycle equipment - see OAC Ch. 4501-23
 Bicycle defined - see TRAF. 301.04
 Motorcycle defined - see TRAF. 301.19
 Bicycles prohibited on freeways - see TRAF. 303.06
 Hand and arm signals - see TRAF. 331.15
 Motorcycle operator's license required - see TRAF. 335.01(a)
 Motorcycle headlight - see TRAF. 337.03
 Motorcycle brakes - see TRAF. 337.18(b)

373.01 CODE APPLICATION TO BICYCLES.

(a) The provisions of this Traffic Code that are applicable to bicycles apply whenever a bicycle is operated upon any street or upon any path set aside for the exclusive use of bicycles.

(b) Except as provided in subsection (d) of this section, a bicycle operator who violates any section of this Traffic Code described in subsection (a) of this section that is applicable to bicycles may be issued a ticket, citation or summons by a law enforcement officer for the violation in the same manner as the operator of a motor vehicle would be cited for the same violation. A person who commits any such violation while operating a bicycle shall not have any points assessed against the person's driver's license, commercial driver's license, temporary instruction permit, or probationary license under Ohio R.C. 4510.036.

(c) Except as provided in subsection (d) of this section, in the case of a violation of any section of this Traffic Code described in subsection (a) of this section by a bicycle operator or by a motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator endangered the lives of bicycle riders at the time of the violation, the court, notwithstanding any provision of this Traffic Code to the contrary, may require the bicycle operator or motor vehicle operator to take and successfully complete a bicycling skills course approved by the court in addition to or in lieu of any penalty otherwise prescribed by the Traffic Code for that violation.

(d) Subsections (b) and (c) of this section do not apply to violations of Section 333.01 of this Traffic Code. (ORC 4511.52)

(e) The provisions of this Traffic Code shall apply to bicycles except those which by their nature are not applicable.

373.02 RIDING UPON SEATS; HANDLE BARS; HELMETS AND GLASSES.

(a) For purposes of this section "snowmobile" has the same meaning as given that term in Ohio R.C 4519.01.

(b) No person operating a bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, or carry any other person upon such bicycle other than upon a firmly attached and regular seat thereon, and no person shall ride upon a bicycle other than upon such a firmly attached and regular seat.

(c) No person operating a motorcycle shall ride other than upon or astride the permanent and regular seat or saddle attached thereto, or carry any other person upon such motorcycle other than upon a firmly attached and regular seat or saddle thereon, and no person shall ride upon a motorcycle other than upon such a firmly attached and regular seat or saddle.

(d) No person shall ride upon a motorcycle that is equipped with a saddle other than while sitting astride the saddle, facing forward, with one leg on each side of the motorcycle.

(e) No person shall ride upon a motorcycle that is equipped with a seat other than while sitting upon the seat.

(f) No person operating a bicycle shall carry any package, bundle or article that prevents the driver from keeping at least one hand upon the handle bars.

(g) No bicycle or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped. No motorcycle shall be operated on a highway when the handlebars rise higher than the shoulders of the operator when the operator is seated in the operator's seat or saddle.

(h) (1) Except as provided in subsection (h)(2) of this section, no person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. Except as provided in subsection (i)(3) of this section, no person who is under the age of eighteen years, or who holds a motorcycle operator's endorsement or license bearing "novice" designation that is currently in effect as provided in Ohio R.C. 4507.13, shall operate a motorcycle on a highway, or be a passenger on a motorcycle, unless wearing a United States Department of Transportation-approved protective helmet on the person's head, and no other person shall

be a passenger on a motorcycle operated by such a person unless similarly wearing a protective helmet. The helmet, safety glasses or other protective eye device shall conform with rules adopted by the Ohio Director of Public Safety. The provisions of this subsection or a violation thereof shall not be used in the trial of any civil action.

- (2) Subsection (h)(1) of this section does not apply to a person operating an autocycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.

- (i) (1) No person shall operate a motorcycle with a valid temporary permit and temporary instruction permit identification card issued by the Ohio Registrar of Motor Vehicles pursuant to Ohio R.C. 4507.05 unless the person, at the time of such operation, is wearing on the person's head a protective helmet that has been approved by the United States Department of Transportation that conforms with rules adopted by the Director.
- (2) No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar pursuant to Ohio R.C. 4507.05 in any of the following circumstances:
- A. At any time when lighted lights are required by Section 337.02(a)(1);
 - B. While carrying a passenger;
 - C. On any limited access highway or heavily congested roadway.

(j) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle.

(k) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.53)

373.03 ATTACHING BICYCLE OR SLED TO VEHICLE.

(a) No person riding upon any motorcycle, bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or self to any vehicle upon a roadway.

No operator shall knowingly permit any person riding upon any motorcycle, bicycle, coaster, roller skates, sled or toy vehicle to attach the same or self to any vehicle while it is moving upon a roadway. This section does not apply to the towing of a disabled vehicle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.54)

373.04 RIDING BICYCLES AND MOTORCYCLES ABREAST.

(a) Persons riding bicycles or motorcycles upon a roadway shall ride not more than two abreast in a single lane, except on paths or parts of roadways set aside for the exclusive use of bicycles or motorcycles.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.55(B))

373.05 SIGNAL DEVICE ON BICYCLE.

(a) A bicycle may be equipped with a device capable of giving an audible signal, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.56)

373.06 LIGHTS AND REFLECTOR ON BICYCLE; BRAKES.

(a) Every bicycle when in use at the times specified in Section 337.02, shall be equipped with the following:

- (1) A lamp mounted on the front of either the bicycle or the operator that shall emit a white light visible from a distance of at least five hundred feet to the front; and three hundred feet to the sides. A generator-powered lamp that emits light only when the bicycle is moving may be used to meet this requirement.
- (2) A red reflector on the rear that shall be visible from all distances from one hundred feet to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.
- (3) A lamp emitting either flashing or steady red light visible from a distance of five hundred feet to the rear shall be used in addition to the red reflector; If the red lamp performs as a reflector in that it is visible as specified in subsection (a)(2) of this section, the red lamp may serve as the reflector and a separate reflector is not required.

(b) Additional lamps and reflectors may be used in addition to those required under subsection (a) of this section, except that red lamps and red reflectors shall not be used on the front of the bicycle and white lamps and white reflectors shall not be used on the rear of the bicycle.

(c) Every bicycle shall be equipped with an adequate brake when used on a street or highway.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.56)

373.07 RIDING BICYCLE ON RIGHT SIDE OF ROADWAY; OBEDIENCE TO TRAFFIC RULES; PASSING.

(a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) This section does not require a person operating a bicycle to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it otherwise is unsafe or impracticable to do so, including if the lane is too narrow for the bicycle and an overtaking vehicle to travel safely side by side within the lane.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
(ORC 4511.55(A))

373.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

(a) No person shall operate a bicycle:

- (1) Without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, and so as to endanger the life, limb or property of any person while in the lawful use of the streets or sidewalks or any other public or private property;
- (2) Without exercising reasonable and ordinary control over such bicycle;
- (3) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law;
- (4) Without both hands upon the handle grips except when necessary to give the required hand and arm signals, or as provided in Section 373.02(d);
- (5) At a speed greater than is reasonable and prudent under the conditions then existing.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

373.09 PARKING OF BICYCLE.

(a) No person shall park a bicycle upon a sidewalk in such a manner so as to unduly interfere with pedestrian traffic or upon a roadway so as to unduly interfere with vehicular traffic.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

373.10 RIDING ON SIDEWALKS.

(a) No person shall operate a bicycle upon a sidewalk within a business district or upon a sidewalk where signs are erected prohibiting such operation.
(Adopting Ordinance)

(b) No person twelve years of age or older shall operate a bicycle upon a sidewalk.
(Ord. 4871. Passed 11-6-58.)

(c) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

373.11 BICYCLES IN RECREATION AREAS.

(a) No person shall operate a bicycle in any recreation area.
(Ord. 4871. Passed 11-6-58.)

(b) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

373.12 IMPOUNDING OF BICYCLES OR MOTORIZED SCOOTERS.

Whenever any bicycle or motorized scooter is operated by any minor under the age of eighteen years in violation of any provision of the Traffic Code, the bicycle or motorized scooter may be seized by any member of the Police Department and impounded in the City Building. The bicycle or motorized scooter so impounded shall be surrendered to the parent or guardian of the minor, without charge, after a full explanation to the parent or guardian of the reason for impounding the bicycle or motorized scooter. (Ord. 2004-17. Passed 4-14-04.)

373.13 PARENTAL RESPONSIBILITY.

(a) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any child or ward to violate any provision of this chapter.
(Ord. 4871. Passed 11-6-58.)

(b) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

373.14 LICENSE TAG REQUIRED.

(a) No person shall ride, operate or propel any bicycle on any street unless the bicycle has been provided with the proper license tag as required by this chapter.
(1941 Code, §8-9.)

(b) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

373.15 LICENSE APPLICATION; FEE.

Application for a bicycle license and license tag shall be made to the Chief of Police, upon a form to be provided by him, and shall be accompanied by a fee of one dollar (\$1.00).
(Ord. 4949. Passed 12-17-59.)

373.16 INSPECTION OF BICYCLES.

The Chief of Police shall inspect each bicycle presented to him for licensing and shall have the authority to refuse to approve the application for a license for any bicycle found to be in an unsafe mechanical condition. (1941 Code, §8-3.)

373.17 ISSUANCE OF LICENSE.

The Mayor has the authority to issue, upon written application approved by the Chief of Police, a bicycle license which shall be effective until surrender as hereinafter provided. Every license tag shall have displayed upon it the registration number of the bicycle for which it is issued and the name of the City.

The Mayor and the Chief of Police shall each keep a record of the issuance of bicycle licenses, to whom each is issued, the number thereof and the number and make of the bicycle frame; and the Mayor shall keep a record of all fees collected for the issuance of licenses. (1941 Code, §8-4.)

373.18 ATTACHMENT OF LICENSE TAG.

(a) Upon the issuance of a license, the licensee shall affix to the bicycle a proper tag to be furnished by the City, which he shall cause to be firmly attached to the rear mud guard or frame of the bicycle in such a position as to be plainly visible from the rear.

No person shall remove any such tag, except with proper authority or upon transfer of ownership.
(1941 Code, §8-5.)

(b) Whoever violates any provision of this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

373.19 SALE OR TRANSFER; TAG SURRENDER OR REASSIGNMENT.

Upon the sale or transfer of a licensed bicycle, the licensee thereof shall remove and surrender to the Mayor the attached license tag, or may have the Mayor assign the tag to another bicycle owned or operated by the licensee, without charge.
(1941 Code, §8-6.)

373.20 NEW LICENSE TAGS REQUIRED ANNUALLY.

Each owner or operator of a bicycle shall secure from the Mayor, for one dollar (\$1.00), before January 2 of each year, a new license tag which shall replace the old tag and be attached in the same manner. The purchase of the new tag shall be recorded on the license and the duplicate thereof at the time of purchase.
(Ord. 4949. Passed 12-17-59.)

373.21 MOTORIZED BICYCLE OPERATION, EQUIPMENT AND LICENSE.

(a) No person shall operate a motorized bicycle upon any street or highway or any public or private property used by the public for purposes of vehicular travel or parking, unless all of the following conditions are met:

- (1) The person is fourteen or fifteen years of age and holds a valid probationary motorized bicycle license issued after the person has passed the test provided for in Ohio R.C. 4511.521, or the person is sixteen years of age or older and holds either a valid commercial driver's license issued under Ohio R.C. Chapter 4506, or a driver's license issued under Ohio R.C. Chapter 4507, or a valid motorized bicycle license issued after the person has passed the test provided for in Ohio R.C. 4511.521, except that if a person is sixteen years of age, has a valid probationary motorized bicycle license and desires a motorized bicycle license, the person is not required to comply with the testing requirements provided for in Ohio R.C. 4511.521;

- (2) The motorized bicycle is equipped in accordance with rules adopted by the Ohio Director of Public Safety and is in proper working order;
- (3) The person, if under eighteen years of age, is wearing a protective helmet on the person's head with the chin strap properly fastened, and the motorized bicycle is equipped with a rear-view mirror;
- (4) The person operates the motorized bicycle when practicable within three feet of the right edge of the roadway obeying all traffic rules applicable to vehicles; and
- (5) The motorized bicycle displays on the rear of such bicycle the current license plate or validation sticker furnished by the Ohio Director of Public Safety under Ohio R.C. 4503.191.

(b) No person operating a motorized bicycle shall carry another person upon the motorized bicycle.

(c) Each probationary motorized bicycle license or motorized bicycle license shall be laminated with a transparent plastic material.

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4511.521)

373.22 MOTORIZED SCOOTER OPERATION AND EQUIPMENT.

(a) No person shall operate a motorized scooter upon any street or highway, or any public or private property used by the public for purposes of vehicular traffic or parking, unless all of the following conditions are met:

- (1) The motorized scooter is equipped in accordance with rules adopted by the Ohio Director of Public Safety, and is in proper working order;
- (2) The person, if under eighteen years of age, is wearing a protective helmet on the person's head, with the chin strap properly fastened; and
- (3) The person operates the motorized scooter, when practicable, within three feet of the right edge of the roadway, and obeys all traffic rules applicable to vehicles.

(b) No person operating a motorized scooter shall carry another person on the motorized scooter or operate the motorized scooter at nighttime.

(c) No person shall operate a motorized scooter upon a freeway, thruway or State Highway. (Ord. 2004-16. Passed 4-14-04.)

CHAPTER 375
Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles

375.01	Definitions.	375.05	Licensing requirements of operator.
375.02	Equipment.	375.06	Registration of vehicles.
375.03	Code application; prohibited operation.	375.07	Accident reports.
375.04	Permitted operation.	375.08	Certificate of title.

CROSS REFERENCES

See sectional histories for similar State law
 Lights, brakes and muffler - see OAC Ch. 4501.29
 Power of trial court of record to impound registration certificate for certain violations - see Ohio R.C 4519.47
 Power to regulate; municipal licensing prohibited - see Ohio R.C. 4519.48
 Street or highway defined - see TRAF. 301.42
 Required usage of helmets and safety glasses - see TRAF. 373.02(f)

375.01 DEFINITIONS.

As used in this chapter:

- (a) "Snowmobile" means any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners or caterpillar treads. (ORC 4519.01(A))
- (b) "All purpose vehicle" means any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all season vehicles, mini-bikes and trail bikes. "All-purpose vehicle" does not include a utility vehicle as defined in Ohio R.C. 4501.01 or any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Ohio R.C. Chapter 4503 or Chapter 4561, and any vehicle excepted from definition as a motor vehicle by Section 301.20 of this Traffic Code. (ORC 4519.01(B))
- (c) "Owner" means any person, firm or corporation, other than a lienholder or dealer, having title to a snowmobile, off-highway motorcycle, or all purpose vehicle, or other right to the possession thereof. (ORC 4519.01(C))

- (d) "Operator" means any person who operates or is in actual physical control of a snowmobile, off-highway motorcycle or all purpose vehicle.
- (e) "Limited access highway" or "freeway" means a highway especially designed for through traffic and over which abutting property owners have no easement or right of access by reason of the fact that their property abuts upon such highway, and access to which may be allowed only at highway intersections designated by the Ohio Director of Transportation. (ORC 5511.02)
- (f) "Interstate highway" means any part of the interstate system of highways as defined in subsection (e), 90 Stat. 431 (1976), 23 U.S.C.A. 103, and amendments thereof.
- (g) "Off-highway motorcycle" means every motorcycle, as defined in Ohio R.C. 4511.01, that is designed to be operated primarily on lands other than a street or highway. (ORC 4519.01)

375.02 EQUIPMENT.

(a) Equipment of snowmobiles, off-highway motorcycles, and all purpose vehicles shall include, but not necessarily be limited to requirements for the following items:

- (1) At least one headlight having a minimum candlepower of sufficient intensity to reveal persons and objects at a distance of at least 100 feet ahead under normal atmospheric conditions during hours of darkness;
- (2) At least one red taillight having a minimum candlepower of sufficient intensity to be plainly visible from a distance of 500 feet to the rear under normal atmospheric conditions during hours of darkness;
- (3) Adequate brakes. Every snowmobile, while traveling on packed snow, shall be capable of carrying a driver who weighs 175 pounds or more, and, while carrying such driver, be capable of stopping in not more than forty feet from an initial steady speed of twenty miles per hour, or locking its traction belt.
- (4) A muffler system capable of precluding the emission of excessive smoke or exhaust fumes, and of limiting the engine noise of vehicles. On snowmobiles manufactured after January 1, 1973, such requirement shall include sound dampening equipment such that noise does not exceed eighty-two decibels on the "A" scale at fifty feet as measured according to SAE J192 (September 1970).

(b) No person shall operate any snowmobile, off-highway motorcycle, or all purpose vehicle in violation of this section, except that equipment specified in subsections (a)(1) and (2) hereof shall not be required on snowmobiles, off-highway motorcycles, or all purpose vehicles operated during the daylight hours.

(c) Except as otherwise provided in this subsection, whoever violates subsection (b) of this section shall be fined not more than fifty dollars (\$50.00). If the offender within the preceding year previously has committed a violation of subsection (b) of this section, whoever violates subsection (b) of this section shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100.00), imprisoned not more than three days, or both. (ORC 4519.20)

375.03 CODE APPLICATION; PROHIBITED OPERATION.

(a) The applicable provisions of this Traffic Code shall be applied to the operation of snowmobiles, off-highway motorcycles, and all purpose vehicles; except that no snowmobile, off-highway motorcycle, or all purpose vehicle shall be operated as follows:

- (1) On any street or highway except for emergency travel only during such time and in such manner as the State or local authority having jurisdiction over such street or highway shall designate, and except as provided in Section 375.04;
- (2) Upon any property owned or leased by the Municipality except in areas designated for such purposes;
- (3) On any private property, or in any nursery or planting area, without the permission of the owner or other person having the right to possession of the property;
- (4) On any land or waters controlled by the State, except at those locations where a sign has been posted permitting such operation;
- (5) On tracks or right of way of any operating railroad;
- (6) While transporting any firearm, bow or other implement for hunting, that is not unloaded and securely encased;
- (7) For the purpose of chasing, pursuing, capturing or killing any animal or wild fowl;
- (8) During the time from sunset to sunrise, unless displaying lighted lights as required by Section 375.02.

(b) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisoned not less than three nor more than thirty days, or both. (ORC 4519.40)

375.04 PERMITTED OPERATION.

Snowmobiles, off-highway motorcycles, and all purpose vehicles may be operated as follows:

- (a) To make a crossing of a highway, other than a freeway or limited access highway, whenever the crossing can be made in safety and will not interfere with the movement of vehicular traffic approaching from any direction on the highway, and provided that the operator yields the right of way to any approaching traffic that presents an immediate hazard;
- (b) On highways in the County or Township road systems whenever the local authority having jurisdiction over such highway so permits;
- (c) Off and alongside a street or highway for limited distances from the point of unloading from a conveyance to the point at which the snowmobile, off-highway motorcycle, or all purpose vehicle is intended and authorized to be operated.
- (d) On the berm or shoulder of a highway, other than a highway as designated in Ohio R.C. 4519.40(A), when the terrain permits such operation to be undertaken safely and without the necessity of entering any traffic lane;
- (e) On the berm or shoulder of a county or township road, while traveling from one area of operation of the snowmobile, off-highway motorcycle, or all-purpose vehicle to another such area. (ORC 4519.41)

375.05 LICENSING REQUIREMENTS OF OPERATOR.

(a) No person who does not hold a valid, current motor vehicle driver's or commercial driver's license, motorcycle operator's endorsement or probationary license issued under Ohio R.C. Chapter 4506 or 4507, or a valid, current driver's license issued by another jurisdiction, shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any street or highway, on any portion of the right of way thereof, or on any public land or waters. This subsection shall not be construed to permit the holder of such a license to operate a snowmobile, off-highway motorcycle, or all purpose vehicle in violation of Section 375.03.

(b) No person who is less than sixteen years of age shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any land or waters other than private property or waters owned by or leased to such person's parent or guardian, unless accompanied by another person who is eighteen years of age, or older, and who holds a license as provided in subsection (a) hereof, except that the Ohio Department of Natural Resources may permit such operation on State controlled land under its jurisdiction when such person is less than sixteen years of age and is accompanied by a parent or guardian who is a licensed driver eighteen years of age or older.

(c) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisoned not less than three nor more than thirty days, or both. (ORC 4519.44)

375.06 REGISTRATION OF VEHICLES.

(a) Except as provided in Ohio R.C. 4519.02(B), (C) and (D), no person shall operate any snowmobile, off-highway motorcycle, or all purpose vehicle unless the snowmobile, off-highway motorcycle, or all purpose vehicle is registered and numbered in accordance with Ohio R.C. 4519.03 and 4519.04.

(b) Except as otherwise provided in this subsection, whoever violates subsection (a) of this section shall be fined not more than twenty-five dollars (\$25.00). If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a) of this section, whoever violates subsection (a) of this section shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00). (ORC 4519.02)

375.07 ACCIDENT REPORTS.

(a) The operator of a snowmobile, off-highway motorcycle, or all purpose vehicle involved in any accident resulting in bodily injury to or death of any person or damage to the property of any person in excess of one hundred dollars (\$100.00) shall report the accident within forty-eight hours to the Chief of Police, and, within thirty days, shall forward a written report of the accident to the Ohio Registrar of Motor Vehicles on a form prescribed by the Registrar. If the operator is physically incapable of making the reports and there is another participant in the accident not so incapacitated, the participant shall make the reports. In the event that there is no other participant, and the operator is other than the owner, the owner, within the prescribed periods of time, shall make the reports.

Any law enforcement officer or other person authorized by Ohio R.C. 4519.42 and 4519.43, who investigates or receives information of an accident involving a snowmobile, off-highway motorcycle, or all purpose vehicle shall forward to the Registrar a written report of the accident within forty-eight hours. (ORC 4519.46)

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

375.08 CERTIFICATE OF TITLE.

(a) No person shall do any of the following:

- (1) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle without having a certificate of title for the off-highway motorcycle or all-purpose vehicle, if such a certificate is required by Ohio R.C. Chapter 4519 to be issued for the off-highway motorcycle or all-purpose vehicle, or, if a physical certificate of title has not been issued for it, operate an off-highway motorcycle or all-purpose vehicle knowing that the ownership information relating to the motorcycle or vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;
- (2) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle if a certificate of title to the off-highway motorcycle or all-purpose vehicle has been issued and then has been canceled;
- (3) Fail to surrender any certificate of title upon cancellation of it by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4519;
- (4) Fail to surrender the certificate of title to a clerk of the court of common pleas as provided in Ohio R.C. Chapter 4519, in case of the destruction or dismantling of, or change in, the off-highway motorcycle or all-purpose vehicle described in the certificate of title;
- (5) Violate any provision of Ohio R.C. 4519.51 to 4519.70 or any lawful rules adopted pursuant to those sections;
- (6) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle knowing that the certificate of title to or ownership of the motorcycle or vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both.
(ORC 4519.66)

CODIFIED ORDINANCES OF MARTINS FERRY
PART FIVE - GENERAL OFFENSES CODE

- Chap. 501. General Provisions and Penalty.
- Chap. 505. Animals and Fowl.
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CODIFIED ORDINANCES OF MARTINS FERRY

PART FIVE - GENERAL OFFENSES CODE

CHAPTER 501

General Provisions and Penalty

501.01	Definitions.	501.08	Culpable mental states.
501.02	Classification of offenses.	501.09	Attempt.
501.03	Common law offenses abrogated.	501.10	Complicity.
501.04	Rules of construction.	501.11	Organizational criminal liability.
501.05	Criminal law jurisdiction.	501.12	Personal accountability for organizational conduct.
501.06	Limitation of criminal prosecution.	501.13	Conspiracy.
501.07	Requirements for criminal liability.	501.99	Penalties for misdemeanors.

CROSS REFERENCES

See sectional histories for similar State law

Limitation of prosecution for income tax violations - see
Ohio R.C. 718.06

Modification of sentence - see Ohio R.C. 2929.10(C), (D)

Penalty considerations - see Ohio R.C. 2929.22

Citation issuance for minor misdemeanors - see Ohio
R.C. 2935.26 et seq.

501.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) "Force" means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.
- (c) "Physical harm to persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (d) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.
- (e) "Serious physical harm to persons" means any of the following:
 - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
 - (2) Any physical harm that carries a substantial risk of death;

- (3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
- (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
- (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) "Serious physical harm to property" means any physical harm to property that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (i) "Offense of violence" means any of the following:
 - (1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2903.04(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio R.C. 2907.12;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section listed in subsection (i)(1) hereof;
 - (3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) hereof.
- (j) (1) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

- (2) As used in this section, "trade secret" has the same meaning as in Ohio R.C. 1333.61, and "telecommunications service" and "information service" have the same meanings as in Ohio R.C. 2913.01.
- (3) As used in this section, "cable television service", "computer", "computer software", "computer system", "computer network", "data", and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
- (k) "Law enforcement officer" means any of the following:
 - (1) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or State highway patrol trooper;
 - (2) An officer, agent or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, Charter or ordinance, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;
 - (3) A mayor or manager in the mayor's or manager's capacity as chief conservator of the peace within the mayor's or manager's municipal corporation;
 - (4) A member of an auxiliary police force organized by county, township or municipal law enforcement authorities, within the scope of the member's appointment or commission;
 - (5) A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;
 - (6) A person appointed by a mayor pursuant to Ohio R.C. 737.01 as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;
 - (7) A member of the organized militia of this State or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;
 - (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or municipal prosecutor;
 - (9) A veterans' home police officer appointed under Ohio R.C. 5907.02;
 - (10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y);
 - (11) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28;
 - (12) The Senate Sergeant of Arms and or Assistant Sergeant at Arms;
 - (13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in Section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States Department of Transportation as provided in Parts 1542 and 1544 of Title 49 of the Code of Federal Regulations, as amended.
- (l) "Privilege" means an immunity, license or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office or relationship, or growing out of necessity.

- (m) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:
 - (1) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device, or paraphernalia;
 - (2) Any unlawful gambling device, or paraphernalia;
 - (3) Any dangerous ordnance or obscene material.
- (n) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in Ohio R.C. 2901.05, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.
- (o)
 - (1)
 - A. Subject to subsection (o)(2) hereof, as used in any section contained in Part Five - General Offenses Code that sets forth a criminal offense, "person" includes all of the following:
 - 1. An individual, corporation, business trust, estate, trust, partnership, and association;
 - 2. An unborn human who is viable.
 - B. As used in any section contained in Part Five - General Offenses Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership and association.
 - C. As used in subsection (o)(1)A. hereof:
 - 1. "Unborn human" means an individual organism of the species *Homo sapiens* from fertilization until live birth.
 - 2. "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.
 - (2) Notwithstanding subsection (o)(1)A. hereof, in no case shall the portion of the definition of the term "person" that is set forth in subsection (o)(1)A.2. hereof be applied or construed in any section contained in Part Five - General Offenses Code that sets forth a criminal offense in any of the following manners:
 - A. Except as otherwise provided in subsection (o)(2)A. hereof, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.151, 2919.17 or 2919.18, may be punished as a violation of Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.151, 2919.17 or 2919.18, as applicable. Consent is sufficient under this subsection if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with Ohio R.C. 2919.12.

- B. In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:
1. Her delivery of a stillborn baby;
 2. Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;
 3. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;
 4. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;
 5. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.
- (p) “School safety zone” consists of a school, school building, school premises, school activity, and school bus.
- (q) “School”, “school building” and “school premises” have the same meaning as in Ohio R.C. 2925.01.
- (r) “School activity” means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Ohio R.C. Chapter 3314; a governing body of an educational service center; or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07.
- (s) “School bus” has the same meaning as in Ohio R.C. 4511.01.
(ORC 2901.01)

501.02 CLASSIFICATION OF OFFENSES.

As used in the Codified Ordinances:

- (a) Offenses include misdemeanors of the first, second, third and fourth degree, minor misdemeanors and offenses not specifically classified.
- (b) Regardless of the penalty that may be imposed, any offense specifically classified as a misdemeanor is a misdemeanor.
- (c) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty.
- (d) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following:
 - (1) For an offense committed prior to the effective date of this amendment, a fine not exceeding one hundred dollars (\$100.00);
 - (2) For an offense committed on or after the effective date of this amendment, a fine not exceeding one hundred fifty dollars (\$150.00), community service under division (C) of Ohio R.C. 2929.27, or a financial sanction other than a fine under Ohio R.C. 2929.28.
(ORC 2901.02)

501.03 COMMON LAW OFFENSES ABROGATED.

- (a) No conduct constitutes a criminal offense against the Municipality unless it is defined as an offense in the Codified Ordinances or any other Municipal ordinance.
- (b) An offense is defined when one or more sections of the Codified Ordinances state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty.
- (c) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law to enforce an order, civil judgment or decree.
(ORC 2901.03)

501.04 RULES OF CONSTRUCTION.

- (a) Except as otherwise provided in subsection (c) hereof, sections of the Codified Ordinances defining offenses or penalties shall be strictly construed against the Municipality and liberally construed in favor of the accused.
- (b) Rules of criminal procedure and sections of the Ohio Revised Code providing for criminal procedure shall be construed so as to effect the fair, impartial, speedy and sure administration of justice.
- (c) Any provision of a section of the Codified Ordinances that refers to a previous conviction of or plea of guilty to a violation of a section of the Codified Ordinances or Ohio Revised Code or of a division of a section of the Codified Ordinances or Ohio Revised Code shall be construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing or former law of this State, another state, or the United States or under an existing or former municipal ordinance.

(d) Any provision of the Codified Ordinances that refers to a section, or to a division of a section, of the Codified Ordinances that defines or specifies a criminal offense shall be construed to also refer to an existing or former law of this State, another state, or the United States, to an existing or former municipal ordinance, or to an existing or former division of any such existing or former law or ordinance that defines or specifies, or that defined or specified, a substantially equivalent offense. (ORC 2901.04)

501.05 CRIMINAL LAW JURISDICTION.

(a) A person is subject to misdemeanor prosecution and punishment in this Municipality if any of the following occur:

- (1) The person commits an offense under the laws of this Municipality, any element of which takes place in this Municipality.
- (2) While in this Municipality, the person attempts to commit, or is guilty of complicity in the commission of, an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality or this State and the other jurisdiction, or, while in this Municipality, the person conspires to commit an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality or this State and the other jurisdiction, and a substantial overt act in furtherance of the conspiracy is undertaken in this Municipality by the person or another person involved in the conspiracy, subsequent to the person's entrance into the conspiracy. In any case in which a person attempts to commit, is guilty of complicity in the commission of, or conspires to commit an offense in another jurisdiction as described in this subsection, the person is subject to criminal prosecution and punishment in this Municipality for the attempt, complicity, or conspiracy, and for any resulting offense that is committed or completed in the other jurisdiction.
- (3) While out of this Municipality, the person conspires or attempts to commit, or is guilty of complicity in the commission of, an offense in this Municipality.
- (4) While out of this Municipality, the person omits to perform a legal duty imposed by the laws of this Municipality, which omission affects a legitimate interest of the Municipality in protecting, governing or regulating any person, property, thing, transaction or activity in this Municipality.
- (5) While out of this Municipality, the person unlawfully takes or retains property and subsequently brings any of the unlawfully taken or retained property into this Municipality.
- (6) While out of this Municipality, the person unlawfully takes or entices another and subsequently brings the other person into this Municipality.
- (7) The person, by means of a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, causes or knowingly permits any writing, data, image, or other telecommunication to be disseminated or transmitted into this Municipality in violation of the law of this Municipality.

(b) This Municipality includes the land and water within its boundaries and the air space above such land and water, and real property outside the corporate limits, with respect to which this Municipality has either exclusive or concurrent legislative jurisdiction. Where the boundary between this Municipality and another jurisdiction is disputed, the disputed territory is conclusively presumed to be within this Municipality for purposes of this section.

(c) When an offense is committed under the laws of this Municipality, and it appears beyond a reasonable doubt that the offense or any element of the offense took place either in this Municipality or in another jurisdiction or jurisdictions, but it cannot reasonably be determined in which it took place, the offense or element is conclusively presumed to have taken place in this Municipality for purposes of this section.

(d) When a person is subject to criminal prosecution and punishment in this Municipality for an offense committed or completed outside of this Municipality, the person is subject to all specifications for that offense that would be applicable if the offense had been committed within this Municipality.

(e) Any act, conduct, or element that is a basis of a person being subject under this section to criminal prosecution and punishment in this Municipality need not be committed personally by the person as long as it is committed by another person who is in complicity or conspiracy with the person.

(f) This section shall be liberally construed, consistent with constitutional limitations, to allow this Municipality the broadest possible jurisdiction over offenses and persons committing offenses in, or affecting, this Municipality.

(g) For purposes of subsection (a)(2) of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(h) As used in this section, “computer”, “computer system”, “computer network”, “information service”, “telecommunication”, “telecommunications device”, “telecommunications service”, “data”, and “writing” have the same meaning as in Ohio R.C. 2913.01. (ORC 2901.11)

501.06 LIMITATION OF CRIMINAL PROSECUTION.

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

- (1) For misdemeanor other than a minor misdemeanor, two years;
- (2) For a minor misdemeanor, six months.

(b) If the period of limitation provided in subsection (a) hereof has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of a fiduciary duty, within one year after discovery of the offense either by an aggrieved person, or by his legal representative who is not himself a party to the offense.

- (c) (1) If the period of limitation provided in this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:
 - A. For an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter;
 - B. For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.
- (2) As used in this subsection:
 - A. An “offense is directly related to the misconduct in office of a public servant” includes, but is not limited to, a violation of Ohio R.C. 101.71, 101.91, 121.61 or 2921.13, division (F) or (H) of Ohio R.C. 102.03, division (A) of Ohio R.C. 2921.02, division (A) or (B) of Ohio R.C. 2921.43, or division (F) or (G) of Ohio R.C. 3517.13, that is directly related to an offense involving misconduct in office of a public servant.
 - B. “Public servant” has the same meaning as in Section 525.01.

(d) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

(e) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation or other process, unless reasonable diligence is exercised to execute the same.

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

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

(h) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this State, even though the indictment, information or process that commenced the prosecution is quashed or the proceedings on the indictment, information or process are set aside or reversed on appeal.

(i) The period of limitation for a violation of any provision of this General Offenses Code that involves a physical or mental wound, injury, disability or condition of a nature that reasonably indicates abuse or neglect of a child under eighteen years of age or of a child with a developmental disability or physical impairment under twenty-one years of age shall not begin to run until either of the following occurs:

- (1) The victim of the offense reaches the age of majority.

- (2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred. (ORC 2901.13)

(j) This section shall not apply to prosecutions commenced within the period of limitations set forth in Ohio R.C. 718.12(B) for violations of the Municipal income tax ordinance.

501.07 REQUIREMENTS FOR CRIMINAL LIABILITY.

(a) Except as provided in subsection (b) hereof, a person is not guilty of an offense unless both of the following apply:

- (1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;
- (2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the language defining the offense.

(b) When the language defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. The fact that one subsection of a section plainly indicates a purpose to impose strict liability for an offense defined in that subsection does not by itself plainly indicate a purpose to impose strict criminal liability for an offense defined in other subsections of the section that do not specify a degree of culpability.

- (c)
- (1) When language defining an element of an offense that is related to knowledge or intent or to which mens rea could fairly be applied neither specifies culpability nor plainly indicates a purpose to impose strict liability, the element of the offense is established only if a person acts recklessly.
 - (2) Subsection (c)(1) of this section does not apply to offenses defined in the Traffic Code.
 - (3) Subsection (c)(1) of this section does not relieve the prosecution of the burden of proving the culpable mental state required by any definition incorporated into the offense.

(d) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

(e) As used in this section:

- (1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.
- (2) Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition, are involuntary acts.
- (3) "Culpability" means purpose, knowledge, recklessness or negligence, as defined in Section 501.08.

- (4) “Intoxication” includes, but is not limited to, intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.
(ORC 2901.21)

501.08 CULPABLE MENTAL STATES.

(a) A person acts purposely when it is the person’s specific intention to cause a certain result, or when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is the offender’s specific intention to engage in conduct of that nature.

(b) A person acts knowingly, regardless of purpose, when the person is aware that the person’s conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.

When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

(c) A person acts recklessly when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that the person’s conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that such circumstances are likely to exist.

(d) A person acts negligently when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that the person’s conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist.

(e) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element. (ORC 2901.22)

501.09 ATTEMPT.

(a) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.

(b) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(c) No person who is convicted of committing a specific offense or of complicity in the commission of an offense, shall be convicted of an attempt to commit the same offense in violation of this section.

(d) It is an affirmative defense to a charge under this section that the actor abandoned the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

(e) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other misdemeanor is a misdemeanor of the next lesser degree than the misdemeanor attempted. In the case of an attempt to commit an offense other than a violation of Ohio R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony under the Ohio Revised Code, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. An attempt to commit a minor misdemeanor is not an offense under this section.

(f) As used in this section, "drug abuse offense" has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.02)

501.10 COMPLICITY.

(a) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

- (1) Solicit or procure another to commit the offense;
- (2) Aid or abet another in committing the offense;
- (3) Cause an innocent or irresponsible person to commit the offense.

(b) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(c) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of Section 501.09.

(d) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense or an offense, the court when it charges the jury, shall state substantially the following:

"The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude or self-interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.

"It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."

(e) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.

(f) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense. (ORC 2923.03)

501.11 ORGANIZATIONAL CRIMINAL LIABILITY.

(a) An organization may be convicted of an offense under any of the following circumstances:

- (1) The offense is a minor misdemeanor committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.
- (2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.
- (3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.
- (4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated or performed by the board of directors, trustees, partners or by a high managerial officer, agent or employee acting in behalf of the organization and within the scope of such a board's or person's office or employment.

(b) If strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

(c) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(d) As used in this section, "organization" means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated nonprofit association, estate, trust or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program. (ORC 2901.23)

501.12 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

(a) An officer, agent or employee of an organization as defined in Section 501.11 may be prosecuted for an offense committed by such organization, if he acts with the kind of culpability required for the commission of the offense, and any of the following apply:

- (1) In the name of the organization or in its behalf, he engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct responsibility;
- (2) He has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

(b) When a person is convicted of an offense by reason of this section, he is subject to the same penalty as if he had acted in his own behalf. (ORC 2901.24)

501.13 CONSPIRACY.

(a) No person, with purpose to commit or to promote or facilitate the commission of aggravated murder, murder, kidnapping, abduction, compelling prostitution, promoting prostitution, trafficking in persons, aggravated arson, arson, aggravated robbery, robbery, aggravated burglary, burglary, engaging in a pattern of corrupt activity, corrupting another with drugs, a felony drug trafficking, manufacturing, processing or possession offense, theft of drugs, or illegal processing of drug documents, the commission of a felony offense of unauthorized use of a vehicle, illegally transmitting multiple commercial electronic mail messages or unauthorized access of a computer in violation of Ohio R.C. 2923.421 or the commission of a violation of any provision of Ohio R.C. Chapter 3734, other than Ohio R.C. 3734.18, that relates to hazardous wastes, shall do either of the following:

- (1) With another person or persons, plan or aid in planning the commission of any of the specified offenses;
- (2) Agree with another person or persons that one or more of them will engage in conduct that facilitates the commission of any of the specified offenses.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the accused or a person with whom the accused conspired, subsequent to the accused's entrance into the conspiracy. For purposes of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(c) When the offender knows or has reasonable cause to believe that a person with whom the offender conspires also has conspired or is conspiring with another to commit the same offense, the offender is guilty of conspiring with that other person, even though the other person's identity may be unknown to the offender.

(d) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the conspiracy was impossible under the circumstances.

(e) A conspiracy terminates when the offense or offenses that are its objects are committed or when it is abandoned by all conspirators. In the absence of abandonment, it is no defense to a charge under this section that no offense that was the object of the conspiracy was committed.

(f) A person who conspires to commit more than one offense is guilty of only one conspiracy, when the offenses are the object of the same agreement or continuous conspiratorial relationship.

(g) When a person is convicted of committing or attempting to commit a specific offense or of complicity in the commission of or attempt to commit the specific offense, the person shall not be convicted of conspiracy involving the same offense.

- (h) (1) No person shall be convicted of conspiracy upon the testimony of a person with whom the defendant conspired, unsupported by other evidence.
- (2) If a person with whom the defendant allegedly has conspired testifies against the defendant in a case in which the defendant is charged with conspiracy and if the testimony is supported by other evidence, the court, when it charges the jury, shall state substantially the following:
- “The testimony of an accomplice that is supported by other evidence does not become inadmissible because of the accomplice’s complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect the witness’ credibility and make the witness’ testimony subject to grave suspicion, and requires that it be weighed with great caution.
- It is for you, as jurors, in light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth”.
- (3) “Conspiracy”, as used in subsection (h)(1) of this section, does not include any conspiracy that results in an attempt to commit an offense or in the commission of an offense.
- (i) The following are affirmative defenses to a charge of conspiracy:
- (1) After conspiring to commit an offense, the actor thwarted the success of the conspiracy under circumstances manifesting a complete and voluntary renunciation of the actor’s criminal purpose.
- (2) After conspiring to commit an offense, the actor abandoned the conspiracy prior to the commission of or attempt to commit any offense that was the object of the conspiracy, either by advising all other conspirators of the actor’s abandonment, or by informing any law enforcement authority of the existence of the conspiracy and of the actor’s participation in the conspiracy.

(j) Whoever violates this section is guilty of conspiracy, which is a misdemeanor of the first degree, when the most serious offense that is the object of the conspiracy is a felony of the fifth degree.

(k) This section does not define a separate conspiracy offense or penalty where conspiracy is defined as an offense by one or more sections of this Code, other than this section. In such a case, however:

- (1) With respect to the offense specified as the object of the conspiracy in the other section or sections, subsection (a) hereof defines the voluntary act or acts and culpable mental state necessary to constitute the conspiracy;
 - (2) Subsections (b) to (i) hereof are incorporated by reference in the conspiracy offense defined by the other section or sections of this Code.
- (l)
 - (1) In addition to the penalties that otherwise are imposed for conspiracy, a person who is found guilty of conspiracy to engage in a pattern of corrupt activity is subject to divisions (B)(2) and (3) of Ohio R.C. 2923.32, division (A) of Ohio R.C. 2981.04 and division (D) of Ohio R.C. 2981.06.
 - (2) If a person is convicted of or pleads guilty to conspiracy and if the most serious offense that is the object of the conspiracy is a felony drug trafficking, manufacturing, processing or possession offense, in addition to the penalties or sanctions that may be imposed for the conspiracy under subsection (j) hereof and Ohio R.C. Chapter 2929, both of the following apply:
 - A. The provisions of divisions (D), (F) and (G) of Ohio R.C. 2925.03, division (D) of Ohio R.C. 2925.04, division (D) of Ohio R.C. 2925.05, division (D) of Ohio R.C. 2925.06 and division (E) of Ohio R.C. 2925.11 that pertain to mandatory and additional fines, driver's or commercial driver's license or permit suspensions, and professionally licensed persons and that would apply under the appropriate provisions of those divisions to a person who is convicted of or pleads guilty to the felony drug trafficking, manufacturing, processing, or possession offense that is the most serious offense that is the basis of the conspiracy shall apply to the person who is convicted of or pleads guilty to the conspiracy as if the person had been convicted or pleaded guilty to the felony drug trafficking, manufacturing, processing or possession offense that is the most serious offense that is the basis of the conspiracy.
 - B. The court that imposes sentence upon the person who is convicted of or pleads guilty to the conspiracy shall comply with the provisions identified as being applicable under subsection (l)(2) of this section, in addition to any other penalty or sanction that it imposes for the conspiracy under subsection (j) of this section and Ohio R.C. Chapter 2929.

- (m) As used in this section:
- (1) “Felony drug trafficking, manufacturing, processing or possession offense” means any of the following that is a felony:
 - A. A violation of Ohio R.C. 2925.03, 2925.04, 2925.05, or 2925.06;
 - B. A violation of Ohio R.C. 2925.11 that is not a minor drug possession offense.
 - (2) “Minor drug possession offense” has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.01)

501.99 PENALTIES FOR MISDEMEANORS.

(a) Financial Sanctions. In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing a sentence upon an offender for a misdemeanor committed under the Codified Ordinances, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section. If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

- (1) Restitution. Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender’s crime or any survivor of the victim, in an amount based on the victim’s economic loss. The court may not impose restitution as a sanction pursuant to this section if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.

All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.

If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five per cent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(2) Fines. A fine in the following amount:

- A. For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000);
- B. For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
- C. For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
- D. For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00);
- E. For a minor misdemeanor, not more than one hundred fifty dollars (\$150.00).

(3) Reimbursement of costs of sanctions.

- A. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:
 - 1. All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021;
 - 2. All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined.
- B. The amount of reimbursement ordered under subsection (a)(3)A. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that subsection. If the court does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section.
(ORC 2929.28)

(b) Jail Terms.

- (1) Except as provided in Ohio R.C. 2929.22 or 2929.23 of the Revised Code, and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this General Offenses Code, the court shall impose a definite jail term that shall be one of the following:

- A. For a misdemeanor of the first degree, not more than one hundred eighty days;
 - B. For a misdemeanor of the second degree, not more than ninety days;
 - C. For a misdemeanor of the third degree, not more than sixty days;
 - D. For a misdemeanor of the fourth degree, not more than thirty days.
- (2) A. A court that sentences an offender to a jail term under this section may permit the offender to serve the sentenced in intermittent confinement or may authorize a limited release of the offender as provided in Ohio R.C. 2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.
- B.
 - 1. If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.
 - 2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.
- (3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.
- (4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:

- A. The court shall specify both of the following as part of the sentence:
 - 1. If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
 - 2. If the person does not dispute the bill described in subsection (b)(4)A.1. of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.
- B. The sentence automatically includes any certificate of judgment issued as described in subsection (b)(4)A.2. of this section. (ORC 2929.24)

(c) Organizations. Regardless of the penalties provided in subsections (a) and (b) hereof, an organization convicted of an offense pursuant to Section 501.11 shall be fined, in accordance with this section. The court shall fix the fine as follows:

Type of <u>Misdemeanor</u>	Maximum <u>Fine</u>
First degree	\$5000.00
Second degree	4000.00
Third degree	3000.00
Fourth degree	2000.00
Minor	1000.00
Misdemeanor not specifically classified	2000.00
Minor misdemeanor not specifically classified	1000.00

- (1) When an organization is convicted of an offense that is not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then the penalty so provided shall be imposed in lieu of the penalty provided in this subsection (c).
- (2) When an organization is convicted of an offense that is not specifically classified, and the penalty provided includes a higher fine than the fine that is provided in this subsection (c), then the penalty imposed shall be pursuant to the penalty provided for the violation of the section defining the offense.
- (3) This subsection (c) does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 501.11, either in addition to or in lieu of a fine imposed pursuant to this subsection (c). (ORC 2929.31)

CHAPTER 505 Animals and Fowl

505.001	Definitions.	505.11	Hunting prohibited.
505.01	Dogs and other animals running at large.	505.12	Coloring rabbits or baby poultry; sale or display of poultry.
505.02	Impounding and disposition; records.	505.13	Beekeeping regulated.
505.03	Annual registration of dogs; tags required.	505.14	Dangerous dogs.
505.04	Abandoning animals.	505.15	Horses and livestock prohibited.
505.05	Killing or injuring animals.	505.16	Maximum number of cats and dogs permitted.
505.06	Poisoning animals, poultry, wild fowl and pigeons.	505.17	Reserved.
505.07	Cruelty to animals.	505.18	Wild, dangerous or undomesticated animals prohibited.
505.071	Cruelty to companion animals.	505.99	Penalty.
505.08	Nuisance conditions prohibited.		
505.09	Barking or howling dogs.		
505.10	Animal bites; reports and quarantine.		

CROSS REFERENCES

See sectional histories for similar State law
 Owner or keeper liable for damages - see Ohio R.C. 951.10
 Dog registration - see Ohio R.C. 955.01
 Discharging firearms prohibited - see GEN. OFF. 549.12

505.001 DEFINITIONS.

As used in this chapter unless otherwise specifically provided herein:

- (a) (1) “Dangerous dog” means a dog that, without provocation, and subject to subsection (a)(2) hereof has done any of the following:
 - A. Caused injury, other than killing or serious injury, to any person;
 - B. Killed another dog;
 - C. Been the subject of a third or subsequent violation of Section 505.01(c).
- (2) “Dangerous dog” does not include a police dog that has caused injury, other than killing or serious injury, to any person or has killed another dog while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.
- (b) “Menacing fashion” means that a dog would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.
- (c) (1) Subject to subsection (c)(2) hereof, “nuisance dog” means a dog that without provocation and while off the premises of its owner, keeper or harbinger has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.

- (2) "Nuisance dog" does not include a police dog that while being used to assist one or more law enforcement officers in the performance of official duties has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.
- (d) "Police dog" means a dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties.
- (e) "Serious injury" means any of the following:
 - (1) Any physical harm that carries a substantial risk of death;
 - (2) Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity;
 - (3) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;
 - (4) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.
- (f) (1) "Vicious dog" means a dog that, without provocation and subject to subsection (f)(2) hereof has killed or caused serious injury to any person.
- (2) "Vicious dog" does not include either of the following:
 - A. A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;
 - B. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper or harbinger of the dog.
- (g) "Without provocation" means that a dog was not teased, tormented or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity. (ORC 955.11)

505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

- (a) No person being the owner or having charge of cattle, horses, swine, sheep, geese, ducks, goats, turkeys, chickens or other fowl or animals shall permit them to run at large upon any public place, or upon any unenclosed lands or upon the premises of another. (ORC 951.02)
- (b) No owner, keeper or harbinger of any female dog shall permit it to go beyond the premises of the owner, keeper or harbinger at any time the dog is in heat, unless the dog is properly in leash.
- (c) No owner, keeper, or harbinger of any dog shall fail at any time to do either of the following:
 - (1) Keep the dog physically confined or restrained upon the premises of the owner, keeper, or harbinger by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape.
 - (2) Keep the dog under the reasonable control of some person. (ORC 955.22)
- (d) The running at large of any such animal in or upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section. (ORC 951.02)

- (e) (1) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 951.99)
- (2) A. Whoever violates subsection (b) hereof is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.
- B. In addition to the penalties prescribed in subsection (e)(2)A. hereof, if the offender is guilty of a violation of subsection (b) hereof, the court may order the offender to personally supervise the dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both.
- (3) A. 1. Whoever violates subsection (c) hereof that involves a dog that is not a nuisance dog, dangerous dog or vicious dog is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.
2. In addition to the penalties prescribed above, if the offender is guilty of a violation of subsection (c) hereof, that involves a dog that is not a nuisance dog, dangerous dog or vicious dog, the court may order the offender to personally supervise the dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both.
- B. 1. Whoever commits a violation of subsection (c) hereof, that involves a nuisance dog is guilty of a minor misdemeanor on the first offense and of a misdemeanor of the fourth degree on each subsequent offense involving the same dog. Upon a person being convicted of or pleading guilty to a third violation of subsection (c) hereof, involving the same dog, the court shall require the offender to register the involved dog as a dangerous dog.
2. In addition to the penalties prescribed above, if a violation of subsection (c) hereof involves a nuisance dog, the court may order the offender to personally supervise the nuisance dog that the offender owns, keeps or harbors, to cause that dog to complete obedience training, or to do both.
- C. Whoever commits a violation of subsection (c) hereof that involves a dangerous dog, is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to division (E) of Ohio R.C. 955.22. The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the County Dog Warden, or the County Humane Society at the owner's expense. With respect to a violation of subsection (c) hereof that involves a dangerous dog, until the court makes a final determination and during the pendency of any appeal of a violation of that division and at the discretion of the Dog Warden, the dog shall be confined or restrained in accordance with division (D) of Ohio R.C. 955.22 or at the County Dog Pound at the owner's expense.

- D. 1. Whoever commits a violation of subsection (c) hereof that involves a vicious dog is guilty of one or the following:
- a. A felony, if the dog kills a person, and shall be prosecuted under appropriate State law. Additionally, the court shall order that the vicious dog be humanely destroyed by a licensed veterinarian, the County Dog Warden or the County Humane Society at the owner's expense.
 - b. A misdemeanor of the first degree if the dog causes serious injury to a person. Additionally, the court may order the vicious dog to be humanely destroyed by a licensed veterinarian, the County Dog Warden, or the County Humane Society;
2. If the court does not order the vicious dog to be destroyed under subsection (e)(3)D.1.b. hereof, the court shall issue an order that specifies that division (D) of Ohio R.C. 955.11 and divisions (D) to (I) of Ohio R.C. 955.22 apply with respect to the dog and the owner, keeper or harbinger of the dog as if the dog were a dangerous dog and that Ohio R.C. 955.54 applies with respect to the dog as if it were a dangerous dog. As part of the order, the court shall order the offender to obtain the liability insurance required under division (E)(1) of Ohio R.C. 955.22 in an amount, exclusive of interest and costs, that equals or exceeds one hundred thousand dollars. Until the court makes a final determination and during the pendency of any appeal of a violation of subsection (c) hereof and at the discretion of the Dog Warden, the dog shall be confined or restrained in accordance with the provisions described in division (D) of Ohio R.C. 955.22 or at the County Dog Pound at the owner's expense.
(ORC 955.99)

505.02 IMPOUNDING AND DISPOSITION; RECORDS.

(a) A police officer or animal warden may impound every animal or dog found in violation of Section 505.01. If the dog is not wearing a valid registration tag and the owner is not otherwise reasonably determined, notice shall be posted in the pound or animal shelter both describing the dog and place where seized and advising the unknown owner that unless the dog is redeemed within three days, it may thereafter be sold or destroyed according to law. If the dog is wearing a valid registration tag or the identity of the owner, keeper or harbinger is otherwise reasonably determined, notice shall be given by certified mail to such owner, keeper or harbinger that the dog has been impounded and unless redeemed within fourteen days of the date of notice, it may thereafter be sold or destroyed according to law. Any dog seized and impounded may be redeemed by its owner, keeper or harbinger at any time prior to the applicable redemption period upon payment of all lawful costs assessed against the animal and upon providing the dog with a valid registration tag if it has none.

(b) A record of all dogs impounded, the disposition of the same, the owner's name and address where known, and a statement of any costs assessed against the dogs shall be kept by any poundkeeper.

505.03 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED.

(a) Except for guide dogs registered under Ohio R.C. 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio R.C. 955.16.

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

505.04 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. (ORC 959.01)

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 959.99(A))

505.05 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a farm animal, dog, cat or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity.
(ORC 959.02)

(b) Whoever violates this section, if the value of the animal killed or the injury done amounts to less than three hundred dollars (\$300.00), is guilty of a misdemeanor of the second degree; if the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, such person is guilty of a misdemeanor of the first degree.
(ORC 959.99(B))

505.06 POISONING ANIMALS, POULTRY, WILD FOWL AND PIGEONS.

(a) No person, except a licensed veterinarian acting in such capacity, shall knowingly administer poison, directly or indirectly, to a farm animal, dog, cat, poultry or other domestic animal that is the property of another, or to any wild fowl or pigeons. Further, no person shall knowingly place any poisoned food where it may be easily found and/or eaten by any of such animals, poultry, fowl or pigeons, or by any person, either upon his own land or the lands of another.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.
(Ord. 89-20. Passed 4-6-89.)

505.07 CRUELTY TO ANIMALS.

(a) No person shall:

- (1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;
- (2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This subsection (a)(2) does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means a man-made enclosure, windbreak, sunshade or natural windbreak or sunshade that is developed from the earth's contour, tree development or vegetation;

- (3) Carry or convey an animal in a cruel or inhuman manner;
- (4) Keep animals other than cattle, poultry or fowl, swine, sheep or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;
- (5) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water and attention, nor permit such livestock to be so crowded as to overlie, crush, wound or kill each other.

(b) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which such livestock may be detained in any cars or compartments without food, water and attention, may be extended to thirty-six hours without penalty therefor. This section does not prevent the dehorning of cattle. (ORC 959.13)

(c) Whoever violates this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this subsection, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal. (ORC 959.99(D))

505.071 CRUELTY TO COMPANION ANIMALS.

(a) As used in this section:

- (1) "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in Ohio R.C. 956.01. "Companion animal" does not include livestock or any wild animal.
- (2) "Cruelty", "torment" and "torture" have the same meanings as in Ohio R.C. 1717.01.
- (3) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
- (4) "Practice of veterinary medicine" has the same meaning as in Ohio R.C. 4741.01.
- (5) "Wild animal" has the same meaning as in Ohio R.C. 1531.01.
- (6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
- (7) "Dog kennel" means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel or a training kennel.

(b) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(c) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

- (1) Torture, torment or commit an act or cruelty against the companion animal;
- (2) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
- (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

(d) No owner, manager or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:

- (1) Torture, torment, or commit an act of cruelty against the companion animal;
- (2) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
- (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter.

(e) Subsections (b), (c) and (d) of this section do not apply to any of the following:

- (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
 - (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. Chapter 4741;
 - (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
 - (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
 - (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. Chapter 4741.
- (ORC 959.131)

- (f) (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law.
- (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
- (3) Whoever violates subsection (d) hereof is guilty of a misdemeanor of the first degree.
- (4) A. A court may order a person who is convicted of or pleads guilty to a violation of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.
B. A court may order a person who is convicted of or pleads guilty to a violation of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.
- (5) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling. (ORC 959.99)

505.08 NUISANCE CONDITIONS PROHIBITED.

(a) No person shall keep or harbor any animal in the City so as to create offensive odors, excessive noise or unsanitary conditions which are a menace to the health, comfort or safety of the public, or otherwise permit the commission or existence of a nuisance as defined hereinafter.

(b) Any animal which scratches, digs or defecates upon any lawn, tree, shrub, plant, building or any other public or private property, other than the property of the owner or person in charge or control of such animal, is hereby declared to be a nuisance.

(c) No person being the owner or being in charge or control of any animal shall allow or permit such animal to commit a nuisance on any school grounds, City park or other public property, or upon any private property other than that of the owner or person in charge or control of such animal. Where the owner or person in charge or control of such animal immediately removes all feces deposited by such animal and disposes same in a sanitary manner such nuisance shall be considered abated.

(d) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor. (Ord. 92-62. Passed 8-20-92.)

505.09 BARKING OR HOWLING DOGS.

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

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

505.10 ANIMAL BITES; REPORTS AND QUARANTINE.

(a) Whenever any person is bitten by a dog or other animal, report of such bite shall be made to the Health Commissioner within twenty-four hours. Whenever it is reported to the Health Commissioner that any dog or cat has bitten a person, that dog or cat shall be quarantined under an order issued by the Health Commissioner. The dog or cat shall be quarantined by its owner or by a harbinger, or shall be quarantined in a pound or kennel. In all cases, such quarantine shall be under the supervision of the Health Commissioner and shall be at the expense of the owner or harbinger. Quarantine shall continue until the Health Commissioner determines that the dog or cat is not afflicted with rabies. The quarantine period hereby required shall not be less than ten days from the date on which the person was bitten. If at any time during the quarantine, the Health Commissioner requires the dog or cat to be examined for symptoms of rabies, then the examination shall be by a licensed doctor of veterinary medicine. The veterinarian shall report to the Health Commissioner the conclusions reached as a result of the examinations. The examination by a veterinarian shall be at the expense of the owner or harbinger. No dog or cat shall be released from the required quarantine unless and until it has been properly vaccinated against rabies.

No person shall fail to comply with the requirements of this section or with any order of the Health Commissioner made pursuant thereto, nor fail to immediately report to the Health Commissioner any symptoms or behavior suggestive of rabies.

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

505.11 HUNTING PROHIBITED.

(a) No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms, bow and arrow, air rifle or any other means within the corporate limits of the Municipality.

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

**505.12 COLORING RABBITS OR BABY POULTRY; SALE OR
DISPLAY OF POULTRY.**

(a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffle or give away any rabbit or poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times.

(ORC 925.62)

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

505.13 BEEKEEPING REGULATED.

(a) No person shall own, keep, possess or raise bees in such a manner as to constitute a nuisance, annoyance or hazard to the inhabitants of neighboring, adjacent or adjoining premises or to residents of the City. As used in this section, "bees" means any stage of the common hive or honey bee known as *Apis mellifera*, or other bees kept for the production of honey or wax.

(Ord. 4564. Passed 4-21-55.)

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

505.14 DANGEROUS DOGS.

(a) Except when a dangerous dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harbinger, or handler of the dog, no owner, keeper, or harbinger of a dangerous dog shall fail to do either of the following:

- (1) While that dog is on the premises of the owner, keeper or harbinger, securely confine it at all times in a building, in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top;
- (2) While that dog is off the premises of the owner, keeper or harbinger, keep that dog on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:
 - A. Keep that dog in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top;
 - B. Have the leash or tether controlled by a person who is of suitable age and discretion or securely attach, tie or affix the leash or tether to the ground or stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person;
 - C. Muzzle that dog.

(b) No owner, keeper or harbinger of a dangerous dog shall fail to do the following:

- (1) Obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence because of damage or bodily injury to or death of a person caused by the dangerous dog if so ordered by a court and provide proof of that liability insurance upon request to any law enforcement officer, County Dog Warden, or public health official charged with enforcing this section;

- (2) Obtain a dangerous dog registration certificate from the County Auditor pursuant to Ohio R.C. 955.22(I), affix a tag that identifies the dog as a dangerous dog to the dog's collar, and ensure that the dog wears the collar and tag at all times;
- (3) Notify the local Dog Warden immediately if any of the following occurs:
 - A. The dog is loose or unconfined.
 - B. The dog bites a person, unless the dog is on the property of the owner of the dog, and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property.
 - C. The dog attacks another animal while the dog is off the property of the owner of the dog.
- (4) If the dog is sold, given to another person, or dies, notify the County Auditor within ten days of the sale, transfer or death. (ORC 955.22)

(c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to subsection (b) hereof. The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the Dog Warden or the humane society at the owner's expense.

- (d)
 - (1) Whoever violates subsection (b)(2) hereof is guilty of a misdemeanor of the fourth degree.
 - (2) Whoever violates subsections (b)(1), (3) or (4) hereof is guilty of a minor misdemeanor. (ORC 955.99)

505.15 HORSES AND LIVESTOCK PROHIBITED.

No person shall harbor horses, cattle, pigs, sheep or any livestock within the corporate limits of the City.

Whoever violates this section is guilty of a minor misdemeanor. Each day that the violation of this section continues shall constitute a separate offense. (Ord. 6516. Passed 7-3-74.)

505.16 MAXIMUM NUMBER OF CATS AND DOGS PERMITTED.

(a) Not more than four dogs or cats or any combination thereof, except puppies and kittens not over four months old, may be kept in any single-family dwelling, or in any separate suite in a dwelling for two or more families within this City. The terms "dwelling" and "suite" as used in this section include the lot or parcel of land on which the house or building containing the suite is located and also all outbuildings located on the lot or parcel.

(b) Whoever violates this section is guilty of a minor misdemeanor. Each day on which a violation occurs or continues shall constitute a separate offense. (Ord. 7081. Passed 5-18-78.)

505.17 RESERVED.

EDITOR'S NOTE: This section is reserved for future legislation.

505.18 WILD, DANGEROUS OR UNDOMESTICATED ANIMALS PROHIBITED.

(a) No person shall own, harbor or keep a wild, dangerous or undomesticated animal within the City.

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

- (1) Is a venomous snake or is a snake that is a constrictor; or
- (2) Is an omnivorous or carnivorous animal that weighs more than twenty-five pounds and which is a predator in its natural habitat; or
- (3) Is an animal which, by reason of its size, strength or appetite, would, if unrestrained and free in the City, cause peril to persons, household pets, buildings, landscape or shrubbery; or
- (4) Is an animal that makes noises with sufficient frequency and volume as to constitute a nuisance to the community; or
- (5) Is an animal that emits offensive odors as to constitute a nuisance to the community; or
- (6) Includes, but is not limited to, the following: lion, tiger, lynx, mountain lion, jaguar, cheetah, leopard, panther, bear, wolverine, elk, moose, caribou, elephant, giraffe, rhinoceros, hippopotamus, wolf, wild ox, boar, crocodile, alligator, caiman or gavial.

(c) This section shall not apply to the following:

- (1) The keeping of such animals in bonafide educational or medical institutions or museums where they are kept as live specimens for the public view, or for the purpose of instruction or study; or
- (2) The keeping of such animals for temporary exhibition to the public of such animals by a circus, carnival or other exhibit or show; or
- (3) The keeping of such animals in a bonafide veterinary hospital for treatment; or
- (4) The keeping of a snake which is a constrictor by a bonafide teacher or instructor temporarily during such times when school is not in session.

(d) Whoever violates this section is guilty of a minor misdemeanor. Each day that the violation of this section continues shall constitute a separate offense.
(Ord. 91-38. Passed 10-29-91.)

505.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 507 Political Advertising

507.01	Advertising on public highways.	507.05	Advertising on private property; owner's consent required.
507.02	Advertising on public property.	507.06	Time limit for removal.
507.03	Advertising on public utility facility.	507.07	Removal by City; expense.
507.04	Advertising interfering with vehicular traffic.	507.99	Penalty.

CROSS REFERENCES

Unauthorized signs - see TRAF. 313.07

Tampering - see GEN. OFF 541.04

Posting signs on poles - see GEN. OFF. 541.09

507.01 ADVERTISING ON PUBLIC HIGHWAYS.

No person shall attach or place any political sign, advertisement or poster within the limits of the right of way of any public street or highway in the City.
(Ord. 83-40. Passed 7-7-83.)

507.02 ADVERTISING ON PUBLIC PROPERTY.

No person shall attach or place any political sign, advertisement or poster upon any lamp post, electric light, railway, telephone or telegraph pole, shade tree, fire hydrant or any box covering them or any bridge, pavement, sidewalk, crosswalk, public building or any property belonging to the City.
(Ord. 83-40. Passed 7-7-83.)

507.03 ADVERTISING ON PUBLIC UTILITY FACILITY.

No person shall attach or place any political sign, advertisement or poster upon any public utility facility within the City.
(Ord. 83-40. Passed 7-7-83.)

507.04 ADVERTISING INTERFERING WITH VEHICULAR TRAFFIC.

No person shall attach or place any political sign, advertisement or poster so as to obstruct the vision of vehicular traffic, or at any location where it may interfere with or be confused with any traffic control device.
(Ord. 83-40. Passed 7-7-83.)

507.05 ADVERTISING ON PRIVATE PROPERTY; OWNER'S CONSENT REQUIRED.

No person shall attach or place any political sign, advertisement or poster on the private property of another without the consent of the property owner, tenant, occupant or person authorized to give such consent.
(Ord. 83-40. Passed 7-7-83.)

507.06 TIME LIMIT FOR REMOVAL.

(a) No political sign, advertisement or poster shall remain posted for a period exceeding seven days from the date of the election to which it pertains.

(b) In those instances where the political sign, advertisement or poster pertains to a candidate for public office, it shall be the responsibility of the candidate and the candidate's campaign committee to remove all signs, advertisements or posters within the time period set forth in subsection (a) hereof.

(c) In those instances where the political sign, advertisement or poster pertains to an issue being submitted to the electorate, it shall be the responsibility of the chairman of the committee posting the signs, advertisements or posters or of the person identified as the chairman of such committee on such sign, advertisement or poster to remove the same within the time period set forth in subsection (a) hereof.
(Ord. 83-40. Passed 7-7-83.)

507.07 REMOVAL BY CITY; EXPENSE.

(a) In the event that it becomes necessary to remove a political sign, advertisement or poster which has been placed, or permitted to remain in violation of this chapter, then such removal may be performed by the City.

(b) Whenever removal is performed by the City, the cost of such removal shall be at a rate of ten dollars (\$10.00) for each sign, advertisement or poster removed. If the sign, advertisement or poster is on private property, the cost of removal shall be borne by the owner, tenant or occupant of the property. If the sign, advertisement or poster is on public property, the cost of removal shall be borne by the candidate identified on such sign, advertisement or poster. In cases where the sign, advertisement or poster pertains to an issue being submitted to the electorate, the cost of removal shall be borne by the chairman of the committee posting the sign, advertisement or poster, or the person identified as the chairman of such committee.

(c) The collection of removal costs set forth in subsection (b) hereof shall be performed by the Director of Law through appropriate civil proceedings.

(d) The civil penalties set forth in this section shall be in addition to the penalties set forth in Section 507.99.
(Ord. 83-40. Passed 7-7-83.)

507.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor. Each sign, advertisement or poster placed and each day the same shall be permitted to remain in violation of this chapter shall constitute a separate offense.
(Ord. 83-40. Passed 7-7-83.)

CHAPTER 509

Disorderly Conduct and Peace Disturbance

509.01	Riot.	509.05	Misconduct at an emergency.
509.011	Inciting to violence.	509.06	Inducing panic.
509.02	Failure to disperse.	509.07	Making false alarms.
509.03	Disorderly conduct; intoxication.	509.08	Curfew.
509.04	Disturbing a lawful meeting.	509.09	Loitering by minors prohibited.
		509.10	Loitering.
		509.11	Excessive sound from motor vehicles prohibited; sound- amplifying devices prohibited.
		509.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Use of force to suppress riot - see Ohio R.C. 2917.05
 Cordoning off riot areas, prohibiting sales of firearms
 and explosives - see Ohio R.C. 3761.16
 Emergency suspension of permits and sales by Director of
 Liquor Control - see Ohio R.C. 4301.251
 Criminal trespass - see GEN. OFF. 541.05

509.01 RIOT.

- (a) No person shall participate with four or more others in a course of disorderly conduct in violation of Section 509.03:
- (1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;
 - (2) With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder, impede or obstruct a function of government;
 - (3) With purpose to hinder, impede or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at such institution.
- (b) No person shall participate with four or more others with purpose to do an act with unlawful force or violence, even though such act might otherwise be lawful.
- (c) Whoever violates this section is guilty of riot, a misdemeanor of the first degree. (ORC 2917.03)

509.011 INCITING TO VIOLENCE.

- (a) No person shall knowingly engage in conduct designed to urge or incite another to commit any offense of violence, when either of the following apply:
- (1) The conduct takes place under circumstances that create a clear and present danger that any offense of violence will be committed;
 - (2) The conduct proximately results in the commission of any offense of violence.

(b) Whoever violates this section is guilty of inciting to violence. If the offense of violence that the other person is being urged or incited to commit is a misdemeanor, inciting to violence is a misdemeanor of the first degree. (ORC 2917.01)

509.02 FAILURE TO DISPERSE.

(a) Where five or more persons are participating in a course of disorderly conduct in violation of Section 509.03, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance or alarm, a law enforcement officer or other public official may order the participants and such other persons to disperse. No person shall knowingly fail to obey such order.

(b) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.

- (c)
- (1) Whoever violates this section is guilty of failure to disperse.
 - (2) Except as otherwise provided in subsection (c)(3) hereof, failure to disperse is a minor misdemeanor.
 - (3) Failure to disperse is a misdemeanor of the fourth degree if the failure to obey the order described in subsection (a) hereof, creates the likelihood of physical harm to persons or is committed at the scene of a fire, accident, disaster, riot, or emergency of any kind. (ORC 2917.04)

509.03 DISORDERLY CONDUCT; INTOXICATION.

(a) No person shall recklessly cause inconvenience, annoyance or alarm to another by doing any of the following:

- (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
- (2) Making unreasonable noise or offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person, which by its very utterance or usage inflicts injury or tends to incite an immediate breach of the peace;
- (3) Insulting, taunting or challenging another, under circumstances in which such conduct is likely to provoke a violent response;
- (4) Hindering or preventing the movement of persons on a public street, road, highway or right of way, or to, from, within or upon public or private property, so as to interfere with the rights of others, and by any act that serves no lawful and reasonable purpose of the offender;
- (5) Creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.

(b) No person, while voluntarily intoxicated shall do either of the following:

- (1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if the offender were not intoxicated, should know is likely to have that effect on others;
- (2) Engage in conduct or create a condition that presents a risk of physical harm to the offender or another, or to the property of another.

(c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (b) hereof.

(d) When to an ordinary observer a person appears to be intoxicated, it is probable cause to believe that person is voluntarily intoxicated for purposes of subsection (b) hereof.

- (e)
- (1) Whoever violates this section is guilty of disorderly conduct.
 - (2) Except as otherwise provided in this subsection (e)(3), disorderly conduct is a minor misdemeanor.
 - (3) Disorderly conduct is a misdemeanor of the fourth degree if any of the following applies:
 - A. The offender persists in disorderly conduct after reasonable warning or request to desist.
 - B. The offense is committed in the vicinity of a school or in a school safety zone.
 - C. The offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot or emergency of any kind.
 - D. The offense is committed in the presence of any emergency facility person who is engaged in the person's duties in an emergency facility.
- (f) As used in this section:
- (1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
 - (2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
 - (3) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04.
 - (4) "Committed in the vicinity of a school" has the same meaning as in Ohio R.C. 2925.01. (ORC 2917.11)

509.04 DISTURBING A LAWFUL MEETING.

- (a) No person, with purpose to prevent or disrupt a lawful meeting, procession or gathering, shall do either of the following:
- (1) Do any act which obstructs or interferes with the due conduct of such meeting, procession or gathering;
 - (2) Make any utterance, gesture or display which outrages the sensibilities of the group.

(b) Whoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree. (ORC 2917.12)

509.05 MISCONDUCT AT AN EMERGENCY.

- (a) No person shall knowingly do any of the following:
- (1) Hamper the lawful operations of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person, engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind;
 - (2) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;
 - (3) Fail to obey the lawful order of any law enforcement officer engaged in the law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.

(b) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.

(c) Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this subsection, misconduct at an emergency is a minor misdemeanor. If a violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.

(d) As used in this section:

- (1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
- (2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
- (3) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04. (ORC 2917.13)

509.06 INDUCING PANIC.

(a) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

- (1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that such report or warning is false;
- (2) Threatening to commit any offense of violence;
- (3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(b) Division (a) hereof does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree. If inducing panic results in physical harm to any person, economic harm of one thousand dollars (\$1,000) or more, if the public place involved in a violation of this section is a school or an institution of higher education, or if the violation pertains to a purported, threatened or actual use of a weapon of mass destruction, inducing panic is a felony and shall be prosecuted under appropriate State law.

(d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section:

- (1) "Economic harm" means any of the following:
 - A. All direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" as described in this division includes, but is not limited to, all of the following:
 1. All wages, salaries, or other compensation lost as a result of the criminal conduct;
 2. The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
 3. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 4. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

- B. All costs incurred by the Municipality as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or Section 509.07, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.
- (2) "School" means any school operated by a board of education or any school for which the state board of education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a violation of this section is committed.
- (3) "Weapon of mass destruction" means any of the following:
 - A. Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;
 - B. Any weapon involving a disease organism or biological agent;
 - C. Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;
 - D. Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of "destructive device" pursuant to 18 U.S.C. 921(a)(4) and regulations issued under that section:
 - 1. Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;
 - 2. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (e)(3)D.1. of this section and from which an item or device described in that division may be readily assembled.
- (4) "Biological agent" has the same meaning as in Ohio R.C. 2917.33.
- (5) "Emergency medical services personnel" has the same meaning as in Ohio R.C. 2133.21.
- (6) "Institution of higher education" means any of the following:
 - A. A state university or college as defined in Ohio R.C. 3345.12(A)(1), community college, state community college, university branch, or technical college;
 - B. A private, nonprofit college, university or other post-secondary institution located in this State that possesses a certificate of authorization issued by the Ohio Board of Regents pursuant to Ohio R.C. Chapter 1713.
 - C. A post-secondary institution with a certificate of registration issued by the State Board of Career Colleges and Schools under Ohio R.C. Chapter 3332. (ORC 2917.31)

509.07 MAKING FALSE ALARMS.

- (a) No person shall do any of the following:
 - (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;

- (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
- (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.

(b) This section does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. If a violation of this section results in economic harm of one thousand dollars (\$1,000) or more, or if a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony and shall be prosecuted under appropriate State law.

(d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section, “economic harm” and “weapon of mass destruction” have the same meanings as in Section 509.06. (ORC 2917.32)

509.08 CURFEW.

(a) No person having the control and custody of or being the parent or guardian of a minor under the age of eighteen years shall knowingly permit such minor to, nor shall such minor be outside the confines of his homesite and congregate, wander, loiter or play upon the streets and other public places of the Municipality, unsupervised or unenclosed lands, or places of amusement and entertainment, on Sunday to Thursday, inclusive, between the hours of 10:00 p.m. and 5:00 a.m. the following day, and on Friday and Saturday between the hours of 11:30 p.m. and 5:00 a.m. the following day, official Municipal time. This section shall not apply to minors on an emergency errand or on legitimate business as directed by the parent, guardian or custodian, nor to minors accompanied by the parent, guardian or custodian, or some other person over twenty-one years of age who has been given responsibility for such minor’s control and custody by the person legally responsible for the discipline of the minor.

(b) Any school, church, lodge or other organization sponsoring functions wherein minors in attendance will be out at a later hour than provided for in this section shall obtain the Mayor’s approval to have the minors remain to the time when the entertainment will end. All minors attending such function shall be required to be within the confines of their respective homesites one-half hour after such function is ended.

(c) Whoever violates this section is guilty of a minor misdemeanor. Any minor violating subsections (a) or (b) hereof shall be dealt with in accordance with Juvenile Court law and procedure. (Ord. 92-56. Passed 7-9-92.)

509.09 LOITERING BY MINORS PROHIBITED.

(a) No minor shall loiter in or about any business or public place between 10:00 p.m. and 6:00 a.m. of the following day, except that on Fridays and Saturdays the hours shall be from 11:00 p.m. to 6:00 a.m. of the following day.

(b) No minor shall drive or ride aimlessly in a motor vehicle, motorcycle or bicycle between 10:00 p.m. and 6:00 a.m. of the following day, except that on Fridays and Saturdays the hours shall be from 11:00 p.m. to 6:00 a.m. of the following day.

(c) The provisions of this section shall not apply to a minor accompanied by a parent, a minor proceeding home, a minor on an errand directed or approved by a parent, or a minor engaged in gainful and lawful employment.

(d) As used in this section, the following definitions shall apply:

- (1) "Minor" means any person under the age of eighteen years.
- (2) "Business" means any privately owned or operated retail establishment including service stations, restaurants and places of a similar nature and any place of amusement or entertainment to which the public or certain members thereof are invited.
- (3) "Operator" means any individual, firm, association, partnership or corporation operating, managing or conducting any business and, as applied to associations or partnerships, includes the members or partners thereof, and as applied to corporations, includes the officers thereof.
- (4) "Parent" includes any natural parent, guardian or any adult person over twenty-one years of age responsible for the care and custody of a minor.
- (5) "Public place" means any public street, highway, road, alley, park, playground, public building, vacant lot or privately owned property permitted to be used by the public or certain members thereof.
- (6) "Loiter" means to idle, loaf, linger or to wander or to stroll aimlessly.
- (7) "Drive" or "ride aimlessly" means to drive or ride in a motor vehicle, motorcycle or bicycle in a circuitous route or to joy ride.

(e) No parent shall knowingly permit any minor in his charge to loiter in or about any business or public place or to drive or ride aimlessly between 10:00 p.m. and 6:00 a.m. of the following day, except that on Fridays and Saturdays the hours shall be 11:00 p.m. to 6:00 a.m. of the following day.

(f) No operator of a business or the agents or employees thereof, shall knowingly permit any minor to loiter upon the premises of the business between 10:00 p.m. and 6:00 a.m. of the following day, except that on Fridays and Saturdays the hours shall be from 11:00 p.m. to 6:00 a.m. of the following day.

(g) Any police officer who finds a minor in violation of this section shall obtain from the minor his name, address and age, and the names of his parents, and any other information that the officer deems pertinent to the incident. The minor shall thereupon be instructed to proceed to his home forthwith. If, in the officer's opinion, the minor will not obey these instructions by the officer, the minor is to be taken to Police Headquarters and his parents called to come into the office to take possession of the minor. A written notice shall be mailed by the Police Department to the parents of the minor, advising of the violation of this section.

(h) Any parent, who after having received at least one written notice of the violation of this section by a minor, violates subsection (e) hereof, is guilty of a minor misdemeanor.

Any operator of a business, or agent or employee thereof, who violates subsection (f) hereof, is guilty of a minor misdemeanor.

Each violation of any provision of this section shall constitute a separate offense.
(Ord. 92-65. Passed 8-20-92.)

509.10 LOITERING.

(a) No person shall loiter, loaf, wander, stand or remain idle either alone and/or in consort with others in a public place in such manner so as to:

- (1) Obstruct any public street, public highway, public sidewalk or any other public place or building by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians.
- (2) Commit in or upon any public street, public highway, public sidewalk, or any other public place or building any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or any other public place or building, all of which prevents the free and uninterrupted ingress, egress, and regress, therein, thereon, and thereto, unless properly authorized.
- (3) Linger about the doorway of any building, or sit or linger upon the steps, windowsills, railings, fence or parking area adjacent to any building in such a manner as to obstruct or partially obstruct ingress to or egress from such building or in such a manner to annoy the owner or occupant.
- (4) Remain for more than five minutes on any private business premise which is posted with a conspicuous sign containing the words "No Loitering" when:
 - A. The business establishment is closed;
 - B. The person charged does not visibly demonstrate any intent to conduct business at the establishment or to leave the premise after having conducted such business; or
 - C. After having been asked by the owner or occupant of the business to leave the premise.
- (5) Remain for more than five minutes on any public business premise or private nonbusiness premise which is posted with a conspicuous sign containing the words "No Loitering" when:
 - A. The public business premise neither has been nor will be open for business in thirty minutes; or
 - B. The private nonbusiness premise is occupied or not.
- (6) Linger for any length of time upon any public or private premises or move in a slow and deliberate manner without purpose, or otherwise interfere with, obstruct or render dangerous or unreasonable for passage, any public highway, sidewalk, parking area or right of way after having been warned, either orally or in writing by the owner, agent, manager, or person in charge thereof, or by any law enforcement officer that such conduct will result in a charge or citation to court under this section.

(b) When any person causes or commits any of the conditions enumerated hereinabove, a police officer or any such law enforcement officer shall order that person to stop causing or committing such condition and to move on or disperse. Any person who fails or refuses to obey such orders shall be guilty of a violation of this section.

(c) Whoever violates any provision of this section is guilty of a minor misdemeanor. (Ord. 97-18. Passed 3-20-97.)

**509.11 EXCESSIVE SOUND FROM MOTOR VEHICLES PROHIBITED;
SOUND-AMPLIFYING DEVICES PROHIBITED.**

(a) No owner of a motor vehicle, operator of a motor vehicle, or person in physical control of a motor vehicle shall recklessly play, cause to be played, or permit to be played any sound generating or sound-amplifying device located within or upon such motor vehicle at such a level, volume, frequency or intensity that the sound emitted exceeds the capacity of such motor vehicle to fully absorb, insulate, deaden, shield or muffle the sound being emitted so that such sound is inaudible to persons located outside the motor vehicle in which the sound generating or sound-amplifying device is located.

(b) "Sound" shall be defined as any humanly audible stimulus.

(c) This provision shall not apply to:

- (1) Sound generated by motor vehicle alarm devices for and during such a reasonable period as is necessary to permit the owner to silence the device without danger of attack or injury, or to obtain the assistance of public safety officials, whichever period is shorter;
- (2) Sound caused by motor vehicle collisions, loss of control of a motor vehicle or sudden or severe application of the brakes of a motor vehicle;
- (3) Sound resulting from damage caused by a motor vehicle collision which cannot be silenced because of damage done in the collision;
- (4) Sound created by a motor vehicle and/or emergency vehicle, when engaged in responding to an emergency; and while at the scene of an emergency, or when testing their equipment;
- (5) Sound resulting from any repair or restoration work upon a motor vehicle;
- (6) Sound resulting from any work required to protect persons or property from exposure to danger;
- (7) Sound emanating directly from a motor vehicle engine;
- (8) Sound caused by contact between any part of a motor vehicle and the traveled portion of the roadway; and
- (9) Sound from amplifier systems during any parade sanctioned by the Mayor or Service Director.

(d) Whoever violates this section is guilty of a minor misdemeanor, punishable pursuant to Section 501.99 of the Martins Ferry Codified Ordinances.
(Ord. 2002-08. Passed 2-21-02.)

509.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 513 Drug Abuse Control

513.01	Definitions.	513.08	Illegally dispensing drug samples.
513.02	Gift of marihuana.	513.09	Controlled substance or prescription labels.
513.03	Drug abuse; controlled substance possession or use.	513.10	Hypodermic possession, display and dispensing.
513.04	Possessing drug abuse instruments.	513.11	Harmful intoxicants; possessing nitrous oxide in motor vehicle.
513.05	Permitting drug abuse.	513.12	Drug paraphernalia.
513.06	Illegal cultivation of marihuana.	513.121	Marihuana drug paraphernalia.
513.07	Possessing or using harmful intoxicants.	513.13	Counterfeit controlled substances.
		513.14	Offender may be required to pay for controlled substance tests.
		513.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Federal prosecution bar to local prosecution - see Ohio R.C. 2925.50, 3719.19
 Analysis report and notarized statement as evidence - see Ohio R.C. 2925.51
 Criteria for granting probation - see Ohio R.C. 3719.70(B)
 Adulterating food with drug of abuse - see GEN. OFF. 537.13
 Using weapons while under the influence - see GEN. OFF. 549.03.

513.01 DEFINITIONS.

As used in this chapter, certain terms are defined as follows:

- (a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.
- (b) "Controlled substance" means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV, or V.
- (c) "Dispense" means sell, leave with, give away, dispose of or deliver.
- (d) "Distribute" means to deal in, ship, transport or deliver but does not include administering or dispensing a drug.
- (e) "Hypodermic" means a hypodermic syringe or needle, or other instrument or device for the injection of medication.

- (f) "Manufacturer" means a person who manufactures a controlled substance as "manufacture" is defined in Ohio R.C. 3715.01.
- (g) Except as provided in subsection (g)(2) hereof:
 - (1) "Marihuana" means all parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. (ORC 3719.01)
 - (2) "Marihuana" does not include hashish. (ORC 2925.01)
- (h) "Controlled substance analog" has the same meaning as provided in Ohio R.C. 3719.01.
- (i) "Official written order" means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by Federal law.
- (j) "Pharmacist" means a person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.
- (k) "Pharmacy" has the same meaning as in Ohio R.C. 4729.01.
- (l) "Poison" means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.
- (m) "Licensed health professional authorized to prescribe drugs", "prescriber" and "prescription" have the same meanings as in Ohio R.C. 4729.01.
- (n) "Sale" includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.

- (o) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" and "Schedule V" mean controlled substance Schedules I, II, III, IV, and V respectively, established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44.
- (p) "Wholesaler" means a person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes a "wholesale distributor of dangerous drugs" as defined in Ohio R.C. 4729.01. (ORC 3719.01)
- (q) "Drug of abuse" means any controlled substance as defined in subsection (b) hereof, any harmful intoxicant as defined in subsection (x) hereof and any dangerous drug as defined in subsection (r) hereof. (ORC 3719.011)
- (r) "Dangerous drug" means any of the following:
 - (1) Any drug to which either of the following applies:
 - A. Under the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;
 - B. Under Ohio R.C. Chapter 3715 or 3719, the drug may be dispensed only upon a prescription.
 - (2) Any drug that contains a Schedule V narcotic drug and that is exempt from Ohio R.C. Chapter 3719 or to which that chapter does not apply;
 - (3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body. (ORC 4729.02)
- (s) "Bulk amount" of a controlled substance means any of the following:
 - (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II or Schedule III, with the exception of controlled substance analogs, marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in subsection (s)(2) or (5) hereof, whichever of the following is applicable:
 - A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;
 - B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;
 - C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol, or lysergic acid amide, or a Schedule I stimulant or depressant;
 - D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;

- E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;
 - F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the Federal Drug Abuse Control laws as defined in Ohio R.C. 3719.01, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
 - G. An amount equal to or exceeding three grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the Federal Drug Abuse Control laws;
- (2) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
 - (3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;
 - (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance.
 - (5) An amount equal to or exceeding 200 solid dosage units, sixteen grams or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid.
- (t) "Unit dose" means an amount or unit of a compound, mixture or preparation containing a controlled substance, that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.
 - (u) "Cultivate" includes planting, watering, fertilizing or tilling.
 - (v) "Drug abuse offense" means any of the following:
 - (1) A violation of Ohio R.C.. 2925.02, 2925.03, 2925.04 to 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs;
 - (2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (v)(1) hereof;

- (3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element;
 - (4) A conspiracy or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (v)(1), (2) or (3) hereof.
- (w) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this State, any other state or the United States.
- (x) "Harmful intoxicant" does not include beer or intoxicating liquor, but means any of the following:
 - (1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes, but is not limited to, any of the following:
 - A. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;
 - B. Any aerosol propellant;
 - C. Any fluorocarbon refrigerant;
 - D. Any anesthetic gas.
 - (2) Gamma Butyrolactone;
 - (3) 1,4 Butanediol.
- (y) "Manufacture" means to plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.
- (z) "Possess" or "possession" means having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (aa) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (bb) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (cc) "Juvenile" means a person under eighteen years of age.

- (dd) "School" means any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (ee) "School premises" means either of the following:
 - (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the premises at the time a criminal offense is committed;
 - (2) Any other parcel of real property that is owned or leased by a board of education of a school, any community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.
- (ff) "School building" means any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (gg) "Counterfeit controlled substance" means:
 - (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to that trademark, trade name or identifying mark; or
 - (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it; or
 - (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or
 - (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (hh) An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.
- (ii) An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (jj) "Hashish" means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
- (kk) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

- (ll) “Methamphetamine” means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.
- (mm) “Lawful prescription” means a prescription that is issued for a legitimate medical purpose by a licensed health professional authorized to prescribe drugs, that is not altered or forged, and that was not obtained by means of deception or by the commission of any theft offense.
- (nn) “Deception” and “theft offense” have the same meanings as in Ohio R.C. 2913.01. (ORC 2925.01)

513.02 GIFT OF MARIHUANA.

(a) No person shall knowingly give or offer to make a gift of twenty grams or less of marihuana.

(b) Whoever violates this section is guilty of trafficking in marihuana. Trafficking in marihuana is a minor misdemeanor for the first offense and, for any subsequent offense, it is a misdemeanor of the third degree. If the offense was committed in the vicinity of a school or the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.

(c) The court may by order suspend for not more than five years the driver’s or commercial driver’s license or permit of any person who is convicted of or pleads guilty to any violation of this section. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender’s driver’s or commercial driver’s license or permit in accordance with Ohio R.C. 2925.03(G). If an offender’s driver’s or commercial driver’s license or permit is suspended pursuant to this subsection, the offender, at any time after the expiration of two years from the day on which the offender’s sentence was imposed, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court’s finding of good cause for the termination, the court may terminate the suspension. (ORC 2925.03)

513.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.

(a) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog.

- (b) (1) This section does not apply to the following:
 - A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.
 - B. If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
 - C. Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;

- D. Any person who obtained the controlled substance pursuant to a lawful prescription issued by a licensed health professional authorized to prescribe drugs.
- (2) A. As used in subsection (b)(2) of this section:
 - 1. “Community addiction services provider” has the same meaning as in Ohio R.C. 5119.01.
 - 2. “Community control sanction” and “drug treatment program” have the same meanings as in Ohio R.C. 2929.01.
 - 3. “Health care facility” has the same meaning as in Ohio R.C. 2919.16.
 - 4. “Minor drug possession offense” means a violation of this section that is a misdemeanor or a felony of the fifth degree.
 - 5. “Post-release control sanction” has the same meaning as in Ohio R.C. 2967.28.
 - 6. “Peace officer” has the same meaning as in Ohio R.C. 2935.01.
 - 7. “Public agency” has the same meaning as in Ohio R.C. 2930.01.
 - 8. “Qualified individual” means a person who is not on community control or post-release control and is a person acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
 - 9. “Seek or obtain medical assistance” includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.
- B. Subject to subsection (b)(2)F. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted or penalized pursuant to this chapter for a minor drug possession offense if all of the following apply:
 - 1. The evidence of the obtaining, possession or use of the controlled substance or controlled substance analog that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.
 - 2. Subject to subsection (b)(2)G. of this section, within thirty days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.
 - 3. Subject to subsection (b)(2)G. of this section, the qualified individual who obtains a screening and receives a referral for treatment under subsection (b)(2)B.1. of this section, upon the request of any prosecuting attorney, submits

documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that subsection. The documentation shall be limited to the date and time of the screening obtained and referral received.

- C. If a person is found to be in violation of any community control sanction and if the violation is a result of either of the following, the court shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.13, 2929.15, or 2929.25, whichever is applicable, after which the court has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in any of those applicable sections:
1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
 2. Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
- D. If a person is found to be in violation of any post-release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.141 or 2967.28, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:
1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
 2. Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
- E. Nothing in subsection (b)(2)B. of this section shall be construed to do any of the following:
1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of subsection (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to subsection (b)(2)B. of this section for a minor drug possession offense;
 2. Limit any seizure of evidence or contraband otherwise permitted by law;
 3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;

4. Limit, modify or remove any immunity from liability available pursuant to law in effect prior to the effective date of this amendment to any public agency or to an employee of any public agency.
 - F. Subsection (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under subsection (b)(2)B. of this section. No person shall be granted an immunity under subsection (b)(2)B. of this section more than two times.
 - G. Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996", 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.
- (c) Whoever violates subsection (a) hereof is guilty of one of the following:
- (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (a) hereof is guilty of possession of drugs. Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows: possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony and shall be prosecuted under appropriate State law.
 - (2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates subsection (a) hereof is guilty of possession of marihuana. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(2)B. hereof, possession of marihuana is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.
 - (3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof is guilty of possession of hashish. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the maximum amount specified in subsection (c)(3)B. hereof. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(3)B. hereof, possession of hashish is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

(d) In addition to any other sanction that is imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 2925.11)

513.04 POSSESSING DRUG ABUSE INSTRUMENTS.

(a) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.

(b) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.

(c) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.12)

513.05 PERMITTING DRUG ABUSE.

(a) No person, who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle as defined in Ohio R.C. 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.

(b) No person, who is the owner, lessee or occupant, or who has custody, control or supervision of premises, or real estate, including vacant land, shall knowingly permit the premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.

(c) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree. If the felony drug abuse offense in question is a violation of Ohio R.C. 2925.02 or 2925.03, permitting drug abuse is a felony and shall be prosecuted under appropriate State law.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences a person who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(e) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2925.13)

513.06 ILLEGAL CULTIVATION OF MARIHUANA.

(a) No person shall knowingly cultivate marihuana.

(b) This section does not apply to any person listed in Ohio R.C. 2925.03(B)(1) to (3) to the extent and under the circumstances described in those divisions.

(c) Whoever commits a violation of subsection (a) hereof is guilty of illegal cultivation of marihuana. Illegal cultivation of marihuana is a misdemeanor if the amount of marihuana involved does not exceed 200 grams.

- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal cultivation of marihuana is a minor misdemeanor, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.
- (2) If the amount of marihuana involved equals or exceeds 100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of Ohio R.C. 2925.03. If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in an application for employment, a license, or any other right or privilege or made in connection with the person's appearance as a witness. (ORC 2925.04)

513.07 POSSESSING OR USING HARMFUL INTOXICANTS.

(a) Except for lawful research, clinical, medical, dental or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess or use a harmful intoxicant.

(b) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony and shall be prosecuted under appropriate State law.

(c) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.31)

513.08 ILLEGALLY DISPENSING DRUG SAMPLES.

(a) No person shall knowingly furnish another a sample drug.

(b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741.

(c) Whoever violates this section is guilty of illegal dispensing of drug samples. If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:

- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.
- (2) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.36)

513.09 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.

(a) No person shall alter, deface or remove any label affixed by a manufacturer, wholesaler, pharmacist or licensed health professional authorized to prescribe drugs who dispenses a controlled substance in a package or container, as long as any of the original contents remain, except when lawfully filling a prescription. (ORC 3719.08)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.07 or 3719.08 or a drug abuse offense, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 3719.99)

513.10 HYPODERMIC POSSESSION, DISPLAY AND DISPENSING.

(a) Possession of a hypodermic is authorized for the following:

- (1) A manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, and any authorized agent or employee of that manufacturer, distributor or dealer, in the regular course of business;
- (2) Terminal distributor of dangerous drugs, in the regular course of business;
- (3) A person authorized to administer injections, in the regular course of the person's profession or employment;
- (4) A person, when the hypodermic was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;
- (5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;
- (6) A farmer, for the lawful administration of a drug to an animal;
- (7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.

(b) No manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, or their authorized agents or employees, and no terminal distributor of dangerous drugs, shall display any hypodermic for sale. No person authorized to possess a hypodermic pursuant to division (a) of this section shall negligently fail to take reasonable precautions to prevent any hypodermic in the person's possession from theft or acquisition by any unauthorized person. (ORC 3719.172)

(c) Whoever violates this section is guilty of a misdemeanor of the third degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.05, 3719.06, 3719.13, 3719.172(B) or (E), or 3719.31 or a drug abuse offense, a violation is a misdemeanor of the first degree. (ORC 3719.99)

513.11 HARMFUL INTOXICANTS; POSSESSING NITROUS OXIDE IN MOTOR VEHICLE.

(a) As used in this section, "motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.

(b) Unless authorized under Ohio R.C. Chapter 3719, 4715, 4729, 4731, 4741 or 4765, no person shall possess an open cartridge of nitrous oxide in either of the following circumstances:

- (1) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking;
- (2) While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.

(c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.

(d) In addition to any other sanction imposed upon an offender for possessing nitrous oxide in a motor vehicle, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. (ORC 2925.33)

513.12 DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or Ohio R.C. Chapter 2925.

"Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:

- (1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
- (2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
- (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;
- (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
- (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance;
- (6) A scale or balance for weighing or measuring a controlled substance;
- (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
- (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;
- (9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;
- (10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;
- (11) A container or device for storing or concealing a controlled substance;
- (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
- (13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.

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

- (1) Any statement by the owner, or by anyone in control, of the equipment, product or material, concerning its use;
- (2) The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or Ohio R.C. Chapter 2925;

- (3) The proximity of the equipment, product or material to any controlled substance;
 - (4) The existence of any residue of a controlled substance on the equipment, product or material;
 - (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom the owner or person in control of the equipment, product or material knows intends to use the object to facilitate a violation of any provision of this chapter or Ohio R.C. Chapter 2925. A finding that the owner, or anyone in control, of the equipment, product or material, is not guilty of a violation of any other provision of this chapter or Ohio R.C. Chapter 2925, does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia;
 - (6) Any oral or written instruction provided with the equipment, product or material concerning its use;
 - (7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use;
 - (8) National or local advertising concerning the use of the equipment, product or material;
 - (9) The manner and circumstances in which the equipment, product or material is displayed for sale;
 - (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise;
 - (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
 - (12) Expert testimony concerning the use of the equipment, product or material.
- (c)
- (1) Subject to subsection (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
 - (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.
 - (3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this State, if the person knows that the purpose of the advertisement is to promote the illegal sale in the State of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.
- (d)
- (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.

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

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

- (f) (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.
- (2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.
- (3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.
- (4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.14)

513.121 MARIHUANA DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" has the same meaning as in Section 513.12.

(b) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in subsection (b) of Section 513.12.

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

(d) This section does not apply to any person identified in subsection (d)(1) of Section 513.12 and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.

(e) Subsection (e) of Section 513.12 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(f) Whoever violates subsection (c) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38. (ORC 2925.141)

513.13 COUNTERFEIT CONTROLLED SUBSTANCES.

(a) No person shall knowingly possess any counterfeit controlled substance.

(b) Whoever violates this section is guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree. (ORC 2925.37)

(c) The court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.37)

513.14 OFFENDER MAY BE REQUIRED TO PAY FOR CONTROLLED SUBSTANCE TESTS.

In addition to the financial sanctions authorized or required under Ohio R.C. 2929.18 and 2929.28 and to any costs otherwise authorized or required under any provision of law, the court imposing sentence upon an offender who is convicted of or pleads guilty to a drug abuse offense may order the offender to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution all of the costs that the state, municipal corporation, or county reasonably incurred in having tests performed under Ohio R.C. 2925.51, or in any other manner on any substance that was the basis of, or involved in, the offense to determine whether the substance contained any amount of a controlled substance if the results of the tests indicate that the substance tested contained any controlled substance. No court shall order an offender under this section to pay the costs of tests performed on a substance if the results of the tests do not indicate that the substance tested contained any controlled substance.

The court shall hold a hearing to determine the amount of costs to be imposed under this section. The court may hold the hearing as part of the sentencing hearing for the offender. (ORC 2925.511)

513.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 515 Fair Housing Practices

515.01	Designation of policy.	515.06	Procedures and enforcement.
515.02	Definitions.	515.07	Scope of chapter.
515.03	Unlawful housing practices.	515.08	Other legal action.
515.04	Posting of notices.	515.99	Penalty.
515.05	Fair Housing Board.		

CROSS REFERENCES

Unlawful discriminatory practices - see Ohio R.C. 4112.02
Interfering with civil rights - see GEN. OFF. 525.13

515.01 DESIGNATION OF POLICY.

It is hereby designated the continuing policy of the City to do all things necessary and proper to secure for all its residents their right to equal housing opportunities, regardless of their race, color, creed, sex, marital status, religious belief, national origin or handicap. (Ord. 7054. Passed 3-16-78.)

515.02 DEFINITIONS.

As used in this chapter, the following terms shall have these meanings:

- (a) "Real estate agent" includes any real estate broker, real estate salesman or an agent thereof, or any other person, partnership, association or corporation who for consideration sells, purchases, exchanges, rents, negotiates, offers or attempts to negotiate the sale, purchase, exchange or rental of real property or holds himself out as engaged in the business of selling, purchasing, exchanging, renting or otherwise transferring any interest in real property.
- (b) "Board" means the Fair Housing Board created by this chapter.
- (c) "Discrimination", "discriminating" or "discriminate" means to render any difference in treatment to any person in the sale, lease, rental or financing of a dwelling or housing unit because of a person's race, color, creed, sex, marital status, religious belief, national origin or handicap.
- (d) "Housing" includes any building, facility or structure or portion thereof which is used or occupied or is intended, arranged or designed to be used or occupied as the home, residence or sleeping place of one or more persons, groups or families and any vacant land offered for sale or lease for the construction or location thereof of such building, facility or structure.
- (e) "Lending institution" means any bank, lending and loan association, savings and loan association, insurance company or other person whose business consists in whole or in part in the lending of money or guaranteeing loans.

- (f) "Person" means one or more individuals, corporations, partnerships, associations, firms or enterprises, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.
(Ord. 7054. Passed 3-16-78)

515.03 UNLAWFUL HOUSING PRACTICES.

It shall be an unlawful housing practice and a violation of this chapter for:

- (a) Any person or real estate agent to:
- (1) Discriminate against any person in the selling, leasing, subleasing, renting, assigning or otherwise transferring of any interest in housing.
 - (2) Discriminate against any person by refusing to negotiate, refusing to transmit a bona fide offer, making false representation on the availability of the housing unit for inspection, sale or rental, or withdrawing from the market a housing unit which is for sale, lease, sublease or rental.
 - (3) Include in the terms, conditions or privileges of any sale, lease, sublease, rental, assignment or other transfer of any housing, any clause, condition or restriction discriminating against any person in the use or occupancy of such housing.
 - (4) Discriminate in the furnishing of any facilities, repairs, improvements or services or in the terms, conditions, privileges or tenure of occupancy of any person.
- (b) Any lending institution to:
- (1) Discriminate in lending money, guaranteeing loans, accepting a deed of trust or mortgage or otherwise making available funds for purchasing, constructing, improving, altering, repairing, rehabilitating or maintaining any housing or discriminate against in the fixing of the amount, interest rate, duration or other terms, conditions or provisions of any such financial assistance.
 - (2) Discriminate in the lending of money, guaranteeing loans, accepting a deed of trust or mortgage or otherwise making funds available on the basis of the geographic location.
- (c) Any person, real estate agent or lending institution with respect to any prohibited act specified in this chapter, to publish, circulate or cause to be published or circulated, any notice, statement, listing or advertisement, or to announce a policy or make any record in connection with the prospective sale, lease, sublease, rental or financing of any housing which indicates reliance, determination or decision based on race, color, creed, sex, marital status, religious belief, national origin or handicap
- (d) Any person or real estate agent to assist in, compel or coerce the performing of any act declared to be an unlawful housing practice under this chapter, or to obstruct or prevent endorsement or compliance with provisions of this chapter, or to attempt directly or indirectly to commit any act declared to be an unlawful housing practice by this chapter.
- (e) Any person, real estate agent or lending institution to:
- (1) Induce or attempt to induce the sale, transfer of interest or listing for sale of any housing by making representations regarding the existing or potential

- proximity of real property owned, used or occupied by any person of any particular race, color, creed, sex, marital status, religious belief, national origin or handicap by direct or indirect methods.
- (2) Make any representation to a prospective purchaser or lessee that any housing in a particular block, neighborhood or area may undergo, is undergoing or has undergone a change with respect to race, color, creed, sex, marital status, religion, national origin or handicap of such block, neighborhood or area.
 - (3) Induce or attempt to induce the sale or listing for sale of any housing by representing that the presence or anticipated presence of persons of any particular race, color, creed, sex, marital status, religion, national origin or handicap in the block, neighborhood or area shall or may result in:
 - A. The lowering of property values.
 - B. A change in the racial, color, religious, nationality or ethnic composition of the block, neighborhood or area in which the property is located.
 - C. An increase in criminal or antisocial behavior in the area.
 - D. A decline in the quality of the schools serving the area.
 - (f) Any person or real estate agent to cause or coerce or attempt to cause or coerce retaliation against any person because such person has lawfully opposed any act or failure to act that is a violation of this chapter or has, in good faith, filed a complaint, testified, participated or assisted in any way in any proceeding under this chapter or prevent any person from complying with this chapter.
 - (g) Any person or real estate agent to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting housing or discriminate against a person in the terms or conditions of such access, membership or participation.
 - (h) Any person, real estate agent or lending institution to do any other thing or engage in conduct which would otherwise make unavailable equal housing opportunities. (Ord. 7054. Passed 3-16-78.)

515.04 POSTING OF NOTICES.

(a) Every real estate agent shall post in a conspicuous location in that portion of his place of business normally used by him for negotiating the terms of a sale or lease of housing, and each person who operates a multi-unit residential building containing more than two units shall post at all times when prospective tenants are being interviewed, in a conspicuous location in that portion of his housing business normally used by him for negotiating the rental of a housing unit therein, a notice prepared by the Fair Housing Board which contains the following language, printed in black on a light-colored background, in not less than fourteen-point type:

“It is a violation of the Fair Housing Law of the City of Martins Ferry, State of Ohio, for any real estate agent, or for any person owning or managing a multi-unit apartment dwelling to,

1. Deny housing to any person because of race, color, creed, sex, marital status, religious belief or national origin or handicap.
2. Discriminate against any person because of that person's race, color, creed, sex, marital status, religious belief, national origin or handicap to the terms, conditions or privileges of housing accommodations or in the furnishing of facilities or services in connection therewith.

If you believe you have been discriminated against, contact the City's Fair Housing Board, the Ohio Civil Rights Commission or the U. S. Department of Housing and Urban Development.”

Failure to comply with this section shall constitute a violation of this chapter. (Ord. 7054 Passed 3-16-78.)

515.05 FAIR HOUSING BOARD.

(a) There is hereby created the Fair Housing Board to consist of three members who shall be qualified electors of the City. They shall not hold any elected public office at the Municipal, County, State or federal level at any time while a member of the Board, shall not be employed by the City, but may be employed by the County, State or Federal Government. Any appointed Board member who is a candidate for any public office shall be automatically disqualified from further membership on the Board. The day the Board member files petitions with the Belmont County Board of Elections shall be the date of the disqualification. Nothing shall prohibit the Board from consulting and meeting with real estate agents or representatives of lending institutions in matters regarding educational or other programs to further the purpose of this chapter.

(b) The Board members shall be appointed by the Mayor. Of the members first appointed, one shall hold office for a term of one year; one for a term of two years; and the other for a term of three years, and their successors shall be appointed for terms of three years. The Mayor shall fill all vacancies by appointment for the remainder of the unexpired term. The Mayor shall be an ex-officio member of the Board. After being duly constituted, a chairman and vice-chairman shall be chosen by a majority vote of the Board.

(c) The secretary of the Board shall be appointed by the Mayor and may be an employee of the City.

(d) The Mayor may recommend the removal of any member of the Board for neglect of duty or malfeasance in office to Council. Council may remove a member of the Board from office by an affirmative vote of at least three-fourths of Council only after having first given to such member a written copy of the charges against him and an opportunity to be publicly heard in person or by counsel in his own defense; and any such removal shall be final.

(e) Two members of the Board shall constitute a quorum for the purpose of conducting the business thereof. A vacancy on the Board shall not impair the right of the other members to exercise all the power of the Board.

(f) Each member of the Board shall serve without salary, but shall be paid necessary and actual expenses expended in performing the business of the Board.

(g) The Board is charged with the following duties to implement the stated policy of this chapter:

- (1) To investigate all complaints of unlawful housing practices which are filed with it.
- (2) To initiate complaints of unlawful housing practices on the basis of studies carried out by its staff or volunteers authorized by the Board.
- (3) To endeavor by conciliation, to resolve such complaints.
- (4) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath, and in connection therewith, to require the production for examination of any books or papers relating to any matter under investigation or in question before the Board.
- (5) To render at least once a year to the Mayor and to Council a full written report of all its activities and recommendations.
- (6) To recommend to the Mayor, when it deems necessary, educational and other programs designed to promote the purpose stated in this chapter.
- (7) To adopt rules and procedures for the conduct of its business.
- (8) To do such other acts that are necessary and proper in order to perform those duties with which it is charged under the terms of this chapter.

(h) The Mayor's office shall be responsible for the administration of this chapter. This responsibility may be delegated to the Division of Relocation. (Ord. 7054. Passed 3-16-78.)

515.06 PROCEDURES AND ENFORCEMENT.

(a) Any person subjected to an unlawful housing practice may file within 360 days of the alleged violation with the Fair Housing Board a complaint in writing, sworn to or affirmed, which shall state: The name and address of the person aggrieved; the name and address of the person against whom the complaint is filed; a description and the address of the dwelling, which involves the alleged discriminatory housing practice; a concise statement of the facts, including pertinent dates, constituting the alleged discriminatory housing practice, and such other information as may be required by the Board. The complaint may be reasonably and fairly amended. The Board may also corroborate or initiate complaints on the basis of studies carried out by its staff or volunteers authorized by the Board.

(b) Upon the filing of a complaint the secretary of the Board shall make such investigations as he deems appropriate to ascertain facts and issues. Such investigation shall be conducted within fourteen business days after the filing of the complaint. The investigation may be extended when deemed necessary by the chairman of the Board. If the secretary shall determine that there are reasonable grounds to believe a violation has occurred, he shall attempt to conciliate the matter by methods of initial conference and persuasion with all interested parties and such representatives as the parties may choose to assist them. Conciliation conferences shall be informal and nothing said or done during such initial conferences shall be made public by any member of the Board or its staff unless the parties agree thereto in writing.

(c) The terms of conciliation agreed to by the parties shall be reduced to writing and incorporated into a consent agreement to be signed by the parties, which agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been violated. Consent agreements shall be signed on behalf of the Board by its chairman.

(d) The Board is authorized to seek the cooperation and aid of the Ohio Real Estate Commission, Ohio Civil Rights Commission or the U. S. Department of Housing and Urban Development, and any other person or group regarding any matter before the Board.

(e) If the secretary of the Board determines that the complaint lacks reasonable grounds upon which to base a violation of this chapter, he shall so inform the Board and the Board may in its discretion dismiss such complaint or order such further investigation as may be necessary; provided, that the Board shall not dismiss such complaint without first affording either party an opportunity to appear before the Board.

(f) If the secretary of the Board, with respect to a matter which involves violation of this chapter, fails to conciliate a complaint after the parties have in good faith attempted such conciliation, fails to effect an informal conciliation agreement or a formal consent agreement or determines that a complaint is not susceptible of conciliation, he shall so notify the Board and the Board shall thereafter schedule a public hearing to determine whether a violation of this chapter has been committed. The Board shall serve upon the respondent a written statement of charges and a summons and shall serve upon all interested parties a notice of the time and place of the hearing. The respondent or his authorized counsel may file and amend such statements with the Board prior to the hearing date as it deems necessary in support of its position. The hearing shall be opened to the public. The hearing shall be held not less than fifteen calendar days nor more than thirty calendar days after service of the statement of charges and summons. The summons so issued must be signed by two members of the Board and the issuance of such summons shall require the attendance of named persons and the production of relevant documents and records. The failure to comply with a summons shall constitute a violation of this chapter. The interested parties may, at their option, appear before the Board in person or by a duly authorized representative and may have the assistance of an attorney. The parties may present testimony and evidence, and the right to cross-examine witnesses

shall be preserved. All testimony and evidence shall be given under oath or by affirmation. The secretary shall keep a full record of the hearing, which record shall be made public and open to inspection by any person, and upon request by any principal party to the proceeding, the Board shall furnish such party a copy of the hearing record at such cost as the Board deems appropriate.

(g) If at the conclusion of the hearing the Board shall determine upon the preponderance of the evidence that the person complained against has violated this chapter, the Board shall, after consultation with the Law Director in executive session, state its findings to and cause the Law Director to prepare and issue an order under Board directive requiring the person complained against to cease and desist from such unlawful conduct and to take such affirmative action as will effectuate the purpose of this chapter with notice that if the Board upon investigation by the secretary determines that the person complained against has not, after fifteen calendar days following service of the Board's order, complied with the order, the Board shall recertify the matter to the Law Director for enforcement.

The Law Director shall seek compliance by appropriate civil action brought in the name of the Board before a court of competent jurisdiction.

(h) If at the conclusion of the hearing the Board shall determine upon the preponderance of the evidence of the record that the person complained against has not violated this chapter, the Board shall so state and publish its findings and issue its orders dismissing the complaint.

(Ord. 7054. Passed 3-16-78.)

515.07 SCOPE OF CHAPTER.

The provisions of this chapter shall apply to all housing located within the territorial limits of the City.

(Ord. 7054. Passed 3-16-78.)

515.08 OTHER LEGAL ACTION.

Nothing contained in this section shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled or from filing any complaint with any other agency or court of law or equity.

(Ord. 7054. Passed 3-16-78.)

515.99 PENALTY.

In any proceeding, where the court determines that there has been a violation of this chapter, the court shall award compensatory damages, and where appropriate, punitive damages of not more than one thousand dollars (\$1,000) along with attorney fees and court costs. The court may also order such other relief as it deems necessary or appropriate which may include, but is not limited to, issuance of any permanent or temporary injunction, temporary restraining order or other order.

(Ord. 7054. Passed 3-16-78.)

CHAPTER 517 Gambling

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CROSS REFERENCES

See sectional histories for similar State law

Lotteries prohibited; exception - see Ohio Const., Art. XV,
Sec. 6

Contributing to delinquency of minors - see Ohio R.C. 2151.41

Search warrants - see Ohio R.C. 2933.21(E)

Licensing charitable bingo games - see Ohio R.C. 2915.08

517.01 DEFINITIONS.

As used in this chapter:

- (a) "Bookmaking" means the business of receiving or paying off bets.
- (b) "Bet" means the hazarding of anything of value upon the result of an event, undertaking or contingency, but does not include a bona fide business risk.
- (c) "Scheme of chance" means a slot machine unless authorized under Ohio R.C. Chapter 3772, lottery unless authorized under Ohio R.C. Chapter 3770, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. "Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:
 - (1) Less than fifty per cent of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location;

- (2) Less than fifty per cent of participants who purchase goods or services at any one location do not accept, use or redeem the goods or services sold or purportedly sold;
 - (3) More than fifty per cent of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in Ohio R.C. 3772.01;
 - (4) The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;
 - (5) A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
 - (6) A participant may use the electronic device to purchase additional game entries;
 - (7) A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
 - (8) A scheme of chance operator pays out in prize money more than twenty per cent of the gross revenue received at one location; or
 - (9) A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.
- As used in this subsection, "electronic device" means a mechanical, video, digital or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased or otherwise possessed by any person conducting a scheme of chance, or by that person's partners, affiliates, subsidiaries or contractors.
- (d) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.
 - (e) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.
 - (f) "Gambling device" means any of the following:
 - (1) A book, totalizer or other equipment for recording bets;
 - (2) A ticket, token or other device representing a chance, share or interest in a scheme of chance or evidencing a bet;
 - (3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;
 - (4) Any equipment, device, apparatus or paraphernalia specially designed for gambling purposes;
 - (5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.
 - (g) "Gambling offense" means the following:
 - (1) A violation of Ohio R.C. 2915.02 to 2915.092, 2915.10 or 2915.11;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (g)(1) hereof or a violation of Ohio R.C. 2915.06 as it existed prior to July 1, 1996;
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;
 - (4) A conspiracy or attempt to commit, or complicity in committing an offense under subsection (g)(1), (2) or (3) hereof.
 - (h) Except as otherwise provided in this chapter, "charitable organization" means either of the following:

- (1) An organization that is and has received from the Internal Revenue Service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
- (2) A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal, income taxation under subsection 501(c)(4), (c)(7), (c)(8), (c)(10) or (c)(19) of the Internal Revenue Code.

To qualify as a charitable organization, an organization shall have been in continuous existence as such in this State for a period of two years immediately preceding either the making of an application for a bingo license under Ohio R.C. 2915.08 or the conducting of any game of chance as provided in division (D) of Ohio R.C. 2915.02.

- (i) "Religious organization" means any church, body of communicants or group that is not organized or operated for profit, that gathers in common membership for regular worship and religious observances.
- (j) "Veteran's organization" means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit is incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this subsection, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United States congress or has a national dues-paying membership of at least five thousand persons.
- (k) "Volunteer firefighter's organization" means any organization of volunteer firefighters, as defined in Ohio R.C. 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.
- (l) "Fraternal organization" means any society, order, state headquarters, or association within this State, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge or chapter of a national or state organization, that exists exclusively for the common business of sodality of its members.
- (m) "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization as defined in Ohio R.C. 4765.01.
- (n) "Charitable bingo game" means any bingo game described in subsection (o)(1) or (2) of this section that is conducted by a charitable organization that has obtained a license pursuant to Ohio R.C. 2915.08 and the proceeds of which are used for a charitable purpose.
- (o) "Bingo" means either of the following:
 - (1) A game with all of the following characteristics:
 - A. The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into twenty-five spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space.

- B. The participants cover the space on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator.
 - C. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically from a receptacle that contains seventy-five objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the seventy-five possible combinations of a letter and a number that can appear on the bingo cards or sheets.
 - D. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in subsection (o)(1)C. hereof, that a predetermined and preannounced pattern of spaces has been covered on a bingo card or sheet being used by a participant.
- (2) Instant bingo, punch boards and raffles.
- (p) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, a scheme of chance, or a sweepstakes.
 - (q) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.
 - (r) "Participant" means any person who plays bingo.
 - (s) "Bingo session" means a period that includes both of the following:
 - (1) Not to exceed five continuous hours for the conduct of one or more games described in subsection (o)(1) of this section, instant bingo, and seal cards;
 - (2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in subsection (s)(1) of this section.
 - (t) "Gross receipts" means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:
 - (1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.
 - (2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.
 - (3) The food and beverages are sold at customary and reasonable prices.

- (u) "Security personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or a police officer of a municipal corporation or has successfully completed a peace officer's training course pursuant to Ohio R.C. 109.71 to 109.79 and who is hired to provide security for the premises on which bingo is conducted.
- (v) "Charitable purpose" means that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:
 - (1) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
 - (2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five per cent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in division (B)(12) of Ohio R.C. 5739.02, is used for awarding scholarships to or for attendance at an institution mentioned in division (B)(12) of Ohio R.C. 5739.02, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;
 - (3) A fraternal organization that has been in continuous existence in this State for fifteen years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals if contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal Revenue Code;
 - (4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in subsection (k) of this section.
- (w) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter amended.
- (x) "Youth athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are twenty-one years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association.
- (y) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:
 - (1) It owns, operates and maintains playing fields that satisfy both of the following:
 - A. The playing fields are used at least one hundred days per year for athletic activities by one or more organizations not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are eighteen years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association;

- B. The playing fields are not used for any profit-making activity at any time during the year,
- (2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance and improvement of its playing fields of the type described in paragraph (1) hereof.
- (z) "Bingo supplies" means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.
- (aa) "Instant bingo" means a form of bingo that shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, and may also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. In all "instant bingo" the prize amount and structure shall be predetermined. "Instant bingo" does not include any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.
- (bb) "Seal card" means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.
- (cc) "Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. "Raffle" does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:
- (1) The ticket stub or other detachable section is used to select the winner of a free prize given away at the professional sporting event; and
- (2) The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away.
- (dd) "Punch board" means a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.
- (ee) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards.

- (ff) "Net profit" means gross profit minus expenses.
- (gg) "Expenses" means the reasonable amount of gross profit actually expended for all of the following:
 - (1) The purchase or lease of bingo supplies;
 - (2) The annual license fee required under Ohio R.C. 2915.08;
 - (3) Bank fees and service charges for a bingo session or game account described in Ohio R.C. 2915.10;
 - (4) Audits and accounting services;
 - (5) Safes;
 - (6) Cash registers;
 - (7) Hiring security personnel;
 - (8) Advertising bingo;
 - (9) Renting premises in which to conduct a bingo session;
 - (10) Tables and chairs;
 - (11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
 - (12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
 - (13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under division (B)(1) of Ohio R.C. 2915.08.
- (hh) "Person" has the same meaning as in Ohio R.C. 1.59 and includes any firm or any other legal entity, however organized.
- (ii) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- (jj) "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- (kk) "Distributor" means any person who purchases or obtains bingo supplies and who does either of the following:
 - (1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this State;
 - (2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this State.
- (ll) "Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.
- (mm) "Gross annual revenues" means the annual gross receipts derived from the conduct of bingo described in subsection (o)(1) of this section plus the annual net profit derived from the conduct of bingo described in subsection (o)(2) of this section.
- (nn) "Instant bingo ticket dispenser" means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:

- (1) It is activated upon the insertion of United States currency.
- (2) It performs no gaming functions.
- (3) It does not contain a video display monitor or generate noise.
- (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.
- (5) It does not simulate or display rolling or spinning reels.
- (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.
- (7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.
- (8) It is not part of an electronic network and is not interactive.
- (oo) (1) "Electronic bingo aid" means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:
 - A. It provides a means for a participant to input numbers and letters announced by a bingo caller.
 - B. It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.
 - C. It identifies a winning bingo pattern.
- (2) "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.
- (pp) "Deal of instant bingo tickets" means a single game of instant bingo tickets all with the same serial number.
- (qq) (1) "Slot machine" means either of the following:
 - A. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;
 - B. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.
- (2) "Slot machine" does not include a skill-based amusement machine or an instant bingo ticket dispenser.
- (rr) "Net profit from the proceeds of the sale of instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies, and, in the case of instant bingo conducted by a veteran's, fraternal or sporting organization, minus the payment by that organization of real property taxes, and assessments levied on a premises on which instant bingo is conducted.
- (ss) "Charitable instant bingo organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to Ohio R.C. 2915.13.

- (tt) "Game flare" means the board or placard that accompanies each deal of instant bingo tickets and that has printed on or affixed to it the following information for the game:
- (1) The name of the game;
 - (2) The manufacturer's name or distinctive logo;
 - (3) The form number;
 - (4) The ticket count;
 - (5) The prize structure, including the number of winning instant bingo tickets by denomination and the respective winning symbol or number combinations for the winning instant bingo tickets;
 - (6) The cost per play;
 - (7) The serial number of the game.
- (uu) (1) "Skill-based amusement machine" means mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:
- A. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed ten dollars;
 - B. Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than ten dollars;
 - C. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than ten dollars times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
 - D. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.
- A card for the purchase of gasoline is a redeemable voucher for purposes of division (uu)(1) of this section even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.
- (2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:
- A. The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game.
 - B. Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;
 - C. The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game.
 - D. The success of any player is or may be determined by a chance event that cannot be altered by player actions.

- E. The ability of any player to succeed at the game is determined by game features not visible or known to the player.
 - F. The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.
- (3) All of the following apply to any machine that is operated as described in subsection (uu)(1) of this section:
 - A. As used in subsection (uu) of this section, “game” and “play” mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single game, play, contest, competition or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.
 - B. Advance play for a single game, play, contest, competition or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single noncontest, competition or tournament play.
 - C. To the extent that the machine is used in a contest, competition or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition or tournament.
- (4) For purposes of subsection (uu)(1) of this section, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.
- (vv) “Merchandise prize” means any item of value, but shall not include any of the following:
 - (1) Cash, gift cards, or any equivalent thereof;
 - (2) Plays on games of chance, state lottery tickets, bingo, or instant bingo;
 - (3) Firearms, tobacco, or alcoholic beverages; or
 - (4) A redeemable voucher that is redeemable for any of the items listed in subsection (vv)(1), (2) or (3) of this section.
- (ww) “Redeemable voucher” means any ticket, token, coupon, receipt, or other noncash representation of value.
- (xx) “Pool not conducted for profit” means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.
- (yy) “Sporting organization” means a hunting, fishing or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the league of Ohio sportsmen, and that has been in continuous existence in this State for a period of three years.
- (zz) “Community action agency” has the same meaning as in Ohio R.C. 122.66.

- (aaa) (1) “Sweepstakes terminal device” means a mechanical, video, digital or electronic machine or device that is owned, leased or otherwise possessed by any person conducting a sweepstakes, or by that person’s partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device if any of the following apply:
- A. The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
 - B. The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.
 - C. The device selects prizes from a predetermined finite pool of entries.
 - D. The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
 - E. The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
 - F. The device utilizes software to create a game result.
 - G. The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded.
 - H. The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
- (2) As used in this subsection and in Section 517.02:
- A. “Enter” means the act by which a person becomes eligible to receive any prize offered in a sweepstakes.
 - B. “Entry” means one event from the initial activation of the sweepstakes terminal device until all of the sweepstakes prize results from that activation are revealed.
 - C. “Prize” means any gift, award, gratuity, good, service, credit, reward or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.
 - D. “Sweepstakes terminal device facility” means any location in this Municipality where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in Ohio R.C. 2915.02(G).

- (bbb) "Sweepstakes" means any game, contest, advertising scheme or plan, or other promotion where consideration is not required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance. "Sweepstakes" does not include bingo as authorized under this chapter, pari-mutuel wagering as authorized by Ohio R.C. Chapter 3769, lotteries conducted by the State Lottery Commission as authorized by Ohio R.C. Chapter 3770, and casino gaming as authorized by Ohio R.C. Chapter 3772. (ORC 2915.01)

517.02 GAMBLING.

- (a) No person shall do any of the following:

- (1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking;
- (2) Establish, promote, or operate or knowingly engage in conduct that facilitates any game of chance conducted for profit or any scheme of chance;
- (3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any game of chance conducted for profit or any scheme of chance;
- (4) Engage in betting or in playing any scheme or game of chance as a substantial source of income or livelihood;
- (5) With purpose to violate subsection (a)(1), (2), (3), or (4) of this section, acquire, possess, control, or operate any gambling device.

(b) For purposes of subsection (a)(1) of this section, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of subsection (a)(2) of this section, a person facilitates a game of chance conducted for profit or a scheme of chance if the person in any way knowingly aids in the conduct or operation of any such game or scheme, including, without limitation, playing any such game or scheme.

(c) This section does not prohibit conduct in connection with gambling expressly permitted by law.

- (d) This section does not apply to any of the following:
- (1) Games of chance, if all of the following apply:
- A. The games of chance are not craps for money or roulette for money.
 - B. The games of chance are conducted by a charitable organization that is, and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is, exempt from Federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code.
 - C. The games of chance are conducted at festivals of the charitable organization that are conducted not more than a total of five days a calendar year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance.
A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof if the veteran's or fraternal organization has already leased the premises twelve times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under Section 517.06(b)(1) when it leases premises from another charitable organization to conduct bingo games.
 - D. All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated or otherwise transferred to, any organization that is described in subsection 509(a)(1), (2) or (3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

E. The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to Section 517.13.

No person shall receive any commission, wage, salary, reward, tip, donations, gratuity or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance.

- (2) Any tag fishing tournament operated under a permit issued under Ohio R.C. 1533.92, as "tag fishing tournament" is defined in Ohio R.C. 1531.01.
- (3) Bingo conducted by a charitable organization that holds a license issued under Ohio R.C. 2915.08.

(e) Subsection (d) hereof shall not be construed to authorize the sale, lease or other temporary or permanent transfer of the right to conduct games of chance, as granted by subsection (d) hereof, by any charitable organization that is granted that right.

(f) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, gambling is a felony and shall be prosecuted under appropriate State law. (ORC 2915.02)

517.03 OPERATING A GAMBLING HOUSE.

(a) No person, being the owner or lessee, or having custody, control or supervision of premises, shall:

- (1) Use or occupy such premises for gambling in violation of Section 517.02;
- (2) Recklessly permit such premises to be used or occupied for gambling in violation of Section 517.02.

(b) Whoever violates this section is guilty of operating a gambling house, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, operating a gambling house is a felony and shall be prosecuted under appropriate State law.

(c) Premises used or occupied in violation of this section constitute a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2915.03)

517.04 PUBLIC GAMING.

(a) No person, while at a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall make a bet or play any game of chance or scheme of chance.

(b) No person, being the owner or lessee, or having custody, control, or supervision, of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall recklessly permit those premises to be used or occupied in violation of subsection (a) of this section.

(c) Subsections (a) and (b) of this section do not prohibit conduct in connection with gambling expressly permitted by law.

(d) Whoever violates this section is guilty of public gaming. Except as otherwise provided in this subsection, public gaming is a minor misdemeanor. If the offender previously has been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.

(e) Premises used or occupied in violation of subsection (b) of this section constitute a nuisance subject to abatement under Ohio R.C. Chapter 3767. (ORC 2915.04)

517.05 CHEATING.

(a) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of any of the following:

- (1) The subject of a bet;
- (2) A contest of knowledge, skill, or endurance that is not an athletic or sporting event;
- (3) A scheme or game of chance;
- (4) Bingo.

(b) Whoever violates this section is guilty of cheating. Except as otherwise provided in this subsection cheating is a misdemeanor of the first degree. If the potential gain from the cheating is one thousand dollars (\$1,000) or more, or if the offender previously has been convicted of any gambling offense or of any theft offense as defined in Ohio R.C. 2913.01, cheating is a felony and shall be prosecuted under appropriate State law. (ORC 2915.05)

517.06 METHODS OF CONDUCTING A BINGO GAME; PROHIBITIONS.

(a) No charitable organization that conducts bingo shall fail to do any of the following:

- (1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;

- (2) Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo, other than instant bingo, for a charitable purpose listed in its license application and described in Section 517.01(v), or distribute all of the net profit from the proceeds of the sale of instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101.

(b) No charitable organization that conducts a bingo game described in Section 517.01(o)(1) shall fail to do any of the following:

- (1) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of six hundred dollars (\$600.00) per bingo session or forty-five per cent of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size, and quality but not in excess of four hundred fifty dollars (\$450.00) per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars (\$450.00) per bingo session. No charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than three other charitable organizations per calendar week for conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine bingo sessions be conducted on any premises in any calendar week.
- (2) Display its license conspicuously at the premises where the bingo session is conducted;
- (3) Conduct the bingo session in accordance with the definition of bingo set forth in Section 517.01(o)(1).

(c) No charitable organization that conducts a bingo game described in Section 517.01(o)(1) shall do any of the following:

- (1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable

- organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
- (2) Pay consulting fees to any person for any services performed in relation to the bingo session;
 - (3) Pay concession fees to any person who provides refreshments to the participants in the bingo session;
 - (4) Except as otherwise provided in subsection (c)(4) of this section, conduct more than three bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than three bingo sessions in a seven-day period after notifying the Attorney General when it will conduct the sessions;
 - (5) Pay out more than six thousand dollars (\$6,000) in prizes for bingo games described in Section 517.01(o)(1) during any bingo session that is conducted by the charitable organization. "Prizes" does not include awards from the conduct of instant bingo;
 - (6) Conduct a bingo session at any time during the eight-hour period between two a.m. and ten a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to Ohio R.C. 2915.12, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. Subsection (c)(6) of this section does not prohibit the sale of instant bingo tickets beginning at nine a.m. for a bingo session that begins at ten a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time, specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the Attorney General for an amended license, pursuant to division (F) of Ohio R.C. 2915.08. A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;
 - (7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen to work as a bingo game operator;
 - (8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;
 - (9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;
 - (10) Purchase or lease bingo supplies from any person except a distributor issued a license under Ohio R.C. 2915.081;

- (11) A. Use or permit the use of electronic bingo aids except under the following circumstances:
 - 1. For any single participant, not more than ninety bingo faces can be played using an electronic bingo aid or aids.
 - 2. The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.
 - 3. The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.
 - 4. An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.
 - 5. An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.
 - 6. An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.
- B. The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the Attorney General to verify the number of bingo cards or sheets played during each bingo session.
- (12) Permit any person the charitable organization knows, or should have known, to be under eighteen years of age to play bingo described in Section 517.01(o)(1).
- (d)
 - (1) Except as otherwise provided in subsection (d)(3) hereof, no charitable organization shall provide to a bingo game operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session.
 - (2) Except as otherwise provided in subsection (d)(3) hereof, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting instant bingo other than at a bingo session at the site of instant bingo other than at a bingo session.
 - (3) Nothing in subsection (d) hereof prohibits an employee of a fraternal organization, veteran's organization, or sporting organization from selling instant bingo tickets or cards to the organization's members or

invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.

(e) Notwithstanding subsection (b)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the Attorney General in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the Attorney General prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the Attorney General prior to December 6, 1977.

(f) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo ticket as a prize.

(g) Except as otherwise provided in this subsection, whoever violates subsection (a)(1) or (2), (b)(1), (2), or (3), (c)(1) to (11) or (d) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of subsection (a)(1) or (2), (b)(1), (2) or (3), (c)(1) to (11), or (d) of this section, a violation of subsection (a)(1) or (2), (b)(1), (2) or (3) or (c)(1) to (11) or (d) of this section is a misdemeanor of the first degree. Whoever violates subsection (c)(12) of this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c)(12) of this section, a violation of subsection (c)(12) is a felony and shall be prosecuted under appropriate State law. (ORC 2915.09)

517.07 INSTANT BINGO CONDUCT.

(a) No charitable organization that conducts instant bingo shall do any of the following:

- (1) Fail to comply with the requirements of divisions (A)(1), (2), and (3) of Ohio R.C. 2915.09;
- (2) Conduct instant bingo unless either of the following applies:
 - A. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(3) of the Internal Revenue Code, is a charitable organization as defined in Section 517.01, is in good standing in the State pursuant to Ohio R.C. 2915.08, and is in compliance with Ohio R.C. Chapter 1716;
 - B. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's organization described in subsection 501(c)(4) of the Internal Revenue Code, and conducts instant bingo under Section 517.14.

- (3) Conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license issued pursuant to Ohio R.C. 2915.08;
- (4) Permit any person whom the organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of instant bingo;
- (5) Purchase or lease supplies used to conduct instant bingo or punch board games from any person except a distributor licensed under Ohio R.C. 2915.081;
- (6) Sell or provide any instant bingo ticket or card for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare;
- (7) Sell an instant bingo ticket or card to a person under eighteen years of age;
- (8) Fail to keep unsold instant bingo tickets or cards for less than three years;
- (9) Pay any compensation to a bingo game operator for conducting instant bingo that is conducted by the organization or for preparing, selling, or serving food or beverages at the site of the instant bingo game, permit any auxiliary unit or society of the organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at an instant bingo game conducted by the organization, or permit any auxiliary unit or society of the organization to prepare, sell, or serve food or beverages at an instant bingo game conducted by the organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
- (10) Pay fees to any person for any services performed in relation to an instant bingo game, except as provided in Section 517.09(d);
- (11) Pay fees to any person who provides refreshments to the participants in an instant bingo game;
- (12)
 - A. Allow instant bingo tickets or cards to be sold to bingo game operators at a premises at which the organization sells instant bingo tickets or cards or to be sold to employees of a D permit holder who are working at a premises at which instant bingo tickets or cards are sold;
 - B. Subsection (a)(12)A. of this section does not prohibit a licensed charitable organization or a bingo game operator from giving any person an instant bingo ticket as a prize in place of a cash prize won by a participant in an instant bingo game. In no case shall an instant bingo ticket or card be sold or provided for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare.
- (13) Fail to display its bingo license, and the serial numbers of the deal of instant bingo tickets or cards to be sold, conspicuously at each premises at which it sells instant bingo tickets or cards;
- (14) Possess a deal of instant bingo tickets or cards that was not purchased from a distributor licensed under Ohio R.C. 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by Section 517.11(f);
- (15) Fail, once it opens a deal of instant bingo tickets or cards, to continue to sell the tickets or cards in that deal until the tickets or cards with the top two highest tiers of prizes in that deal are sold;
- (16) Possess bingo supplies that were not obtained in accordance with Ohio R.C. 2915.01 to 2915.13.

(b) A charitable organization may purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards.

(c) Whoever violates subsection (a) of this section or a rule adopted under Ohio R.C. 2915.091(C) is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (a) of this section or of such a rule, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law. (ORC 2915.091)

517.08 RAFFLES.

- (a) (1) Subject to subsection (a)(2) of this section, a charitable organization, a public school, a chartered nonpublic school, a community school, or a veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code may conduct a raffle to raise money for the organization or school and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit.
- (2) If a charitable organization that is described in subsection (a)(1) of this section, but that is not also described in subsection 501(c)(3) of the Internal Revenue Code, conducts a raffle, the charitable organization shall distribute at least fifty per cent of the net profit from the raffle to a charitable purpose described in Section 517.01(v) or to a department or agency of the federal government, the state, or any political subdivision.

(b) Except as provided in subsection (a) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not for profit.

(c) Whoever violates subsection (b) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this subsection, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (b) of this section, illegal conduct of a raffle is a felony and shall be prosecuted under appropriate State law. (ORC 2915.092)

517.09 CHARITABLE INSTANT BINGO ORGANIZATIONS.

(a) As used in this section, "retail income from all commercial activity" means the income that a person receives from the provision of goods, services, or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.

- (b) (1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.

- (2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five days per calendar year and not more than ten hours per day.

(c) Except as provided in subsection (f) of this section, no charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.

(d) The owner or lessor of a location that enters into a contract pursuant to subsection (b) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets.

The charitable instant bingo organization shall pay six per cent of the total gross receipts of any deal of instant bingo tickets for the purpose of reimbursing the owner or lessor for expenses described in this subsection.

As used in this subsection, “expenses” means those items provided for in subsections (gg)(4), (5), (6), (7), (8), (12) and (13) of Section 517.01 and that percentage of the owner’s or lessor’s rent for the location where instant bingo is conducted. “Expenses” in the aggregate, shall not exceed six per cent of the total gross receipts of any deal of instant bingo tickets.

As used in this subsection, “full gross profit” means the amount by which the total receipts of all instant bingo tickets, if the deal had been sold in full, exceeds the amount that would be paid out if all prizes were redeemed.

(e) A charitable instant bingo organization shall provide the Attorney General with all of the following information:

- (1) That the charitable instant bingo organization has terminated a contract entered into pursuant to subsection (b) of this section with an owner or lessor of a location;
- (2) That the charitable instant bingo organization has entered into a written contract pursuant to subsection (b) of this section with a new owner or lessor of a location;
- (3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of this chapter or Ohio R.C. Chapter 2915.

(f) Subsection (c) of this section does not apply to a volunteer firefighter’s organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those five years, had gross receipts of at least one million five hundred thousand dollars. (ORC 2915.093)

517.10 LOCATION OF INSTANT BINGO.

(a) No owner or lessor of a location shall assist a charitable instant bingo organization in the conduct of instant bingo other than at a bingo session at that location unless the owner or lessor has entered into a written contract, as described in Section 517.09, with the charitable instant bingo organization to assist in the conduct of instant bingo other than at a bingo session.

(b) The location of the lessor or owner shall be designated as a location where the charitable instant bingo organization conducts instant bingo other than at a bingo session.

(c) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate any provision of Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of Ohio R.C. Chapter 2915.

(d) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate the terms of the contract.

- (e) (1) Whoever violates subsection (c) or (d) of this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c) or (d) of this section, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law.
- (2) If an owner or lessor of a location knowingly, intentionally, or recklessly violates subsection (c) or (d) of this section, any license that the owner or lessor holds for the retail sale of any goods on the owner's or lessor's premises that is issued by the State or a political subdivision is subject to suspension, revocation, or payment of a monetary penalty at the request of the Attorney General. (ORC 2915.094)

517.11 BINGO OR GAME OF CHANCE RECORDS.

(a) No charitable organization that conducts bingo or a game of chance pursuant to Section 517.02(d), shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:

- (1) An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each raffle, each punch board game, and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number;
- (2) An itemized list of all expenses, other than prizes, that are incurred in conducting bingo or instant bingo, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;
- (3) A list of all prizes awarded during each bingo session, each raffle, each punch board game, and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial number, and the name, address, and social security number of all persons who are winners of prizes of six hundred dollars (\$600.00) or more in value;
- (4) An itemized list of the recipients of the net profit of the bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in Section 517.01(v), Section 517.02(d), or Ohio R.C. 2915.101, a list of each purpose and an itemized list of each expenditure for each purpose;

- (5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;
- (6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from "gross receipts" Section 517.01(t);
- (7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.

(b) A charitable organization shall keep the records that it is required to maintain pursuant to subsection (a) of this section at its principal place of business in this State or at its headquarters in this State and shall notify the Attorney General of the location at which those records are kept.

(c) The gross profit from each bingo session or game described in Section 517.01(o) (1) or (2) shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks or electronic fund transfers drawn on the bingo session or game account.

(d) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.

(e) The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that establish standards of accounting, record keeping, and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.

(f) A distributor shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this State. The record shall include all of the following for each instance:

- (1) The name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase;
- (2) The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;
- (3) A description that clearly identifies the bingo supplies;
- (4) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each charitable organization.

(g) A manufacturer shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this State. The record shall include all of the following for each instance:

- (1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;
- (2) A description that clearly identifies the bingo supplies, including serial numbers;
- (3) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.

(h) The Attorney General, or any law enforcement agency, may do all of the following:

- (1) Investigate any charitable organization or any officer, agent, trustee, member, or employee of the organization;
- (2) Examine the accounts and records of the organization;
- (3) Conduct inspections, audits, and observations of bingo or games of chance;
- (4) Conduct inspections of the premises where bingo or games of chance are conducted;
- (5) Take any other necessary and reasonable action to determine if a violation of any provision of this chapter has occurred and to determine whether Section 517.12 has been complied with.

If any law enforcement agency has reasonable grounds to believe that a charitable organization or an officer, agent, trustee, member, or employee of the organization has violated any provision of this chapter, the law enforcement agency may proceed by action in the proper court to enforce this chapter, provided that the law enforcement agency shall give written notice to the Attorney General when commencing an action as described in this subsection.

(i) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance or premises where bingo or a game of chance is conducted, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the Attorney General or a law enforcement agency pursuant to subsection (h) of this section.

(j) Whoever violates subsection (a) or (i) of this section is guilty of a misdemeanor of the first degree. (ORC 2915.10)

517.12 BINGO OPERATOR PROHIBITIONS.

(a) No person shall be a bingo game operator unless he is eighteen years of age or older.

(b) No person who has been convicted of a felony or a gambling offense in any jurisdiction shall be a bingo game operator.

(c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the third degree.

(d) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree. (ORC 2915.11)

517.13 BINGO EXCEPTIONS.

(a) Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter do not apply to bingo games that are conducted for the purpose of amusement only. A bingo game is conducted for the purpose of amusement only if it complies with all of the requirements specified in either subsection (a)(1) or (2) hereof:

- (1) A. The participants do not pay any money or any other thing of value including an admission fee, or any fee for bingo cards, sheets, objects to cover the spaces or other devices used in playing bingo, for the privilege of participating in the bingo game or to defray any costs of the game, or pay tips or make donations during or immediately before or after the bingo game.

- B. All prizes awarded during the course of the game are nonmonetary, and in the form of merchandise, goods or entitlements to goods or services only, and the total value of all prizes awarded during the game is less than one hundred dollars (\$100.00).
 - C. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
 - D. The bingo game is not conducted either during or within ten hours of any of the following:
 - 1. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter;
 - 2. A scheme or game of chance or bingo described in Section 517.01(o)(2).
 - E. The number of players participating in the bingo game does not exceed fifty.
- (2)
- A. The participants do not pay money or any other thing of value as an admission fee, and no participant is charged more than twenty-five cents (25¢) to purchase a bingo card or sheet, objects to cover the spaces or other devices used in playing bingo.
 - B. The total amount of money paid by all of the participants for bingo cards or sheets, objects to cover the spaces or other devices used in playing bingo does not exceed one hundred dollars (\$100.00).
 - C. All of the money paid for bingo cards or sheets, objects to cover spaces or other devices used in playing bingo is used only to pay winners monetary and nonmonetary prizes and to provide refreshments.
 - D. The total value of all prizes awarded during the game does not exceed one hundred dollars (\$100.00).
 - E. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
 - F. The bingo game is not conducted during or within ten hours of either of the following:
 - 1. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter;
 - 2. A scheme of chance or game of chance or bingo described in Section 517.01(o)(2).
 - G. All of the participants reside at the premises where the bingo game is conducted.
 - H. The bingo games are conducted on different days of the week and not more than twice in a calendar week.

(b) The Attorney General, or any local law enforcement agency, may investigate the conduct of a bingo game that purportedly is conducted for purposes of amusement only if there is reason to believe that the purported amusement bingo game does not comply with subsection (a) hereof. A local law enforcement agency may proceed by action in the proper court to enforce this section if the local law enforcement agency gives written notice to the Attorney General when commencing the action. (ORC 2915.12)

517.14 INSTANT BINGO CONDUCT BY A VETERAN'S OR FRATERNAL ORGANIZATION.

(a) A veteran's organization, a fraternal organization, or a sporting organization authorized to conduct a bingo session pursuant to Ohio R.C. 2915.01 to 2915.12 may conduct instant bingo other than at a bingo session if all of the following apply:

- (1) The veteran's organization, fraternal organization or sporting organization limits the sale of instant bingo to twelve hours during any day, provided that the sale does not begin earlier than ten a.m. and ends not later than two a.m.
- (2) The veteran's organization, fraternal organization or a sporting organization limits the sale of instant bingo to its own premises and to its own members and invited guests.
- (3) The veteran's organization, fraternal organization, or sporting organization is raising money for an organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State and executes a written contract with that organization as required in subsection (b) of this section.

(b) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo pursuant to subsection (a) of this section is raising money for another organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State, the veteran's organization, fraternal organization, or sporting organization shall execute a written contract with the organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State in order to conduct instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veteran's, fraternal or sporting organization will be distributing to the organization that is described in subsection 509(a)(1), 509(a)(2) or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State.

- (c) (1) If a veteran's organization, fraternal organization or a sporting organization authorized to conduct instant bingo pursuant to subsection (a) of this section has been issued a liquor permit under Ohio R.C. Chapter 4303, that permit may be subject to suspension, revocation, or cancellation if the veteran's organization, fraternal organization, or a sporting organization violates a provision of this chapter or Ohio R.C. Chapter 2915.
- (2) No veteran's organization, fraternal organization, or a sporting organization that enters into a written contract pursuant to subsection (b) of this section shall violate any provision of this chapter or Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of this chapter or Ohio R.C. Chapter 2915.

(d) A veteran's organization, fraternal organization, or a sporting organization shall give all required proceeds earned from the conduct of instant bingo to the organization with which the veteran's organization, fraternal organization, or a sporting organization has entered into a written contract.

(e) Whoever violates this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law.
(ORC 2915.13)

517.15 SKILL-BASED AMUSEMENT MACHINES.

- (a) (1) No person shall give to another person any item described in Section 517.01(vv)(1), (2), (3), or (4) in exchange for a noncash prize, toy, or novelty received as a reward for playing or operating a skill-based amusement machine or for a free or reduced-prize game won on a skill-based amusement machine.
- (2) Whoever violates subsection (a)(1) of this section is guilty of skill-based amusement machine prohibited conduct. Except as provided herein, a violation of subsection (a)(1) is a misdemeanor of the first degree for each redemption of a prize that is involved in the violation. If the offender previously has been convicted of a violation of subsection (a)(1), a violation of subsection (a)(1) is a felony and shall be prosecuted under appropriate State law.
(ORC 2915.06)

(b) Any regulation of skill-based amusement machines shall be governed by this chapter and Ohio R.C. Chapter 2915 and not by Ohio R.C. Chapter 1345.
(ORC 2915.061)

517.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 521
Health, Safety and Sanitation

521.01	Abandoned refrigerators and airtight containers.	521.06	Duty to keep sidewalks in repair and clean.
521.02	Venting of heaters and burners.	521.07	Barbed wire fence.
521.03	Barricades and warning lights; abandoned excavations.	521.071	Electric fences.
521.04	Sidewalk obstructions; damage or injury.	521.08	Littering and deposit of garbage, rubbish, junk, etc.
521.05	Notice to fill lots, remove putrid substances.	521.09	Noxious or offensive odors.
		521.10	Sidewalk sales or displays.
		521.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Flagpole installation in sidewalk - see Ohio R.C. 723.012

Excavation liability - see Ohio R.C. 723.49 et seq.

Removal of noxious weeds or litter - see Ohio R.C. 731.51 et seq.

Nuisances - see Ohio R.C. Ch. 3767

Tampering with safety devices - see GEN. OFF. 541.04

521.01 ABANDONED REFRIGERATORS AND AIRTIGHT CONTAINERS.

(a) No person shall abandon, discard, or knowingly permit to remain on premises under his control, in a place accessible to children, any abandoned or discarded icebox, refrigerator or other airtight or semiairtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein. This section shall not apply to an icebox, refrigerator or other airtight or semiairtight container located in that part of a building occupied by a dealer, warehouseman or repairman. (ORC 3767.29)

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

521.02 VENTING OF HEATERS AND BURNERS.

(a) A brazier, salamander, space heater, room heater, furnace, water heater or other burner or heater using wood, coal, coke, fuel oil, kerosene, gasoline, natural gas, liquid petroleum gas or similar fuel, and tending to give off carbon monoxide or other harmful gas:

- (1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed and maintained as to vent the products of combustion outdoors; except in storage, factory or industrial buildings which are provided with sufficient ventilation to avoid the danger of carbon monoxide poisoning;
- (2) When used as a portable or temporary burner or heater at a construction site, or in a warehouse, shed or structure in which persons are temporarily present, shall be vented as provided in subsection (a) hereof, or used with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

(b) This section does not apply to domestic ranges, laundry stoves, gas logs installed in a fireplace with an adequate flue, or hot plates, unless the same are used as space or room heaters.

(c) No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a burner or heater in violation of the standards for venting and ventilation provided in this section.

(d) Subsection (a) hereof does not apply to any kerosene-fired space or room heater that is equipped with an automatic extinguishing tip-over device, or to any natural gas-fired or liquid petroleum gas-fired space or room heater that is equipped with an oxygen depletion safety shutoff system, and that has its fuel piped from a source outside of the building in which it is located, that are approved by an authoritative source recognized by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82.

(e) The State Fire Marshal may make rules to ensure the safe use of unvented kerosene, natural gas or liquid petroleum gas heaters exempted from subsection (a) hereof when used in assembly buildings, business buildings, high hazard buildings, institutional buildings, mercantile buildings and type R-1 and R-2 residential buildings, as these groups of buildings are defined in rules adopted by the Board of Building Standards under Ohio R.C. 3781.10. No person shall negligently use, or, being the owner, person in charge or occupant of premises, negligently permit the use of a heater in violation of any rules adopted under this subsection.

(f) The State Fire Marshal may make rules prescribing standards for written instructions containing ventilation requirements and warning of any potential fire hazards that may occur in using a kerosene, natural gas, or liquid petroleum gas heater. No person shall sell or offer for sale any kerosene, natural gas or liquid petroleum gas heater unless the manufacturer provides with the heater written instructions that comply with any rules adopted under this subsection.

(g) No product labeled as a fuel additive for kerosene heaters and having a flash point below one hundred degrees fahrenheit or thirty-seven and eight-tenths degrees centigrade shall be sold, offered for sale or used in any kerosene space heater.

(h) No device that prohibits any safety feature on a kerosene, natural gas or liquid petroleum gas space heater from operating shall be sold, offered for sale or used in connection with any kerosene, natural gas or liquid petroleum gas space heater.

(i) No person shall sell or offer for sale any kerosene-fired, natural gas or liquid petroleum gas-fired heater that is not exempt from subsection (a) hereof unless it is marked conspicuously by the manufacturer on the container with the phrase "Not Approved For Home Use."

(j) No person shall use a cabinet-type, liquid petroleum gas-fired heater having a fuel source within the heater, inside any building, except as permitted by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82. (ORC 3701.82)

(k) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3701.99(C))

521.03 BARRICADES AND WARNING LIGHTS; ABANDONED EXCAVATIONS.

(a) No person shall abandon or knowingly permit to remain on public or private property, any excavation, well, cesspool or structure which is in the process of construction, reconstruction, repair or alteration unless the same is adequately protected by suitable barricades and guarded by warning devices or lights at night so that the condition will not reasonably prove dangerous to life or limb.

(b) No person shall destroy, remove, damage or extinguish any barricade or warning light that is placed for the protection of the public so as to prevent injury to life or limb.

(c) Any owner or agent in control of a premises upon which a basement, cellar, well or cistern has been abandoned due to demolition, failure to build or any other reason shall cause the same to be filled to the ground surface with rock, gravel, earth or other suitable material.

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

521.04 SIDEWALK OBSTRUCTIONS; DAMAGE OR INJURY.

(a) No person shall place or knowingly drop upon any part of a sidewalk, playground or other public place any tacks, bottles, wire, glass, nails or other articles which may damage property of another or injure any person or animal traveling along or upon such sidewalk or playground.

(b) No person shall walk on, or allow any animal upon, or injure or deface in any way, any soft or newly laid sidewalk pavement.

(c) No person shall place, deposit or maintain any merchandise, goods, material or equipment upon any sidewalk so as to obstruct pedestrian traffic thereon except for such reasonable time as may be actually necessary for the delivery or pickup of such articles. In no such case shall the obstruction remain on such sidewalk for more than one hour.

(d) No person shall unload upon, or transport any heavy merchandise, goods, material or equipment over or across any sidewalk or curb without first placing some sufficient protection over the pavement to protect against damage or injury. The affected area shall be rendered safe and free from danger.

(e) No person shall allow any cellar or trap door, coal chute or elevator or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous condition.

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

521.05 NOTICE TO FILL LOTS, REMOVE PUTRID SUBSTANCES.

(a) No person shall fail to comply with the following requirements within the lawful time after service or publication of the notice or resolution is made as required by law:

To fill or drain any lot or land or remove all putrid substances therefrom, or remove all obstructions from culverts, covered drains or natural watercourses as provided in Ohio R.C. 715.47.

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

521.06 DUTY TO KEEP SIDEWALKS IN REPAIR AND CLEAN.

(a) No owner or occupant of abutting lands shall fail to keep the sidewalks, curbs or gutters in repair and free from snow, ice or any nuisance. (ORC 723.011)

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

521.07 BARBED WIRE FENCE.

(a) No person shall erect or maintain a barbed wire fence which abuts or is adjacent to any public street or sidewalk. This does not prevent the placement and use of not more than three strands of barbed wire on top of a fence other than a barbed wire fence, provided such strands are not less than twenty-two inches from the ground.

(b) Whoever violates this section is guilty of a minor misdemeanor, and shall be punished in accord with law. (Ord. 2012-20. Passed 5-16-12.)

521.071 ELECTRIC FENCES.

(a) The construction and use of electric fences shall be allowed in the City only as provided in this section, subject to the following standards:

(1) Electrification:

A. The energizer for electric fences must be driven by a commercial storage battery not to exceed 12 volts DC. The storage battery is charged primarily by a solar panel. However the solar panel may be augmented by a commercial trickle charger.

B. The electric charge produced by the fence upon contact shall not exceed energizer characteristics set forth in paragraph 22.108 and depicted in Figure 102 of the International Electro Technical Commission (IEC) Standard No. 60335-2-76.

(2) Perimeter fence or wall: No electric fence shall be installed or used unless it is completely surrounded by a non-electrical fence or wall that is not less than six feet.

- (3) Location: Electric fence shall be permitted only on any non-residential outdoor storage areas.
- (4) Height: Electric fences shall have height of 10 feet.
- (5) Warning signs: Electric fences shall be clearly identified with warning signs that read: "Warning-Electric Fence" at intervals of not less than sixty feet.
- (6) Permitting: Electric fences shall be governed and regulated under the Codified Ordinances of Martins Ferry, Part Five, General Offenses Code, and permitted as such.
- (7) Accessibility: A Knox Box shall be required and installed per the standards and direction of the Director of Public Safety.

(b) It shall be unlawful for any person to install, maintain or operate an electric fence in violation of this section.

(c) A violation of this section is hereby declared to be a misdemeanor offense of the first degree, and shall be punishable in accord with law.
(Ord. 2012-21. Passed 5-16-12.)

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

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

- (1) The person is directed to do so by a public official as part of a litter collection drive;
- (2) Except as provided in subsection (b) hereof, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements;
- (3) The person is issued a permit or license covering the litter pursuant to Ohio R. C. Chapter 3734 or 6111.

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

- (1) The litter was generated or located on the property on which the litter receptacle is located.
- (2) The person is directed to do so by a public official as part of a litter collection drive.
- (3) The person is directed to do so by a person whom the person reasonably believes to have the privilege to use the litter receptacle.
- (4) The litter consists of any of the following:
 - A. The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle;
 - B. The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;
 - C. Beverage containers and food sacks, wrappings and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle;

- D. Beverage containers, food sacks, wrappings, containers and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.
- (c) (1) As used in subsection (b)(1) hereof, "public property" includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee but does not include any private property to which the public otherwise does not have a right of access.
- (2) As used in subsection (b)(4) hereof, "casual passerby" means a person who does not have depositing litter in a litter receptacle as the person's primary reason for traveling to or by the property on which the litter receptacle is located.
- (d) As used in this section:
- (1) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.
- (2) "Deposit" means to throw, drop, discard or place.
- (3) "Litter receptacle" means a dumpster, trash can, trash bin, garbage can or similar container in which litter is deposited for removal.
(ORC 3767.32)
- (e) No person shall cause or allow litter to be collected or remain in any place to the damage or prejudice of others or of the public, or unlawfully obstruct, impede, divert, corrupt or render unwholesome or impure, any natural watercourse.
- (f) Whoever violates any provision of subsections (a) to (d) hereof, is guilty of a misdemeanor of the third degree. The sentencing court may, in addition to or in lieu of the penalty provided in this subsection require a person who violates subsections (a) to (d) hereof to remove litter from any public or private property, or in or on any waters.
(ORC 3767.99(C))
- (g) Whoever violates subsection (e) hereof is guilty of a minor misdemeanor.

521.09 NOXIOUS OR OFFENSIVE ODORS.

- (a) No person shall erect, continue, use or maintain a dwelling, building, structure or place for a residence or for the exercise of a trade, employment or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public.
(ORC 3767.13)

- (b) Whoever violates this section is guilty of a misdemeanor of the third degree.

521.10 SIDEWALK SALES OR DISPLAYS.

(a) No person shall use any street or sidewalk area, including the lateral strip area between the street and the sidewalk, for the display or sale of merchandise or for any advertising display, except for any duly designated sidewalk sale days, to be determined by the Director of Public Safety at the request of the downtown Business Association or the Martins Ferry Area Chamber of Commerce. A five-foot walkway shall be maintained at such times. (Ord. 93-47. Passed 5-20-93.)

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

521.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 525

Law Enforcement and Public Office

525.01	Definitions.	525.11	Soliciting or receiving improper compensation.
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525.06	Failure to aid a law enforcement officer.	525.16	False allegation of peace officer misconduct.
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525.10	Having an unlawful interest in a public contract.		

CROSS REFERENCES

See sectional histories for similar State law
 Law enforcement officer defined - see GEN. OFF. 501.01(k)
 Misconduct at an emergency - see GEN. OFF. 509.05
 Making false alarms - see GEN. OFF. 509.07
 Personating an officer to defraud - see GEN. OFF. 545.16

525.01 DEFINITIONS.

As used in this chapter:

- (a) "Public official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision thereof, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges and law enforcement officers. "Public official" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.
- (b) "Public servant" means any of the following:
 - (1) Any public official;
 - (2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor or consultant;
 - (3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this subsection if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or

petitions as required by law to have the person's name placed on the ballot in a primary, general or special election, or if the person campaigns as a write-in candidate in any primary, general or special election. "Public servant" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.

- (c) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which the person directs, conducts or participates in directing or conducting party affairs at any level of responsibility.
- (d) "Official proceeding" means any proceeding before a legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary or other person taking testimony or a deposition in connection with an official proceeding.
- (e) "Detention" means arrest, confinement in any vehicle subsequent to an arrest, confinement in any public or private facility for custody of persons charged with or convicted of a crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States; hospitalization, institutionalization or confinement in any public or private facility that is ordered pursuant to or under the authority of Ohio R.C. 2945.37, 2945.371, 2945.38, 2945.39 or 2945.40, 2945.401 or 2945.402; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation, except as provided in this subsection, supervision by any employee of any facility of any of those natures; that is incidental to hospitalization, institutionalization or confinement in the facility but that occurs outside the facility; supervision by an employee of the Department of Rehabilitation and Correction of a person on any type of release from a State correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this State into this State by a private person or entity pursuant to a contract entered into under Ohio R.C. 311.29(E) or Ohio R.C. 5149.03(B). For a person confined in a county jail who participates in a county jail industry program pursuant to Ohio R.C. 5147.30, "detention" includes time spent at an assigned work site and going to and from the work site.
- (f) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States.
- (g) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.
- (h) "Campaign committee," "contribution," "political action committee," "legislative campaign fund," "political party" and "political contributing entity" have the same meanings as in Ohio R.C. 3517.01.
- (i) "Provider agreement" has the same meaning as in Ohio R.C. 5164.01. (ORC 2921.01)

525.02 FALSIFICATION.

(a) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

- (1) The statement is made in any official proceeding.
- (2) The statement is made with purpose to incriminate another.
- (3) The statement is made with purpose to mislead a public official in performing the public official's official function.
- (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance as defined in Ohio R.C. 9.66; or other benefits administered by a governmental agency or paid out of a public treasury.
- (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release or provider agreement.
- (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
- (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.
- (8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.
- (9) The statement is made with purpose to commit or facilitate the commission of a theft offense.
- (10) The statement is knowingly made to a probate court in connection with any action, proceeding or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint or other pleading, or an inventory, account or report.
- (11) The statement is made on an account, form, record, stamp, label or other writing that is required by law.
- (12) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the Secretary of State, a county recorder, or the clerk of a court of record.
- (13) The statement is required under Ohio R.C. 5743.71 in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

(b) It is no defense to a charge under subsection (a)(6) hereof that the oath or affirmation was administered or taken in an irregular manner.

(c) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.

- (d)
 - (1) Whoever violates any provision of subsection (a)(1) to (8) or (10) to (13) hereof is guilty of falsification, a misdemeanor of the first degree.
 - (2) Whoever violates subsection (a)(9) hereof is guilty of falsification in a theft offense, a misdemeanor of the first degree. If the value of the property or services stolen is one thousand dollars (\$1,000) or more, falsification in a theft offense is a felony and shall be prosecuted under appropriate State law.

(e) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this section. A civil action under this section is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section. (ORC 2921.13)

525.03 IMPERSONATION OF PEACE OFFICER.

(a) As used in this section:

- (1) "Peace officer" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation or township constable who is employed by a political subdivision of this State; a member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D); a member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y), a State university law enforcement officer appointed under Ohio R.C. 3345.04; a veterans' home police officer appointed under Ohio R.C. 5907.02; a special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28; an officer, agent, or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within limits of that statutory duty and authority; or a State highway patrol trooper whose primary duties are to preserve the peace, to protect life and property and to enforce the laws, ordinances or rules of the State or any of its political subdivisions.
- (2) "Private police officer" means any security guard, special police officer, private detective or other person who is privately employed in a police capacity.
- (3) "Federal law enforcement officer" means an employee of the United States who serves in a position the duties of which are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.
- (4) "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.
- (5) "Impersonate" means to act the part of, assume the identity of, wear the uniform or any part of the uniform of or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

(b) No person shall impersonate a peace officer, private police officer, federal law enforcement officer or investigator of the Bureau of Criminal Identification and Investigation.

(c) No person, by impersonating a peace officer, private police officer, federal law enforcement officer, or investigator of the Bureau of Criminal Identification and Investigation, shall arrest or detain any person, search any person or search the property of any person.

(d) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the State or the Municipality or investigator of the Bureau of Criminal Identification and Investigation.

(e) It is an affirmative defense to a charge under subsection (b) hereof that the impersonation of the peace officer was for a lawful purpose.

(f) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree. Whoever violates subsections (c) or (d) hereof is guilty of a misdemeanor of the first degree. If the purpose of a violation of subsection (d) hereof is to commit or facilitate the commission of a felony, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 2921.51)

525.04 COMPOUNDING A CRIME.

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

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

- (1) The pending prosecution involved is for violation of Sections 545.05, 545.07, 545.09 or 545.10(b)(2), or Ohio R.C. 2913.02, 2913.11, 2913.21(B)(2) or 2913.47, of which the actor under this section was the victim.
- (2) The thing of value demanded, accepted or agreed to be accepted, in consideration of abandoning or agreeing to abandon the prosecution, did not exceed an amount that the actor reasonably believed due him as restitution for the loss caused him by the offense.

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

(d) Whoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree. (ORC 2921.21)

525.05 FAILURE TO REPORT A CRIME, INJURY OR KNOWLEDGE OF DEATH.

- (a)
- (1) Except as provided in subsection (a)(2) hereof, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.
 - (2) No person, knowing that a violation of division (B) of Ohio R.C. 2913.04 has been, or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.

(b) Except for conditions that are within the scope of subsection (e) of this section, no person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the person, or any serious physical harm to persons that the person knows or has reasonable cause to believe resulted from an offense of violence.

(c) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. For purposes of this subsection (c), "advanced practice registered nurse" does not include a certified registered nurse anesthetist.

(d) No person shall fail to provide upon request of the person to whom a report required by subsection (c) of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.

- (e) (1) As used in this subsection, "burn injury" means any of the following:
- A. Second or third degree burns;
 - B. Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;
 - C. Any burn injury or wound that may result in death;
 - D. Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by Ohio R.C. 3743.01.
- (2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (4) No person who is required to report any burn injury under subsection (e)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the State Fire Marshal. The report shall comply with the uniform standard developed by the State Fire Marshal pursuant to Ohio R.C. 3737.22(A)(15).
- (5) Anyone participating in the making of reports under subsection (e) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under subsection (e) of this section.
- (f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to

believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.

- (2) Notwithstanding Ohio R.C. 4731.22, the physician-patient privilege or advanced practice registered nurse-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.

(g) Subsections (a) and (d) of this section do not require disclosure of information, when any of the following applies:

- (1) The information is privileged by reason of the relationship between attorney and client; physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.
- (2) The information would tend to incriminate a member of the actor's immediate family.
- (3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.
- (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.
- (5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to Ohio R.C. 5119.36.
- (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.

(h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(i) Whoever violates subsection (a) or (b) of this section is guilty of failure to report a crime. Violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. Violation of subsection (a)(2) or (b) of this section is a misdemeanor of the second degree.

(j) Whoever violates subsection (c) or (d) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

- (k) (1) Whoever negligently violates subsection (e) of this section is guilty of a minor misdemeanor.
- (2) Whoever knowingly violates subsection (e) of this section is guilty of a misdemeanor of the second degree.

(l) As used in this section, “nurse” includes an advanced practice registered nurse, registered nurse, and licensed practical nurse. (ORC 2921.22)

525.06 FAILURE TO AID A LAW ENFORCEMENT OFFICER.

(a) No person shall negligently fail or refuse to aid a law enforcement officer, when called upon for assistance in preventing or halting the commission of an offense, or in apprehending or detaining an offender, when such aid can be given without a substantial risk of physical harm to the person giving it.

(b) Whoever violates this section is guilty of failure to aid a law enforcement officer, a minor misdemeanor. (ORC 2921.23)

525.07 OBSTRUCTING OFFICIAL BUSINESS.

(a) No person, without privilege to do so and with purpose to prevent, obstruct or delay the performance by a public official of any authorized act within the public official’s official capacity, shall do any act that hampers or impedes a public official in the performance of the public official’s lawful duties.

(b) Whoever violates this section is guilty of obstructing official business. Except as otherwise provided in this subsection (b), obstructing official business is a misdemeanor of the second degree. If a violation of this section creates a risk of physical harm to any person, obstructing official business is a felony and shall be prosecuted under appropriate State law. (ORC 2921.31)

525.08 OBSTRUCTING JUSTICE.

(a) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for a misdemeanor, or to assist another to benefit from the commission of a misdemeanor, and no person, with purpose to hinder the discovery, apprehension, prosecution, adjudication as a delinquent child, or disposition of a child for an act that if committed by an adult would be a misdemeanor or to assist a child to benefit from the commission of an act that if committed by an adult would be a misdemeanor, shall do any of the following:

- (1) Harbor or conceal the other person or child;
- (2) Provide the other person or child with money, transportation, a weapon, a disguise, or other means of avoiding discovery or apprehension;
- (3) Warn the other person or child of impending discovery or apprehension;
- (4) Destroy or conceal physical evidence of the misdemeanor, or act, or induce any person to withhold testimony or information or to elude legal process summoning the person to testify or supply evidence;

- (5) Communicate false information to any person.
- (6) Prevent or obstruct any person, by means of force, intimidation, or deception, from performing any act to aid in the discovery, apprehension, or prosecution of the other person or child.

(b) A person may be prosecuted for, and may be convicted of or adjudicated a delinquent child for committing, a violation of subsection (a) hereof, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. The crime or act the person or child aided committed shall be used under subsection (c) hereof in determining the penalty for the violation of subsection (a) hereof, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed.

- (c)
 - (1) Whoever violates this section is guilty of obstructing justice.
 - (2) If the crime committed by the person aided is a misdemeanor or if the act committed by the child aided would be a misdemeanor if committed by an adult, obstructing justice is a misdemeanor of the same degree as the misdemeanor committed by the person aided or a misdemeanor of the same degree that the act committed by the child aided would be if committed by an adult.
- (d) As used in this section:
 - (1) "Adult" and "child" have the same meanings as in Ohio R.C. 2151.011.
 - (2) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02. (ORC 2921.32)

525.09 RESISTING ARREST.

(a) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another.

(b) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person and, during the course of or as a result of the resistance or interference, cause physical harm to a law enforcement officer.

(c) Whoever violates this section is guilty of resisting arrest. A violation of subsection (a) hereof is a misdemeanor of the second degree. A violation of subsection (b) hereof is a misdemeanor of the first degree. (ORC 2921.33)

525.10 HAVING AN UNLAWFUL INTEREST IN A PUBLIC CONTRACT.

- (a) No public official shall knowingly do any of the following:
 - (1) During the public official's term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by the public official or by a legislative body, commission or board of which the public official was a member at the time of authorization unless the contract was let by competitive bidding, to the lowest and best bidder;
 - (2) Have an interest in the profits or benefits of a public contract entered into by or for the use of the Municipality or governmental agency or instrumentality with which the public official is connected;

- (3) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law, and that involves more than one hundred fifty dollars (\$150.00).

(b) In the absence of bribery or a purpose to defraud, a public official, member of a public official's family or any of a public official's business associates shall not be considered as having an interest in a public contract if all of the following apply:

- (1) The interest of that person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization that is the contractor on the public contract involved, or that is the issuer of the security in which public funds are invested;
- (2) The shares owned or controlled by that person do not exceed five percent (5%) of the outstanding shares of the corporation, and the amount due that person as creditor does not exceed five percent (5%) of the total indebtedness of the corporation or other organization;
- (3) That person, prior to the time the public contract is entered into, files with the Municipality or governmental agency or instrumentality involved, an affidavit giving that person's exact status in connection with the corporation or other organization.

(c) This section does not apply to a public contract in which a public official, member of a public official's family, or one of a public official's business associates, has an interest, when all of the following apply:

- (1) The subject of the public contract is necessary supplies or services for the Municipality or governmental agency or instrumentality involved;
- (2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the Municipality or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the Municipality or governmental agency or instrumentality involved;
- (3) The treatment accorded the Municipality or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions;
- (4) The entire transaction is conducted at arm's length, with full knowledge by the Municipality or governmental agency or instrumentality involved, of the interest of the public official, member of the public official's family or business associate, and the public official takes no part in the deliberations or decisions of the Municipality or governmental agency or instrumentality with respect to the public contract.

(d) Subsection (a)(4) does not prohibit participation by a public employee in any housing program funded by public moneys if the public employee otherwise qualifies for the program and does not use the authority or influence of the public employee's office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. Such participation does not constitute an unlawful interest in a public contract in violation of this section.

(e) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of this section is a misdemeanor of the first degree.

(f) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with Ohio R.C. 309.06 and 2921.421, or for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with Ohio R.C. 733.621 and 2921.421.

(g) Any public contract in which a public official, a member of the public official's family, or any of the public official's business associates has an interest in violation of this section is void and unenforceable. Any contract securing the investment of public funds in which a public official, a member of the public official's family, or any of the public official's business associates has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees and that was entered into in violation of this section is void and unenforceable.

(h) As used in this section:

(1) "Public contract" means any of the following:

A. The purchase or acquisition, or a contract for the purchase or acquisition of property or services by or for the use of the State, any of its political subdivisions, or any agency or instrumentality of either, including the employment of an individual by the State, any of its political subdivisions, or any agency or instrumentality of either.

B. A contract for the design, construction, alteration, repair or maintenance of any public property.

(2) "Chief legal officer" has the same meaning as in Ohio R.C. 733.621. (ORC 2921.42)

525.11 SOLICITING OR RECEIVING IMPROPER COMPENSATION.

(a) No public servant shall knowingly solicit or accept and no person shall knowingly promise or give to a public servant either of the following:

(1) Any compensation, other than is allowed by Ohio R.C. 102.03(G), (H), and (I) or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;

(2) Additional or greater fees or costs than are allowed by law to perform the public servant's official duties.

(b) No public servant for the public servant's own personal or business use and no person for the person's own personal or business use or for the personal or business use of a public servant or party official, shall solicit or accept anything of value in consideration of either of the following:

(1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;

(2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.

(c) No person for the benefit of a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity shall coerce any contribution in consideration of either of the following:

(1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;

- (2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.

(d) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.

(e) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment or position of trust in this Municipality for a period of seven years from the date of conviction.

(f) Subsections (a), (b) and (c) hereof do not prohibit a person from making voluntary contributions to a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity or prohibit a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity from accepting voluntary contributions. (ORC 2921.43)

525.12 DERELICTION OF DUTY.

(a) No law enforcement officer shall negligently do any of the following:

- (1) Fail to serve a lawful warrant without delay;
- (2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in the law enforcement officer's power to do so alone or with available assistance.

(b) No law enforcement, ministerial or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.

(c) No officer, having charge of a detention facility, shall negligently do any of the following:

- (1) Allow the detention facility to become littered or unsanitary;
- (2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter and medical attention;
- (3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;
- (4) Allow a prisoner to escape;
- (5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.

(d) No public official of the Municipality shall recklessly create a deficiency, incur a liability or expend a greater sum than is appropriated by the legislative authority of the Municipality for the use in any one year of the department, agency or institution with which the public official is connected.

(e) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.

(f) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree.

(g) As used in this section, "public servant" includes an officer or employee of a contractor as defined in Ohio R.C. 9.08.

525.13 INTERFERING WITH CIVIL RIGHTS.

(a) No public servant, under color of his office, employment or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right.

(b) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree. (ORC 2921.45)

525.14 UNAUTHORIZED DISPLAY OF LAW ENFORCEMENT EMBLEMS ON MOTOR VEHICLES.

(a) No person who is not entitled to do so shall knowingly display on a motor vehicle the emblem of a law enforcement agency or an organization of law enforcement officers.

(b) Whoever violates this section is guilty of the unlawful display of the emblem of a law enforcement agency or an organization of law enforcement officers, a minor misdemeanor. (ORC 2913.441)

525.15 ASSAULTING POLICE DOG OR HORSE OR AN ASSISTANCE DOG.

(a) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:

- (1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.
- (2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.

(b) No person shall recklessly do any of the following:

- (1) Taunt, torment, or strike a police dog or horse;
- (2) Throw an object or substance at a police dog or horse;
- (3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:
 - A. Inhibits or restricts the law enforcement officer's control of the police dog or horse;
 - B. Deprives the law enforcement officer of control of the police dog or horse;
 - C. Releases the police dog or horse from its area of control;
 - D. Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;
 - E. Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.
- (4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse.
- (5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.

(c) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:

- (1) The dog is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted.
- (2) The dog is not assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is an assistance dog.

(d) No person shall recklessly do any of the following:

- (1) Taunt, torment, or strike an assistance dog;
- (2) Throw an object or substance at an assistance dog;
- (3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a blind, deaf or hearing impaired, or mobility impaired person who is being assisted or served by an assistance dog, in a manner that does any of the following:
 - A. Inhibits or restricts the assisted or served person's control of the dog;
 - B. Deprives the assisted or served person of control of the dog;
 - C. Releases the dog from its area of control;
 - D. Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;
 - E. Inhibits or restricts the ability of the dog to assist the assisted or served person.
- (4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;
- (5) If the person is the owner, keeper or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the time of the conduct is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person or that the person knows is an assistance dog.

- (e)
 - (1) Whoever violates subsection (a) hereof is guilty of assaulting a police dog or horse. If the violation results in physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the police dog or horse, such violation is a felony and shall be prosecuted under appropriate State law.
 - (2) Whoever violates subsection (b) hereof is guilty of harassing a police dog or horse. Except as otherwise provided in this subsection, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in the death of the police dog or horse or if the violation results in serious physical harm to the police dog or horse but does not result in its death, harassing a police dog or horse is a felony and shall be prosecuted under appropriate State law. If the violation

results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree.

- (3) Whoever violates subsection (c) hereof is guilty of assaulting an assistance dog. If the violation results in physical harm to the dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the dog, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the dog, such violation is a felony and shall be prosecuted under appropriate State law.
- (4) Whoever violates subsection (d) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this subsection, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in the death of or serious physical harm to the assistance dog but does not result in its death, harassing an assistance dog is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the assistance dog but does not result in its death or in serious physical harm to it, harassing an assistance dog is a misdemeanor of the first degree.
- (5) In addition to any other sanction or penalty imposed for the offense under this section, whoever violates subsection (a), (b), (c) or (d) of this section is responsible for the payment of all of the following:
 - A. Any veterinary bill or bill for medication incurred as a result of the violation by the Police Department regarding a violation of subsection (a) or (b) of this section or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog regarding a violation of subsection (c) or (d) of this section;
 - B. The cost of any damaged equipment that results from the violation;
 - C. If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog;
 - D. If the violation resulted in the death of the assistance dog that was the subject of the violation or resulted in serious physical harm to the police dog or horse or the assistance dog or horse that was the subject of the violation to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.

(f) This section does not apply to a licensed veterinarian whose conduct is in accordance with Ohio R.C. Chapter 4741.

(g) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or assistance dog.

(h) As used in this section:

- (1) "Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
- (2) "Police dog or horse" means a dog or horse that has been trained, and may be used, to assist law enforcement officers in the performance of their official duties.
- (3) "Serious physical harm" means any of the following:
 - A. Any physical harm that carries a substantial risk of death;
 - B. Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming;
 - C. Any physical harm that causes acute pain of a duration that results in substantial suffering.
- (4) "Assistance dog", "blind", and "mobility impaired person" have the same meanings as in Ohio R.C. 955.011.
(ORC 2921.321)

525.16 FALSE ALLEGATION OF PEACE OFFICER MISCONDUCT.

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

(b) No person shall knowingly file a complaint against a peace officer that alleges that the peace officer engaged in misconduct in the performance of the officer's duties if the person knows that the allegation is false.

(c) Whoever violates this section is guilty of making a false allegation of peace officer misconduct, a misdemeanor of the first degree.
(ORC 2921.15)

525.17 REFUSAL TO DISCLOSE PERSONAL INFORMATION IN PUBLIC PLACE.

(a) No person who is in a public place shall refuse to disclose the person's name, address, or date of birth, when requested by a law enforcement officer who reasonably suspects either of the following:

- (1) The person is committing, has committed, or is about to commit a criminal offense.
- (2) The person witnessed any of the following:
 - A. An offense of violence that would constitute a felony under the laws of this State;
 - B. A felony offense that causes or results in, or creates a substantial risk of, serious physical harm to another person or to property;
 - C. Any attempt or conspiracy to commit, or complicity in committing, any offense identified in subsection (a)(2)A. or B. of this section;

- D. Any conduct reasonably indicating that any offense identified in subsection (a)(2)A. or B. of this section or any attempt, conspiracy, or complicity described in subsection (a)(2)C. of this section has been, is being, or is about to be committed.

(b) Whoever violates this section is guilty of failure to disclose one's personal information, a misdemeanor of the fourth degree.

(c) Nothing in this section requires a person to answer any questions beyond that person's name, address, or date of birth. Nothing in this section authorizes a law enforcement officer to arrest a person for not providing any information beyond that person's name, address, or date of birth or for refusing to describe the offense observed.

(d) It is not a violation of this section to refuse to answer a question that would reveal a person's age or date of birth if age is an element of the crime that the person is suspected of committing. (ORC 2921.29)

525.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 529 Liquor Control

529.01	Definitions.	529.05	Permit required.
529.02	Sales to and use by underage persons; securing public accommodations.	529.06	Low-alcohol beverages: sale to and purchase by underage persons prohibited.
529.021	Purchase by minor; misrepresentation.	529.07	Open container prohibited.
529.03	Sales to intoxicated persons.	529.08	Hours of sale or consumption.
529.04	Liquor consumption in motor vehicle.	529.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Prohibiting sale of intoxicating liquor on Sunday - see
 Ohio R.C. 4301.22(D)
 Local option - see Ohio R.C. 4301.32 et seq., 4303.29
 Disorderly conduct; intoxication - see GEN. OFF. 509.03
 Using weapons while intoxicated - see GEN. OFF. 549.03

529.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. Such term excludes denatured alcohol and wood alcohol.
- (b) "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer as defined in subsection (c) hereof, containing one half of one percent (0.5%) or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called and whether they are medicated, proprietary or patented. Such phrase includes cider and alcohol and all solids and confections which contain one-half of one percent or more of alcohol by volume.
- (c)
 - (1) "Beer" includes all beverages brewed or fermented wholly or in part from malt products and containing one-half of one percent (0.5%) or more of alcohol by volume. (ORC 4301.01)
 - (2) Beer, regardless of the percent of alcohol by volume, is not intoxicating liquor for purposes of this chapter. (ORC 4301.244)
- (d) "Person" includes firms and corporations.
- (e) "Low-alcohol beverage" means any brewed or fermented malt product, or any product made from the fermented juices of grapes, fruits, or other agricultural products, that contains either no alcohol or less than one-half of one percent (0.5%) of alcohol by volume. The beverages described in subsection (e) hereof do not include a soft drink such as root beer, birch beer, or ginger beer. (ORC 4301.01)

529.02 SALES TO AND USE BY UNDERAGE PERSONS; SECURING PUBLIC ACCOMMODATIONS.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall sell beer or intoxicating liquor to an underage person, or shall buy beer or intoxicating liquor for an underage person, or shall furnish it to, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is supervised by a parent, spouse who is not an underage person or legal guardian.

In proceedings before the Liquor Control Commission, no permit holder, or no employee or agent of a permit holder, charged with a violation of this subsection shall be charged, for the same offense, with a violation of Ohio R.C. 4301.22(A)(1).

(b) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person or legal guardian and the parent, spouse who is not an underage person or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts or omissions in violation of this subsection that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(c) No person shall engage or use accommodations at a hotel, inn, cabin, campground or restaurant when he knows or has reason to know either of the following:

- (1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;
- (2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a practitioner and has the drug of abuse in the original container in which it was dispensed to the person.

- (d) (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.
- (2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin or campground by presenting identification that falsely indicates that the underage person is twenty-one years of age or older for the purpose of violating this section.

(e) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess, or consume any beer or intoxicating liquor, in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place. The prohibitions set forth in this subsection (e) hereof against an underage person knowingly possessing, consuming, or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(f) No parent, spouse who is not an underage person or legal guardian of a minor shall knowingly permit the minor to violate this section or Section 529.021(a) to (c).

(g) The operator of any hotel, inn, cabin or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin or campground.

(h) As used in this section:

- (1) "Drug of abuse" has the same meaning as in Ohio R.C. 3719.011.
- (2) "Hotel" has the same meaning as in Ohio R.C. 3731.01.
- (3) "Licensed health professional authorized to prescribe drugs" and "prescription" have the same meanings as in Ohio R.C. 4729.01.
- (4) "Minor" means a person under the age of eighteen years.
- (5) "Underage person" means a person under the age of twenty-one years. (ORC 4301.69)

(i) Whoever violates this section is guilty of a misdemeanor of the first degree. In addition, whoever violates subsection (a) hereof shall be fined not less than five hundred dollars (\$500.00). (ORC 4301.99)

529.021 PURCHASE BY MINOR; MISREPRESENTATION.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall purchase beer or intoxicating liquor. (ORC 4301.63)

(b) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall knowingly furnish any false information as to the name, age or other identification of any person under twenty-one years of age for the purpose of obtaining or with the intent to obtain, beer or intoxicating liquor for a person under twenty-one years of age, by purchase, or as a gift.
(ORC 4301.633)

(c) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall knowingly show or give false information concerning the person's name, age or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place where beer or intoxicating liquor is sold under a permit issued by the Division of Liquor Control or sold by the Division of Liquor Control.
(ORC 4301.634)

- (d) (1) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the first degree.
- (2) Whoever violates subsection (a) hereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (a) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.
- (3) A. Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. If, in committing a first violation of that subsection, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000) and may be sentenced to a term of imprisonment of not more than six months.
- B. On a second violation in which, for the second time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7).

- C. On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months. Except as provided in this subsection, the court also may impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one years. The court, in lieu of suspending the offenders temporary instruction permit, probationary driver's license or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform. (ORC 4301.99)

529.03 SALES TO INTOXICATED PERSONS.

(a) No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person. (ORC 4301.22)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4301.99)

529.04 LIQUOR CONSUMPTION IN MOTOR VEHICLE.

(a) No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in Section 529.07(d). (ORC 4301.64)

(b) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree.

(c) If an offender who violates this section was under the age of eighteen years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit, probationary driver's license, or driver's license for a period of not less than six months and not more than one year. In lieu of suspending the offender's temporary instruction permit, probationary driver's license or driver's license, the court may instead require the offender to perform community service for a number of hours to be determined by the court. If the offender is fifteen years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of fifteen years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of sixteen years. (ORC 4301.99)

529.05 PERMIT REQUIRED.

(a) No person personally or by the person's clerk, agent or employee shall manufacture, manufacture for sale, offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this Municipality, or transport, import or cause to be transported or imported any beer, intoxicating liquor or alcohol on or into this Municipality for delivery, use or sale, unless the person has fully complied with Ohio R.C. Chapters 4301 and 4303 or is the holder of a permit issued by the Division of Liquor Control and in force at the time. (ORC 4303.25)

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

529.06 LOW-ALCOHOL BEVERAGES: SALE TO AND PURCHASE BY UNDERAGE PERSONS PROHIBITED.

(a) As used in this section, "underage person" means a person under eighteen years of age.

(b) No underage person shall purchase any low-alcohol beverage.

(c) No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.

(d) No person shall knowingly furnish any false information as to the name, age, or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low-alcohol beverage for an underage person, by purchase or as a gift.

(e) No underage person shall knowingly show or give false information concerning his name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this Municipality.

(f) No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.

(g) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming any low-alcohol beverage, unless the low-alcohol beverage is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian, and the parent, spouse who is not an underage person, or legal guardian is present when the person possesses or consumes the low-alcohol beverage.

An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(h) No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless he is accompanied by a parent, spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of his practice or given for established religious purposes.

(i) No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section. (ORC 4301.631)

(j) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the fourth degree.

(k) Whoever violates subsection (b) hereof shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (b) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed. (ORC 4301.99)

529.07 OPEN CONTAINER PROHIBITED.

(a) As used in this section:

- (1) "Chauffeured limousine" means a vehicle registered under Ohio R.C. 4503.24.
- (2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.

(b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

- (1) In a State liquor store;
- (2) Except as provided in subsection (c) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;
- (3) In any other public place;
- (4) Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;
- (5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.

- (c) (1) A person may have in the person's possession an opened container of any of the following:
- A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2(f), A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D8, E, F, F-2, F-5, F-7 or F-8 permit;
 - B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2 permit holder or S permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
 - C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;
 - D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.
 - E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.

- (2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.
- (3) A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.
- B. As used in subsection (c)(3)A. of this section:
1. "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.
 2. "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.
- (4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.
- (5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending an orchestral performance and the holder the F-9 permit grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued.
- As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.
- (6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:
1. The person is attending a racing event at the facility; and
 2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;
- B. As used in subsection (c)(6)A. of this section:
1. "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.

2. “Outdoor motorsports facility” means an outdoor racetrack to which all of the following apply:
 - a. It is two and four-tenths miles or more in length.
 - b. It is located on two hundred acres or more of land.
 - c. The primary business of the owner of the facility is the hosting and promoting of racing events.
 - d. The holder of a D-1, D-2 or D-3 permit is located on the property of the facility.
- (7) A. A person may have in the person’s possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under Ohio R.C. 4301.82, if the opened container of beer or intoxicating liquor was purchased from a qualified permit holder to which both of the following apply:
 1. The permit holder’s premises is located within the outdoor refreshment area.
 2. The permit held by the permit holder has an outdoor refreshment area designation.
- B. Subsection (c)(7) of this section does not authorize a person to do either of the following:
 1. Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;
 2. Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the motor vehicle is stationary and is not being operated in a lane of vehicular travel or unless the possession is otherwise authorized under subsection (d) or (e) of this section.

(d) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of such a person, when all of the following apply:

- (1) The person or guest is a passenger in the limousine;
- (2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;
- (3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(e) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:

- (1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.
- (2) The opened bottle of wine that is resealed in accordance with subsection (e)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

- (f) (1) Except if an ordinance or resolution is enacted or adopted under subsection (f)(2) of this section, this section does not apply to a person who, pursuant to a prearranged contract, is a passenger riding on a commercial quadricycle when all of the following apply:
- A. The person is not occupying a seat in the front of the commercial quadricycle where the operator is steering or braking.
 - B. The commercial quadricycle is being operated on a street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
 - C. The person has in their possession on the commercial quadricycle as opened container of beer or wine.
 - D. The person has in their possession on the commercial quadricycle not more than either thirty-six ounces of beer or eighteen ounces of wine.
- (2) The legislative authority of a municipal corporation or township may enact an ordinance or adopt a resolution, as applicable, that prohibits a passenger riding on a commercial quadricycle from possessing an opened container or beer or wine.
- (3) As used in this section, "commercial quadricycle" means a vehicle that has fully-operative pedals for propulsion entirely by human power and that meets all of the following requirements:
- A. It has four wheels and is operated in a manner similar to a bicycle.
 - B. It has at least five seats for passengers.
 - C. It is designed to be powered by the pedaling of the operator and the passengers.
 - D. It is used for commercial purposes.
 - E. It is operated by the vehicle owner or an employee of the owner.
- (ORC 4301.62)

(g) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4301.99(A))

529.08 HOURS OF SALE OR CONSUMPTION.

(a) This rule shall apply to the retail sale of beer, wine, mixed beverages, or spirituous liquor.

(b) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-2, B-1, B-2, B-4, B-5, C-1, C-2, C-2X, D-1, D-2, D-2X, D-3 when issued without a D-3A, D-3X, D-4, D-5G, D-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, G or I permit holder:

- (1) From Monday to Saturday between the hours of one a.m. and five thirty a.m.
- (2) On Sunday between the hours of one a.m. and Sunday midnight, unless statutorily authorized otherwise.
- (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages, or spirituous liquor for on-premises consumption.

(c) No beer, wine, mixed beverages, or spirituous liquid shall be sold or delivered by an A-1A, D-3 when issued with a D-3A, D-4A, D-5, D-5A, D-5B, D-5C, D-5D, D-5E, D-5F, D-5I, D-5J, or D-7 permit holder:

- (1) From Monday to Saturday between the hours of two thirty a.m. and five thirty a.m.
- (2) On Sunday between the hours of two thirty a.m. and Sunday midnight, unless statutorily authorized otherwise.
- (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages or spirituous liquor for on-premises consumption.

(d) Permit holders authorized to sell beer, wine, mixed beverages, or spirituous liquor at retail who are not specifically identified in subsection (b) or (c) above shall be subject to the provisions of subsection (b), unless statutorily authorized otherwise.

(e) The hours on Sunday during which sales, delivery, or consumption of alcoholic beverages may take place are established by statute, but in no event shall they begin prior to five thirty a.m. (OAC 4301:1-1-49)

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

529.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 533 Obscenity and Sex Offenses

533.01	Definitions.	533.091	Loitering to engage in solicitation.
533.02	Presumption of knowledge; actual notice and defense.	533.10	Prostitution.
533.03	Unlawful sexual conduct with a minor.	533.11	Disseminating matter harmful to juveniles.
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533.06	Voyeurism.	533.14	Unlawful advertising of massage.
533.07	Public indecency.	533.99	Penalty.
533.08	Procuring.		
533.09	Soliciting.		

CROSS REFERENCES

See sectional histories for similar State law
 Complicity - see GEN. OFF. 501.10
 Offensive conduct - see GEN. OFF. 509.03
 Telephone harassment - see GEN. OFF. 537.10
 Criminal trespass - see GEN. OFF. 541.05

533.01 DEFINITIONS.

As used in this chapter:

- (a) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.
- (b) "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
- (c) "Sexual activity" means sexual conduct or sexual contact, or both.
- (d) "Prostitute" means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.
- (e) "Harmful to juveniles" means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply:

- (1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.
- (2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.
- (3) The material or performance, when considered as a whole, lacks serious literary, artistic, political and scientific value for juveniles.
- (f) When considered as a whole, and judged with reference to ordinary adults, or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to such group, any material or performance is "obscene" if any of the following apply:
 - (1) Its dominant appeal is to prurient interest;
 - (2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement or nudity in a way which tends to represent human beings as mere objects of sexual appetite;
 - (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty or brutality;
 - (4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way which inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral or artistic purpose;
 - (5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral or artistic purpose.
- (g) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (h) "Nudity" means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
- (i) "Juvenile" means an unmarried person under the age of eighteen.

- (j) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape or similar data storage device.
- (k) "Performance" means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience.
- (l) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:
 - (1) When the parties have entered into a written separation agreement authorized by Ohio R.C. 3103.06;
 - (2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage or legal separation;
 - (3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.
- (m) "Minor" means a person under the age of eighteen years.
- (n) "Mental health client or patient" has the same meaning as in Ohio R.C. 2305.51.
- (o) "Mental health professional" has the same meaning as in Ohio R.C. 2305.115.
- (p) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained. (ORC 2907.01)

533.02 PRESUMPTION OF KNOWLEDGE; ACTUAL NOTICE AND DEFENSE.

(a) An owner or manager, or agent or employee of an owner or manager, of a bookstore, newsstand, theater, or other commercial establishment engaged in selling materials or exhibiting performances, who, in the course of business does any of the acts prohibited by Section 533.11, is presumed to have knowledge of the character of the material or performance involved, if the owner, manager, or agent or employee of the owner or manager has actual notice of the nature of such material or performance, whether or not the owner, manager, or agent or employee of the owner or manager has precise knowledge of its contents.

(b) Without limitation on the manner in which such notice may be given, actual notice of the character of material or a performance may be given in writing by the chief legal officer of the jurisdiction in which the person to whom the notice is directed does business. Such notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance involved, state whether it is obscene or harmful to juveniles and bear the date of such notice.

(c) Section 533.11 does not apply to a motion picture operator or projectionist acting within the scope of employment as an employee of the owner or manager of a theater or other place for the showing of motion pictures to the general public, and having no managerial responsibility or financial interest in the operator's or projectionist's place of employment, other than wages.

- (d) (1) Sections 533.11, 533.12(a) and 533.13 do not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection.
- (2) Subsection (d)(1) of this section does not apply to a person who conspires with an entity actively involved in the creation or knowing distribution of material in violation of Section 533.11, 533.12 or 533.13, or who knowingly advertises the availability of material of that nature.
- (3) Subsection (d)(1) of this section does not apply to a person who provides access or connection to an electronic method of remotely transferring information that is engaged in the violation of Section 533.11, 533.12 or 533.13, and that contains content that person has selected and introduced into the electronic method of remotely transferring information or content over which that person exercises editorial control.

(e) An employer is not guilty of a violation of Section 533.11, 533.12, or 533.13 based on the actions of an employee or agent of the employer unless the employee's or agent's conduct is within the scope of employee's or agent's employment or agency, and the employer does either of the following:

- (1) With knowledge of the employee's or agent's conduct, the employer authorizes or ratifies the conduct.
- (2) The employer recklessly disregards the employee's or agent's conduct.

(f) It is an affirmative defense to a charge under Section 533.11 or 533.13 as the section applies to an image transmitted through the internet or another electronic method of remotely transmitting information that the person charged with violating the section has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by juveniles to material that is harmful to juveniles, including any method that is feasible under available technology.

(g) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.
(ORC 2907.35)

533.03 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.

(a) No person, who is eighteen years of age or older, shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.

(b) Whoever violates this section is guilty of unlawful sexual conduct with a minor, a misdemeanor of the first degree. If the offender is four years older or more than the other person, or if the offender has previously been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03 or 2907.04, or former Ohio R.C. 2907.12, unlawful sexual conduct with a minor is a felony and shall be prosecuted under appropriate State law. (ORC 2907.04)

533.04 SEXUAL IMPOSITION.

(a) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more persons to have sexual contact when any of the following applies:

- (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.
- (2) The offender knows that the other person's or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.
- (3) The offender knows that the other person or one of the other persons submits because of being unaware of the sexual contact.
- (4) The other person or one of the other persons is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person.
- (5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.

(b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.

(c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of a violation of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06 or 2907.12, or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. (ORC 2907.06)

533.05 IMPORTUNING.

(EDITOR'S NOTE: Former Section 533.05 has been deleted from the Codified Ordinances. Section 533.05 was identical to Ohio R.C. 2907.07(B) which the Ohio Supreme Court held to be unconstitutional in *State v. Thompson*, 95 Ohio St. 3rd 264 (2002).)

533.06 VOYEURISM.

(a) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(b) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity.

(c) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person under or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.

- (d)
 - (1) Whoever violates this section is guilty of voyeurism.
 - (2) A violation of subsection (a) hereof is a misdemeanor of the third degree.
 - (3) A violation of subsection (b) hereof is a misdemeanor of the second degree.
 - (4) A violation of subsection (c) hereof is a misdemeanor of the first degree. (ORC 2907.08)

533.07 PUBLIC INDECENCY.

(a) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others, who are in the person's physical proximity and who are not members of the person's household:

- (1) Expose the person's private parts;
- (2) Engage in sexual conduct or masturbation;
- (3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.

(b) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is a minor, who is not the spouse of the offender, and who resides in the person's household:

- (1) Engage in masturbation;
- (2) Engage in sexual conduct;
- (3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;
- (4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

- (c)
 - (1) Whoever violates this section is guilty of public indecency and shall be punished as provided in subsections (c)(2), (3), (4) and (5) of this section.
 - (2) Except as otherwise provided in subsection (c)(2) of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two violations of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a

misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.

- (3) Except as otherwise provided in subsection (c)(3) of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.
 - (4) Except as otherwise provided in subsection (c)(4) of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (b)(1), (2) or (3) of this section is a felony and shall be prosecuted under appropriate state law.
 - (5) A violation of subsection (b)(4) of this section is a misdemeanor of the first degree unless the offender previously has been convicted of or pleaded guilty to any violation of this section in which case the violation is a felony and shall be prosecuted under appropriate state law.
- (ORC 2907.09)

533.08 PROCURING.

- (a) No person, knowingly and for gain, shall do either of the following:
 - (1) Entice or solicit another to patronize a prostitute or brothel;
 - (2) Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.
- (b) No person, having authority or responsibility over the use of premises, shall knowingly permit such premises to be used for the purpose of engaging in sexual activity for hire.
- (c) Whoever violates this section is guilty of procuring. Except as otherwise provided in this subsection (c), procuring is a misdemeanor of the first degree. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(2) of this section is under sixteen years of age at the time of the violation, regardless of whether the offender who violates subsection (a)(2) of this section knows the prostitute's age, or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (b) of this section is under sixteen years of age at the time of the violation, regardless of whether the offender who violates subsection (b) of this section knows the prostitute's age, procuring is

a felony and shall be prosecuted under appropriate state law. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(2) of this section is sixteen or seventeen years of age at the time of the violation or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (b) of this section is sixteen or seventeen years of age at the time of the violation, procuring is a felony and shall be prosecuted under appropriate state law. (ORC 2907.23)

533.09 SOLICITING.

(a) No person shall solicit another who is eighteen years of age or older to engage with such other person in sexual activity for hire.

(b) Whoever violates this section is guilty of soliciting, a misdemeanor of the third degree.

(c) If a person is convicted of or pleads guilty to a violation of any provision of this section or an attempt to commit a violation of any provision of this section, and if the person, in committing or attempting to commit the violation, was in, was on, or used a motor vehicle, the court, in addition to or independent of all other penalties imposed for the violation, shall impose upon the offender a class six suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02. In lieu of imposing upon the offender the class six suspension, the court instead may require the offender to perform community service for a number of hours determined by the court.

(d) As used in this section, "sexual activity for hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person. (ORC 2907.24)

533.091 LOITERING TO ENGAGE IN SOLICITATION.

(a) No person, with purpose to solicit another to engage in sexual activity for hire and while in or near a public place, shall do any of the following:

- (1) Beckon to, stop or attempt to stop another;
- (2) Engage or attempt to engage another in conversation;
- (3) Stop or attempt to stop the operator of a vehicle or approach a stationary vehicle;
- (4) If the offender is the operator of or a passenger in a vehicle, stop, attempt to stop, beckon to, attempt to beckon to, or entice another to approach or enter the vehicle of which the offender is the operator or in which the offender is the passenger;
- (5) Interfere with the free passage of another.

(b) As used in this section:

- (1) "Vehicle" has the same meaning as in Ohio R.C. 4501.01.
- (2) "Public place" means any of the following:
 - A. A street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot, or transportation facility;
 - B. A doorway or entrance way to a building that fronts on a place described in subsection (b)(2)A. hereof;
 - C. A place not described in subsection (b)(2)A. or B. hereof that is open to the public.

(c) Whoever violates subsection (a) hereof is guilty of loitering to engage in solicitation, a misdemeanor of the third degree. (ORC 2907.241)

533.10 PROSTITUTION.

(a) No person shall engage in sexual activity for hire.

(b) Whoever violates this section is guilty of prostitution, a misdemeanor of the third degree. (ORC 2907.25)

533.11 DISSEMINATING MATTER HARMFUL TO JUVENILES.

(a) No person, with knowledge of its character or content, shall recklessly do any of the following:

- (1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
- (2) Directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
- (3) While in the physical proximity of the juvenile or law enforcement officer posing as a juvenile, allow any juvenile or law enforcement officer posing as a juvenile to review or peruse any material or view any live performance that is harmful to juveniles.

(b) The following are affirmative defenses to a charge under this section, that involves material or a performance that is harmful to juveniles but not obscene:

- (1) The defendant is the parent, guardian or spouse of the juvenile involved.
- (2) The juvenile involved, at the time of the conduct in question, was accompanied by the juvenile's parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile.
- (3) The juvenile exhibited to the defendant or the defendant's agent or employee a draft card, driver's license, birth certificate, marriage license, or other official or apparently official document purporting to show that the juvenile was eighteen years of age or over or married, and the person to whom that document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of eighteen and unmarried.

- (c)
 - (1) It is an affirmative defense to a charge under this section, involving material or a performance that is obscene or harmful to juveniles, that the material or performance was furnished or presented for a bona fide medical, scientific, educational, governmental, judicial or other proper purpose, by a physician, psychologist, sociologist, scientist, teacher, librarian, clergyman, prosecutor, judge or other proper person.
 - (2) Except as provided in subsection (b)(3) hereof, mistake of age is not a defense to a charge under this section.

- (d) (1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.
- (2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present or directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present the material or performance in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:
 - A. The person has inadequate information to know or have reason to believe that a particular recipient of the information or offer is a juvenile.
 - B. The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.

(e) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.

(f) Whoever violates this section is guilty of disseminating matter harmful to juveniles. If the material or performance involved is harmful to juveniles, except as otherwise provided in this subsection, a violation of this section is a misdemeanor of the first degree. If the material or performance involved is obscene, a violation of this section is a felony and shall be prosecuted under appropriate State law. (ORC 2907.31)

533.12 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.

(a) No person, for the purpose of enabling a juvenile to obtain any material or gain admission to any performance which is harmful to juveniles shall do either of the following:

- (1) Falsely represent that he is the parent, guardian or spouse of such juvenile;
- (2) Furnish such juvenile with any identification or document purporting to show that such juvenile is eighteen years of age or over or married.

(b) No juvenile, for the purpose of obtaining any material or gaining admission to any performance which is harmful to juveniles, shall do either of the following:

- (1) Falsely represent that he is eighteen years of age or over or married;
- (2) Exhibit any identification or document purporting to show that he is eighteen years of age or over or married.

(c) Whoever violates this section is guilty of deception to obtain matter harmful to juveniles, a misdemeanor of the second degree. A juvenile who violates subsection (b) hereof shall be adjudged an unruly child, with such disposition of the case as may be appropriate under Ohio R.C. Chapter 2151. (ORC 2907.33)

533.13 DISPLAYING MATTER HARMFUL TO JUVENILES.

(a) No person who has custody, control or supervision of a commercial establishment, with knowledge of the character or content of the material involved, shall display at the establishment any material that is harmful to juveniles and that is open to view by juveniles as part of the invited general public.

(b) It is not a violation of subsection (a) hereof if the material in question is displayed by placing it behind "blinder racks" or similar devices that cover at least the lower two-thirds of the material, if the material in question is wrapped or placed behind the counter, or if the material in question otherwise is covered or located so that the portion that is harmful to juveniles is not open to the view of juveniles.

(c) Whoever violates this section is guilty of displaying matter harmful to juveniles, a misdemeanor of the first degree. Each day during which the offender is in violation of this section constitutes a separate offense.
(ORC 2907.311)

533.14 UNLAWFUL ADVERTISING OF MASSAGE.

(a) No person, by means of a statement, solicitation, or offer in a print or electronic publication, sign, placard, storefront display, or other medium, shall advertise massage, relaxation massage, any other massage technique or method, or any related service, with the suggestion or promise of sexual activity.

(b) Whoever violates this section is guilty of unlawful advertising of massage, a misdemeanor of the first degree.

(c) Nothing in this section prevents the legislative authority of a municipal corporation or township from enacting any regulation of the advertising of massage further than and in addition to the provisions of subsections (a) and (b) of this section.
(ORC 2927.17)

533.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 537
Offenses Against Persons

537.01	Negligent homicide.	537.12	Misuse of 9-1-1 system.
537.02	Vehicular homicide and manslaughter.	537.13	Adulterating of or furnishing adulterated food or confection.
537.021	Vehicular assault in a construction zone.	537.14	Domestic violence.
537.03	Assault.	537.15	Temporary protection order.
537.04	Negligent assault.	537.16	Illegal distribution of cigarettes, other tobacco products or alternate nicotine products.
537.05	Aggravated menacing.	537.17	Criminal child enticement.
537.051	Menacing by stalking.	537.18	Contributing to unruliness or delinquency of a child.
537.06	Menacing.	537.99	Penalty.
537.07	Endangering children.		
537.08	Unlawful restraint.		
537.09	Coercion.		
537.10	Telecommunication harassment.		
537.11	Threatening or harassing telephone calls.		

CROSS REFERENCES

See sectional histories for similar State law

Physical harm to persons defined - see GEN. OFF.

501.01 (c), (e)

Fighting; provoking violent response - see GEN. OFF. 509.03

537.01 NEGLIGENT HOMICIDE.

(a) No person shall negligently cause the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or dangerous ordnance as defined in Section 549.01.

(b) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree. (ORC 2903.05)

537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:

- (1) A. Negligently;
- B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this subsection applies only if the person whose death is caused or

whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) of this section.

- (2) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor.

- (b) (1) Whoever violates subsection (a)(1) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter or assault offense. The court shall impose a mandatory jail term on the offender when required by Ohio R.C. 2903.06(E).
- (2) Whoever violates subsection (a)(2) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

(c) The court shall impose a mandatory jail term of at least fifteen days on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99. The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)A. hereof if either of the following applies:

- (1) The offender previously has been convicted of or pleaded guilty to a violation of this section or Ohio R.C. 2903.06 or 2903.08.

- (2) At the time of the offense, the offender was driving under suspension or cancellation under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10.

(d) Subsection (a)(1)B. does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27. The failure to erect signs of the type described in Ohio R.C. 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of subsections (a)(1)A. or (a)(2) of this section in that construction zone or the prosecution of any person who violates any of those subsections in that construction zone.

(e) As used in this section:

- (1) "Mandatory prison term" and "mandatory jail term" have the same meanings as in Ohio R.C. 2929.01.
- (2) "Traffic-related homicide, manslaughter or assault offense" means a violation of Ohio R.C. 2903.04 in circumstances in which division (D) of that section applies, a violation of Ohio R.C. 2903.06 or 2903.08, or a violation of Ohio R.C. 2903.06, 2903.07 or 2903.08 as they existed prior to March 23, 2000.
- (3) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.
- (4) "Speeding offense" means a violation of Ohio R.C. 4511.21 or a municipal ordinance pertaining to speed.

(f) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States. (ORC 2903.06)

(g) The court imposing a sentence upon an offender for any violation of this section also shall impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (B) of Ohio R.C. 4510.02 that is equivalent in length to the suspension required for a violation of Ohio R.C. 2903.06 under similar circumstances. (ORC 4510.07)

537.021 VEHICULAR ASSAULT IN A CONSTRUCTION ZONE.

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause serious physical harm to another person or another's unborn as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense. This subsection applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) hereof.

(b) Whoever violates this section is guilty of vehicular assault. Except as provided in this subsection, vehicular assault is a misdemeanor of the first degree. Vehicular assault is a felony if, at the time of the offense, the offender was driving under a suspension imposed under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, and shall be prosecuted under appropriate state law.

In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02.

(c) The court shall impose a mandatory jail term of at least seven days on an offender who is convicted of or pleads guilty to a violation of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99.

(d) This section does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27.

(e) As used in this section:

- (1) "Mandatory jail term" has the same meaning as in Ohio R.C. 2929.01.
- (2) "Traffic-related homicide, manslaughter or assault offense" has the same meaning as in Ohio R.C. 2903.06.
- (3) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.
- (4) "Speeding offense" has the same meaning as in Ohio R.C. 2903.06.

(f) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States. (ORC 2903.08)

537.03 ASSAULT.

(a) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.

(b) No person shall recklessly cause serious physical harm to another or to another's unborn.

- (c)
- (1) Whoever violates this section is guilty of assault, a misdemeanor of the first degree, and the court shall sentence the offender as provided in subsection (c) hereof. If the assault was committed under the circumstances provided in subsection (c)(2), (3), (4), (5), (6), (7), (8) or (9) hereof, assault is a felony and shall be prosecuted under appropriate State law.
 - (2) Except as otherwise provided in this subsection, if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care.

- (3) If the offense occurs in or on the grounds of a State correctional institution or an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction or the Department of Youth Services, and the offense is committed by a person incarcerated in the State correctional institution or by a person institutionalized in the Department of Youth Services Institution pursuant to a commitment to the Department of Youth Services.
- (4) If the offense is committed in any of the following circumstances:
 - A. The offense occurs in or on the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department or is on the premises of the facility for business purposes or as a visitor, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person's being charged with or convicted of any crime, or subsequent to the person's being alleged to be or adjudicated a delinquent child.
 - B. The offense occurs off the grounds of a State correctional institution and off the grounds of an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction, the Department of Youth Services, or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person incarcerated in a State correctional institution or institutionalized in the Department of Youth Services who temporarily is outside of the institution for any purpose, by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
 - C. The offense occurs off the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person being charged with or convicted of any crime, or subsequent to the person being alleged to be or adjudicated a delinquent child and who temporarily is outside of the facility for any purpose or by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
 - D. The victim of the offense is a school teacher or administrator or a school bus operator, and the offense occurs in a school, on school premises, in a school building, on a school bus or while the victim is outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim's

employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises.

- (5) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation, a firefighter, or a person performing emergency medical service, while in the performance of their official duties.
- (6) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation and if the victim suffered serious physical harm as a result of the commission of the offense.
- (7) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties.
- (8) If the victim of the offense is a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital whom the offender knows or has reasonable cause to know is a health care professional of a hospital; a health care worker of a hospital, or a security officer of a hospital, if the victim is engaged in the performance of the victim's duties, and if the hospital offers de-escalation or crisis intervention training for such professionals, workers or officers, assault is one of the following:
 - A. Except as otherwise provided in subsection (c)(8)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. Notwithstanding the fine specified in division (A)(2)(b) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, in sentencing the offender under this subsection and if the court decides to impose a fine, the court may impose upon the offender a fine of not more than five thousand dollars (\$5,000).
 - B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against hospital personnel, assault committed in the specified circumstances is a felony.
- (9) If the victim of the offense is a judge, magistrate, prosecutor or court official or employee whom the offender knows or has reasonable cause to know is a judge, magistrate, prosecutor or court official or employee, and if the victim is engaged in the performance of the victim's duties, assault is one of the following:
 - A. Except as otherwise provided in subsection (c)(9)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. In sentencing the offender under this subsection, if the court decides to impose a fine, notwithstanding the fine specified in division (A)(2)(b) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than five thousand dollars (\$5,000).
 - B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against justice system personnel, assault committed in the specified circumstances is a felony.

- (10) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in Ohio R.C. 2941.1423 that was included in the indictment, count in the indictment or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of Ohio R.C. 2929.24.
- (d) As used in this section:
- (1) "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
 - (2) "Firefighter" has the same meaning as in Ohio R.C. 3937.41.
 - (3) "Emergency medical service" has the same meaning as in Ohio R.C. 4765.01.
 - (4) "Local correctional facility" means a county, multicounty, municipal, municipal-county or multicounty-municipal jail or workhouse. A minimum security jail established under Ohio R.C. 341.23 or 753.21, or another county, multicounty, municipal, municipal-county, or multicounty-municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.
 - (5) "Employee of a local correctional facility" means a person who is an employee of the political subdivision or of one or more of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in the operation of the facility.
 - (6) "School teacher or administrator" means either of the following:
 - A. A person who is employed in the public schools of the State under a contract described in Ohio R.C. 3311.77 or 3319.08 in a position in which the person is required to have a certificate issued pursuant to Ohio R.C. 3319.22 to 3319.311.
 - B. A person who is employed by a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and who is certified in accordance with Ohio R.C. 3301.071.
 - (7) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01.
 - (8) "Escorted visit" means an escorted visit granted under Ohio R.C. 2967.27.
 - (9) "Post-release control" and "transitional control" have the same meanings as in Ohio R.C. 2967.01.
 - (10) "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.
 - (11) "Health care professional" and "health care worker" have the same meanings as in Ohio R.C. 2305.234.
 - (12) "Assault or homicide offense committed against hospital personnel" means a violation of this section or Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which all of the following apply:
 - A. The victim of the offense was a health care professional of a hospital, a health care worker of a hospital or a security officer of a hospital.
 - B. The offender knew or had reasonable cause to know that the victim was a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital;

- C. The victim was engaged in the performance of the victim's duties.
 - D. The hospital offered de-escalation or crisis intervention training for such professionals, workers or officers.
- (13) "De-escalation or crisis intervention training" means de-escalation or crisis intervention training for health care professionals of a hospital, health care workers of a hospital, and security officers of a hospital to facilitate interaction with patients, members of a patient's family, and visitors, including those with mental impairments.
- (14) "Assault or homicide offense committed against justice system personnel" means a violation of this section or of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which the victim of the offense was a judge, magistrate, prosecutor, or court official or employee whom the offender knew or had reasonable cause to know was a judge, magistrate, prosecutor, or court official or employee, and the victim was engaged in the performance of the victim's duties.
- (15) "Court official or employee" means any official or employee of a court created under the constitution or statutes of this State or of a United States court located in this State.
- (16) "Judge" means a judge of a court created under the constitution or statutes of this State or of a United States court located in this State.
- (17) "Magistrate" means an individual who is appointed by a court of record of this State and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this State who has similar powers and functions.
- (18) "Prosecutor" has the same meaning as in Ohio R.C. 2935.01.
- (19) A. "Hospital" means, subject to subsection (d)(19)B. of this section, an institution classified as a hospital under Ohio R.C. 3701.01 in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.
- B. "Hospital" does not include any of the following:
- 1. A facility licensed under Ohio R.C. Chapter 3721, a health care facility operated by the Department of Mental Health or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether organized for individual or group practice;
 - 2. An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under Section 501 of the "Internal Revenue Code of 1986", 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing twenty-four-hour nursing care pursuant to the exemption in division (E) of Ohio R.C. 4723.32 from the licensing requirements of Ohio R.C. Chapter 4723.
- (20) "Health maintenance organization" has the same meaning as in Ohio R.C. 3727.01. (ORC 2903.13)

537.04 NEGLIGENT ASSAULT.

(a) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in Section 549.01 cause physical harm to another or to another's unborn.

(b) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree. (ORC 2903.14)

537.05 AGGRAVATED MENACING.

(a) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(b) Whoever violates this section is guilty of aggravated menacing. Except as otherwise provided in this subsection (b), aggravated menacing is a misdemeanor of the first degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, aggravated menacing is a felony and shall be prosecuted under appropriate State law.

(c) As used in this section, "organization" includes an entity that is a governmental employer. (ORC 2903.21)

537.051 MENACING BY STALKING.

- (a) (1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or mental distress to the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.
- (2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, computer system or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:
- A. Violate subsection (a)(1) of this section;
 - B. Urge or incite another to commit a violation of subsection (a)(1) of this section.

- (3) No person, with sexual motivation, shall violate subsection (a)(1) or (2) of this section.
- (b) Whoever violates this section is guilty of menacing by stalking.
 - (1) Except as otherwise provided in subsections (b)(2) and (3) of this section, menacing by stalking is a misdemeanor of the first degree.
 - (2) Menacing by stalking is a felony and shall be prosecuted under appropriate State law if any of the following applies:
 - A. The offender previously has been convicted of or pleaded guilty to a violation of this section or a violation of Section 541.051.
 - B. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.
 - C. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.
 - D. The victim of the offense is a minor.
 - E. The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.
 - F. While committing the offense under subsection (a)(1) of this section or a violation of subsection (a)(3) of this section is based on conduct in violation of subsection (a)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Subsection (b)(2)F. of this section does not apply in determining the penalty for a violation of subsection (a)(2) of this section or a violation of subsection (a)(3) of this section based on conduct in violation of subsection (a)(1) of this section.
 - G. At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.
 - H. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under subsection (a)(2) of this section, or an offense committed under subsection (a)(3) of this section based on a violation of subsection (a)(2) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.

- I. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.
- (3) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities, or duties, menacing by stalking is a felony and shall be prosecuted under appropriate State law.

(c) Ohio R.C. 2919.271 applies in relation to a defendant charged with a violation of this section.

(d) As used in this section:

- (1) "Pattern of conduct" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages, use of intentionally written or verbal graphic gestures, or receipt of information or data through the use of any form of written communication or an electronic method of remotely transferring information, including, but not limited to, a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct".
- (2) "Mental distress" means any of the following:
 - A. Any mental illness or condition that involves some temporary substantial incapacity;
 - B. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.
- (3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
- (4) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
- (5) "Public official" has the same meaning as in Ohio R.C. 2921.01.
- (6) "Computer", "computer network", "computer program", "computer system" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.

- (7) “Post a message” means transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communication, any message or information, whether truthful or untruthful, about an individual, and whether done under one’s own name, under the name of another, or while impersonating another.
- (8) “Third person” means, in relation to conduct as described in subsection (a)(2) of this section, an individual who is neither the offender nor the victim of the conduct.
- (9) “Sexual motivation” has the same meaning as in Ohio R.C. 2971.01.
- (10) “Organization” includes an entity that is a governmental employer.
- (11) “Family or household member” means any of the following:
 - A. Any of the following who is residing or has resided with the person against whom the act prohibited in subsection (a)(1) of this section is committed:
 - 1. A spouse, a person living as a spouse, or a former spouse of the person;
 - 2. A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person;
 - 3. A parent or a child of a spouse, person living as a spouse, or former spouse of the person, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person.
 - B. The natural parent of any child of whom the person against whom the act prohibited in subsection (a)(1) of this section is committed is the other natural parent or is the putative other natural parent.
- (12) “Person living as a spouse” means a person who is living or has lived with the person against whom the act prohibited in subsection (a)(1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of the act in question.

(e) The Municipality does not need to prove in a prosecution under this section that a person requested or received psychiatric treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in subsection (d)(2)B. of this section.

- (f) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person’s control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person’s control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section.

- (2) Subsection (f)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
- (3) Subsection (f)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature. (ORC 2903.211)

537.06 MENACING.

(a) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediately family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(b) Whoever violates this section is guilty of menacing. Except as otherwise provided in this subsection (b), menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, menacing is a felony and shall be prosecuted under appropriate State law.

(c) As used in this section, "organization" includes an entity that is a governmental employer. (ORC 2903.22)

537.07 ENDANGERING CHILDREN.

(a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this subsection when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(b) No person shall abuse a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age.

- (c) (1) No person shall operate a vehicle in violation of Section 333.01(a) of the Traffic Code when one or more children under eighteen years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 333.01(a) of the

- Traffic Code that constitutes the basis of the charge of the violation of subsection (c) hereof. For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of subsection (c) hereof shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.
- (2) As used in subsection (c) hereof:
 - A. "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.
 - B. "Vehicle" has the same meaning as in Ohio R.C. 4511.01.
 - (d) Whoever violates this section is guilty of endangering children.
 - (1) Whoever violates subsection (a) or (b) hereof is guilty of a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section, Ohio R.C. 2919.22 or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child, endangering children is a felony and shall be prosecuted under appropriate State law.
 - (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. Endangering children is a felony and shall be prosecuted under appropriate State law if either of the following applies:
 - A. The violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under Ohio R.C. 2919.22 or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child.
 - B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section.
 - (3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under Ohio R.C. 2919.22(E)(5)(d).
 - (e)
 - (1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.

- (2) A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:
1. For purposes of the provisions of the Traffic Code penalty that set forth the penalties and sanctions for a violation of Section 333.01(a) of the Traffic Code, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute a violation of Section 333.01(a) of the Traffic Code.
 2. For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code and that is not described in subsection (e)(2)A.1. hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall constitute a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.
- B. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof and the person also is convicted of or pleads guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code, a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code. (ORC 2919.22)

537.08 UNLAWFUL RESTRAINT.

- (a) No person, without privilege to do so, shall knowingly restrain another of the other person's liberty.
- (b) No person, without privilege to do so and with a sexual motivation, shall knowingly restrain another of the other person's liberty.
- (c) Whoever violates this section is guilty of unlawful restraint, a misdemeanor of the third degree.
- (d) As used in this section, "sexual motivation" has the same meaning as in Ohio R.C. 2971.01. (ORC 2905.03)

537.09 COERCION.

- (a) No person, with purpose to coerce another into taking or refraining from action concerning which the other person has a legal freedom of choice, shall do any of the following:
- (1) Threaten to commit any offense;
 - (2) Utter or threaten any calumny against any person;
 - (3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt or ridicule, to damage any person's personal or business reputation, or to impair any person's credit;
 - (4) Institute or threaten criminal proceedings against any person;
 - (5) Take or withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.

(b) Subsections (a)(4) and (5) hereof shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interest of justice:

- (1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to Ohio R.C. 2945.44;
- (2) In return for a plea of guilty to one or more offenses charged or to one or more other or lesser offenses, or in return for the testimony of the accused in a case to which the accused is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence;
- (3) Imposing community control sanction on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of the offense.

(c) It is an affirmative defense to a charge under subsection (a)(3), (4) or (5) hereof that the actor's conduct was a reasonable response to the circumstances that occasioned it, and that the actor's purpose was limited to any of the following:

- (1) Compelling another to refrain from misconduct or to desist from further misconduct;
- (2) Preventing or redressing a wrong or injustice;
- (3) Preventing another from taking action for which the actor reasonably believed the other person to be disqualified;
- (4) Compelling another to take action that the actor reasonably believed the other person to be under a duty to take.

(d) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.

(e) As used in this section:

- (1) "Threat" includes a direct threat and a threat by innuendo.
- (2) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01. (ORC 2905.12)

537.10 TELECOMMUNICATION HARASSMENT.

(a) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:

- (1) Makes the telecommunication with purpose to harass, intimidate, or abuse, any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient;
- (2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;
- (3) During the telecommunication, violates Ohio R.C. 2903.21;

- (4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;
 - (5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any person at those premises.
 - (6) Knowingly makes any comment, request, suggestion, or proposal to the recipient of the telecommunication that is threatening, intimidating, menacing, coercive, or obscene with the intent to abuse, threaten or harass the recipient;
 - (7) Without a lawful business purpose, knowingly interrupts the telecommunication service of any person;
 - (8) Without a lawful business purpose, knowingly transmits to any person, regardless of whether the telecommunication is heard in its entirety, any file, document or other communication that prevents that person from using the person's telephone service or electronic communication device;
 - (9) Knowingly makes any false statement concerning the death, injury, illness, disfigurement, reputation, indecent conduct, or criminal conduct of the recipient of the telecommunication or family or household member of the recipient with purpose to abuse, threaten, intimidate, or harass the recipient;
 - (10) Knowingly incites another person through a telecommunication or other means to harass or participate in the harassment of a person;
 - (11) Knowingly alarms the recipient by making a telecommunication without a lawful purpose at an hour or hours known to be inconvenient to the recipient and in an offensive or repetitive manner.
- (b)
- (1) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.
 - (2) No person shall knowingly post a text or audio statement or an image on an internet web site or web page for the purpose of abusing, threatening, or harassing another person.
- (c)
- (1) Whoever violates this section is guilty of telecommunication harassment.
 - (2) A violation of subsections (a)(1), (2), (3), (5), (6), (7), (8), (9), (10), or (11) or (b) hereof is a misdemeanor of the first degree on a first offense. Each subsequent offense is a felony and shall be prosecuted under appropriate State law.
 - (3) Whoever violates subsection (a)(4) hereof is guilty of a misdemeanor of the first degree for a first offense. For each subsequent offense or if a violation of subsection (a)(4) hereof results in economic harm of one thousand dollars (\$1,000) or more, a violation of subsection (a)(4) hereof is a felony and shall be prosecuted under appropriate State law.

(d) No cause of action may be asserted in any court of this State against any provider of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, or against any officer, employee, or agent of a telecommunication service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, or an officer, employee, or agent of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section.

- (e) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electric method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that the person believes is, or will be sent, in violation of this section.
- (2) Subsection (e)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
- (3) Subsection (e)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.
- (4) A provider or user of an interactive computer service, as defined in Section 230 of Title 47 of the United States Code, shall neither be treated as the publisher or speaker of any information provided by another information content provider, as defined in Section 230 of Title 47 of the United States Code, nor held civilly or criminally liable for the creation or development of information provided by another information content provider, as defined in Section 230 of Title 47 of the United States Code. Nothing in this subsection shall be construed to protect a person from liability to the extent that the person developed or created any content in violation of this section.

(f) Subsections (a)(5) to (11) and (b)(2) of this section do not apply to a person who, while employed or contracted by a newspaper, magazine, press association, news agency, news wire service, cable channel or cable operator, or radio or television station, is gathering, processing, transmitting, compiling, editing or disseminating information for the general public, within the scope of the person's employment in that capacity or the person's contractual authority in that capacity.

(g) As used in this section:

- (1) "Economic harm" means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:
 - A. All wages, salaries, or other compensation lost as a result of the criminal conduct;
 - B. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
 - C. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 - D. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
- (2) "Caller" means the person described in subsection (a) hereof who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.
- (3) "Telecommunication" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
- (4) "Sexual activity" has the same meaning as in Ohio R.C. 2907.01.
- (5) "Family or household member" means any of the following:
 - A. Any of the following who is residing or has resided with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed:
 1. A spouse, a person living as a spouse, or a former spouse of the recipient;
 2. A parent, a foster parent, or a child of the recipient, or another person related by consanguinity or affinity to the recipient;
 3. A parent or a child of a spouse, person living as a spouse, or former spouse of the recipient, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the recipient.
 - B. The natural parent of any child of whom the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed is the other natural parent or is the putative other natural parent.
- (6) "Person living as a spouse" means a person who is living or has lived with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed in a common law marital relationship, who otherwise is cohabiting with the recipient, or who otherwise has cohabited with the recipient within five years prior to the date of the alleged commission of the act in question.
- (7) "Cable operator" has the same meaning as in Ohio R.C. 1332.21.

(h) Nothing in this section prohibits a person from making a telecommunication call to a debtor that is in compliance with the “Fair Debt Collection Practices Act”, 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the “Telephone Consumer Protection Act”, 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended. (ORC 2917.21)

537.11 THREATENING OR HARASSING TELEPHONE CALLS.

(EDITOR’S NOTE: Former Ohio R.C. 4931.31 from which Section 537.11 was derived was repealed by Senate Bill 162, effective September 13, 2010. See now Section 537.10 “Telecommunication Harassment”.)

537.12 MISUSE OF 9-1-1 SYSTEM.

(a) “9-1-1 system” means a system through which individuals can request emergency service using the telephone number 9-1-1. (ORC 128.01)

(b) No person shall knowingly use the telephone number of the 9-1-1 system established under Ohio R.C. Chapter 128 to report an emergency if he knows that no emergency exists.

(c) No person shall knowingly use a 9-1-1 system for a purpose other than obtaining emergency service.

(d) No person shall disclose or use any information concerning telephone numbers, addresses, or names obtained from the data base that serves the public safety answering point of a 9-1-1 system established under Ohio R.C. Chapter 128, except for any of the following purposes or under any of the following circumstances:

- (1) For the purpose of the 9-1-1 system;
- (2) For the purpose of responding to an emergency call to an emergency service provider;
- (3) In the circumstance of the inadvertent disclosure of such information due solely to technology of the wireline telephone network portion of the 9-1-1 system not allowing access to the data base to be restricted to 9-1-1 specific answering lines at a public safety answering point;
- (4) In the circumstance of access to a data base being given by a telephone company that is a wireline service provider to a public utility or municipal utility in handling customer calls in times of public emergency or service outages. The charge, terms, and conditions for the disclosure or use of such information for the purpose of such access to a data base shall be subject to the jurisdiction of the steering committee.
- (5) In the circumstance of access to a data base given by a telephone company that is a wireline service provider to a state and local government in warning of a public emergency, as determined by the steering committee. The charge, terms, and conditions for the disclosure or use of that information for the purpose of access to a data base is subject to the jurisdiction of the steering committee.
(ORC 128.32)

- (e)
 - (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree.
 - (2) Whoever violates subsection (c) or (d) hereof is guilty of a misdemeanor of the fourth degree on a first offense. For each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law. (ORC 128.99)

537.13 ADULTERATING OF OR FURNISHING ADULTERATED FOOD OR CONFECTION.

(a) No person shall do either of the following, knowingly or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:

- (1) Place a pin, needle, razor blade, glass, laxative, drug of abuse, or other harmful or hazardous object or substance in any food or confection;
- (2) Furnish to any person any food or confection which has been adulterated in violation of subsection (a)(1) hereof. (ORC 3716.11)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree. (ORC 3716.99(C))

537.14 DOMESTIC VIOLENCE.

(a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(b) No person shall recklessly cause serious physical harm to a family or household member.

(c) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

- (d)
- (1) Whoever violates this section is guilty of domestic violence.
 - (2) Except as otherwise provided in subsection (d)(3) to (5) of this section, a violation of subsection (c) of this section is a misdemeanor of the fourth degree, and a violation of subsection (a) or (b) of this section is a misdemeanor of the first degree.
 - (3) Except as otherwise provided in subsection (d)(4) of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to domestic violence, a violation of Ohio R.C. 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the second degree.
 - (4) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in subsection (d)(3) of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the first degree.

- (5) Except as otherwise provided in subsection (d)(3) or (4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate State law, and a violation of subsection (c) of this section is a misdemeanor of the third degree.

(e) Notwithstanding any provision of law to the contrary, no court or unit of local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or in connection with the prosecution of any charges so filed.

(f) As used in this section:

- (1) "Family or household member" means any of the following:
- A. Any of the following who is residing or has resided with the offender:
 - 1. A spouse, a person living as a spouse or a former spouse of the offender;
 - 2. A parent, a foster parent or a child of the offender, or another person related by consanguinity or affinity to the offender;
 - 3. A parent, or a child of a spouse, person living as a spouse, or former spouse of the offender; or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the offender.
 - B. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.
- (2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question. (ORC 2919.25)

(g) The same relief available under the Ohio Revised Code for filing a complaint for violation of Ohio R.C. 2919.25 shall be available for filing a complaint for violation of this section.

537.15 TEMPORARY PROTECTION ORDER.

- (a) No person shall recklessly violate the terms of any of the following:
- (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;
 - (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;
 - (3) A protection order issued by a court of another state.
- (b)
- (1) Whoever violates this section is guilty of violating a protection order.
 - (2) Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.

- (3) If the offender previously has been convicted of, pleaded guilty to or been adjudicated a delinquent child for a violation of a protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214, two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 that involved the same person who is the subject of the protection order or consent agreement, or one or more violations of this section, violating a protection order is a felony and shall be prosecuted under appropriate state law.
- (4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.
- (5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent and subject to the maximum amount allowable and the rules promulgated by the Attorney General under Ohio R.C. 2903.214, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds from the reparations fund created pursuant to Ohio R.C. 2743.191. The total amount paid from the reparations fund created pursuant to Ohio R.C. 2743.191 for electronic monitoring under this section and Ohio R.C. 2151.34 and 2903.214 shall not exceed three hundred thousand dollars per year.

(c) It is an affirmative defense to a charge under subsection (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this State or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).

(d) As used in this section, “protection order issued by a court of another state” means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. “Protection order issued by a court of another state” does not include an order for support or for custody of a child. (ORC 2919.27)

537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER
TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS.

(a) As used in this section:

- (1) “Age verification” means a service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is eighteen years of age or older.
- (2) A. “Alternative nicotine product” means, subject to subsection (a)(2)B. of this section, an electronic cigarette or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving or inhaling.
B. “Alternative nicotine product” does not include any of the following:
 1. Any cigarette or other tobacco product;
 2. Any product that is a “drug” as that term is defined in 21 U.S.C. 321(g)(1);
 3. Any product that is a “device” as that term is defined in 21 U.S.C. 321(h);
 4. Any product that is a “combination product” as described in 21 U.S.C. 353(g).
- (3) “Child” has the same meaning as in Ohio R.C. 2151.011.
- (4) “Cigarette” includes clove cigarettes and hand-rolled cigarettes.
- (5) “Distribute” means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.
- (6) A. “Electronic cigarette” means, subject to subsection (a)(6)B. of this section, any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo or electronic pipe.
B. “Electronic cigarette” does not include any item, product or device described in subsections (a)(2)B.1. to 4. of this section.
- (7) “Proof of age” means a driver’s license, a commercial driver’s license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is eighteen years of age or older.
- (8) “Tobacco product” means any product that is made from tobacco, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco or snuff.
- (9) “Vending machine” has the same meaning as “coin machine” in Ohio R.C. 2913.01.

(b) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:

- (1) Give, sell or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any child;
- (2) Give away, sell or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a sign stating that giving, selling or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under eighteen years of age is prohibited by law;
- (3) Knowingly furnish any false information regarding the name, age or other identification of any child with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that child;
- (4) Manufacture, sell or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;
- (5) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
- (6) Give, sell or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.

(c) No person shall sell or offer to sell cigarettes, other tobacco products or alternative nicotine products by or from a vending machine, except in the following locations:

- (1) An area within a factory, business, office, or other place not open to the general public;
- (2) An area to which children are not generally permitted access;
- (3) Any other place not identified in subsection (c)(1) or (2) of this section, upon all of the following conditions:
 - A. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway or outer-waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
 - B. The vending machine is inaccessible to the public when the place is closed.

(d) The following are affirmative defenses to a charge under subsection (b)(1) of this section:

- (1) The child was accompanied by a parent, spouse who is eighteen years of age or older, or legal guardian of the child.
- (2) The person who gave, sold or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a child under subsection (b)(1) of this section is a parent, spouse who is eighteen years of age or older, or legal guardian of the child.

(e) It is not a violation of subsection (b)(1) or (2) of this section for a person to give or otherwise distribute to a child cigarettes, other tobacco products, alternative nicotine products or papers used to roll cigarettes while the child is participating in a research protocol if all of the following apply:

- (1) The parent, guardian or legal custodian of the child has consented in writing to the child participating in the research protocol;
- (2) An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol;
- (3) The child is participating in the research protocol at the facility or location specified in the research protocol.

- (f) (1) Whoever violates subsection (b)(1), (2), (4), (5) or (6) or (c) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (b)(1), (2), (4), (5) or (6) or (c) of this section, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- (2) Whoever violates subsection (b)(3) of this section is guilty of permitting children to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, permitting children to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (b)(3) of this section, permitting children to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

(g) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold or otherwise distributed to a child in violation of this section and that are used, possessed, purchased or received by a child in violation of Ohio R.C. 2151.87 are subject to seizure and forfeiture as contraband under Ohio R.C. Chapter 2981. (ORC 2927.02)

537.17 CRIMINAL CHILD ENTICEMENT.

(a) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice or lure any child under fourteen years of age to accompany the person in any manner, including entering into any vehicle, or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:

- (1) The actor does not have the express or implied permission of the parent, guardian or other legal custodian of the child in undertaking the activity;

- (2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of any Board of Education, or the actor is any of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.
- (b) No person, with a sexual motivation, shall violate subsection (a) of this section.
- (c) No person, for any unlawful purpose other than, or in addition to, that proscribed by subsection (a) of this section, shall engage in any activity described in subsection (a) of this section.
- (d) It is an affirmative defense to a charge under subsection (a) hereof that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety or welfare of the child.
- (e) Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section or Ohio R.C. 2905.05, 2907.02, or 2907.03, or former Section 2907.12, or Ohio R.C. 2905.01 or 2907.05 when the victim of that prior offense was under seventeen years of age at the time of the offense, criminal child enticement is a felony and shall be prosecuted under appropriate State law.
- (f) As used in this section:
 - (1) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.
 - (2) "Vehicle" has the same meaning as in Ohio R.C. 4501.01.
 - (3) "Vessel" has the same meaning as in Ohio R.C. 1546.01.(ORC 2905.05)

537.18 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.

- (a) As used in this section:
 - (1) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.
 - (2) "Unruly child" has the same meaning as in Ohio R.C. 2151.022.
- (b) No person, including a parent, guardian or other custodian of a child, shall do any of the following:
 - (1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child or a delinquent child;
 - (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child or a delinquent child;
 - (3) Act in a way that contributes to an adjudication of the child as a delinquent child based on the child's violation of a court order adjudicating the child an unruly child for being an habitual truant;
 - (4) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.

(c) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense. (ORC 2919.24)

537.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 541 Property Offenses

541.01	Determining property value in arson.	541.07	Desecration.
541.02	Arson.	541.08	Ethnic intimidation.
541.03	Criminal damaging or endangering.	541.09	Trespass on City park.
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541.051	Aggravated trespass.	541.12	Vehicular vandalism.
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		541.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Parents' liability for destructive acts of their children - see Ohio R.C. 3109.09
 Physical harm to property defined - see GEN. OFF. 501.01(d), (f)
 Reimbursement for investigation or prosecution costs - see GEN. OFF. 501.99(a)
 Damage to sidewalks - see GEN. OFF. 521.04
 Vehicle trespass - see GEN. OFF. 545.06

541.01 DETERMINING PROPERTY VALUE IN ARSON.

- (a) The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of Section 541.02.
- (1) If the property is an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, the value of the property or the amount of physical harm involved is the amount that would compensate the owner for its loss.
 - (2) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.
 - (3) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and in the case of real property or real property fixtures, is the difference in the fair market value of the property immediately before and immediately after the offense.
- (b) As used in this section, "fair market value" has the same meaning as in Section 545.02(c)(3).
- (c) Prima-facie evidence of the value of property, as provided in Section 545.02(d) may be used to establish the value of property pursuant to this section. (ORC 2909.11)

541.02 ARSON.

(a) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any property of another without the other person's consent.

- (b) (1) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any structure of another that is not an occupied structure;
- (2) It is an affirmative defense to a charge under subsection (b)(1) of this section that the defendant acted with the consent of the other person.

(c) Whoever violates this section is guilty of arson, a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is one thousand dollars (\$1,000) or more, arson is a felony and shall be prosecuted under appropriate State law. (ORC 2909.03)

541.03 CRIMINAL DAMAGING OR ENDANGERING.

(a) No person shall cause, or create a substantial risk of physical harm to any property of another without the other person's consent:

- (1) Knowingly, by any means;
- (2) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.

(b) Whoever violates this section is guilty of criminal damaging or endangering, a misdemeanor of the second degree. If violation of this section creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. If the property involved in a violation is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a risk of physical harm to any person or if the property involved in a violation is an occupied aircraft, criminal damaging or endangering is a felony and shall be prosecuted under appropriate State law. (ORC 2909.06)

541.04 CRIMINAL MISCHIEF.

(a) No person shall:

- (1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with either of the following:
- A. The property of another;
- B. One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:
1. The residential real property is subject to a mortgage.
2. The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this subsection, "pending" includes the time between judgment entry and confirmation of sale.
- (2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;
- (3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker.

- (4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;
- (5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.
- (6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, all as defined in Ohio R.C. 2909.01, knowingly do any of the following:
 - A. In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;
 - B. Introduce a computer contaminant into a computer, computer system, computer network, computer software or computer program.

(b) As used in this section, "safety device" means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger, or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.

- (c)
 - (1) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in subsection (c)(2) or (3) of this section.
 - (2) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4) or (5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this subsection, if the violation of subsection (a)(1), (2), (3), (4) or (5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4) or (5) of this section is a misdemeanor of the first degree. If the property involved in the violation of subsection (a)(1), (2), (3), (4) or (5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft, criminal mischief committed in violation of subsection (a)(1), (2), (3), (4) or (5) of this section is a felony and shall be prosecuted under appropriate State law.

- (3) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program or data involved in the violation of subsection (a)(6) of this section or the loss to the victim resulting from the violation is one thousand dollars or more, or if the computer, computer system, computer network, computer software, computer program or data involved in the violation of subsection (a)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (a)(6) of this section is a felony and shall be prosecuted under appropriate State law. (ORC 2909.07)

541.05 CRIMINAL TRESPASS.

- (a) No person, without privilege to do so, shall do any of the following:
 - (1) Knowingly enter or remain on the land or premises of another;
 - (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;
 - (3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;
 - (4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.
- (b) It is no defense to a charge under this section that the land or premises involved was owned, controlled or in custody of a public agency.
- (c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved when such authorization was secured by deception.
- (d)
 - (1) Whoever violates this section is guilty of criminal trespass, a misdemeanor of the fourth degree.
 - (2) Notwithstanding Section 501.99, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.
 - (3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance, or state law, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty days. In such a case, Ohio R.C. 4519.47 applies.

- (e) As used in this section:
 - (1) “All-purpose vehicle,” “off-highway motorcycle” and “snowmobile” have the same meaning as in Section 375.01 of the Traffic Code.
 - (2) “Land or premises” includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.
(ORC 2911.21)

541.051 AGGRAVATED TRESPASS.

(a) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to him.

(b) Whoever violates this section is guilty of aggravated trespass, a misdemeanor of the first degree. (ORC 2911.211)

541.06 DESTRUCTION OF SHRUBS, TREES OR CROPS.

(a) No person, without privilege to do so, shall recklessly cut down, destroy, girdle or otherwise injure a vine, bush, shrub, sapling, tree or crop standing or growing on the land of another or upon public land.

(b) In addition to any penalty provided, whoever violates this section is liable in treble damages for the injury caused. (ORC 901.51)

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree. (ORC 901.99(A))

541.07 DESECRATION.

(a) No person, without privilege to do so, shall purposely deface, damage, pollute or otherwise physically mistreat any of the following:

- (1) The flag of the United States or of this State;
- (2) Any public monument;
- (3) Any historical or commemorative marker, or any structure, Indian mound or earthwork, cemetery, thing or site of great historical or archeological interest;
- (4) A work of art or museum piece;
- (5) Any other object of reverence or sacred devotion.

(b) Whoever violates this section is guilty of desecration, a misdemeanor of the second degree.

(c) As used in this section, “cemetery” means any place of burial and includes burial sites that contain American Indian burial objects placed with or containing American Indian human remains. (ORC 2927.11)

541.08 ETHNIC INTIMIDATION.

(a) No person shall violate Ohio R.C. 2903.21, 2903.22, 2909.06, 2909.07 or 2917.21(A)(3) to (5) or Sections 537.05, 537.06, 537.10(a)(3) to (5), 541.03 or 541.04 of the General Offenses Code by reason of the race, color, religion or national origin of another person or group of persons.

(b) Whoever violates this section is guilty of ethnic intimidation. Ethnic intimidation is an offense of the next higher degree than the offense the commission of which is a necessary element of ethnic intimidation.

(ORC 2927.12)

541.09 TRESPASS ON CITY PARK.

(a) No person shall, without privilege to do so, knowingly enter or remain on the following described lands owned by the City between the hours of 10:00 p.m. and 6:00 a.m. local time: the property of the City and commonly known as the City park which is bounded on the west by the South Zane Highway street right of way, on the south by the Grant Avenue street right of way, on the north by the northerly curb of the paved utility roadway which lies to the south of the Fodor Park and north of the herein described lands, and on the east by a chain link fence situated on the west side of the Municipal swimming pool property and the miniature golf course.

(b) Privilege to enter upon such premises or to remain thereon between the hours of 10:00 p.m. and 6:00 a.m. local time, may be granted by the Mayor or his designee, by written consent, to those individuals or organizations whose purpose is charitable in nature.

(c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved when such authorization is secured by deception.

(d) Whoever violates this section is guilty of criminal trespass, a misdemeanor of the fourth degree.

(Ord. 80-110. Passed 10-2-80.)

541.10 POSTING SIGNS ON STREET POLE.

(a) No person shall attach or place any sign, advertisement or poster on a street sign or pole within the City.

(b) Whoever violates this section is guilty of a minor misdemeanor. Each sign, advertisement or poster placed, and each day the same shall be permitted to remain, in violation of this section shall constitute a separate offense.

(Ord. 83-39. Passed 7-7-83.)

541.11 TRESPASSING PROHIBITED ON MEMORIAL PARK PROPERTY.

(a) No person shall, without privilege to do so, knowingly enter or remain on the Memorial Park property during the following times and/or dates:

- (1) November 15 through March 31-Park closed; and
- (2) April 1 through November 14, 10:00 p.m. until 8:00 a.m.

(b) Privilege to enter upon such premises, or to remain thereon, between the above-referenced prohibited dates and/or times may be granted only by the Mayor, or the Director of Public Service/Safety, and shall be in writing.

(c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved, when such authorization was secured by deception.

(d) Whoever violates this section is guilty of criminal trespass, a misdemeanor of the fourth degree.

(Ord. 90-30. Passed 9-16-90.)

541.12 VEHICULAR VANDALISM.

- (a) As used in this section:
- (1) "Highway" means any highway as defined in Section 301.42 of the Traffic Code or any lane, road, street, alley, bridge, or overpass.
 - (2) "Alley", "street", and "vehicle" have the same meanings as in Chapter 301 of the Traffic Code.
 - (3) "Vessel" and "waters in this State" have the same meanings as in Ohio R.C. 1546.01.
- (b) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of any of the following:
- (1) Any vehicle on a highway;
 - (2) Any boat or vessel on any of the waters in this State that are located in the Municipality.
- (c) Whoever violates this section is guilty of vehicular vandalism. Except as otherwise provided in this subsection, vehicular vandalism is a misdemeanor of the first degree. If the violation of this section creates a substantial risk of physical harm to any person, serious physical harm to property, physical harm to any person or serious physical harm to any person, vehicular vandalism is a felony and shall be prosecuted under appropriate State law.
(ORC 2909.09)

541.13 TRESPASS ON A PLACE OF PUBLIC AMUSEMENT.

- (a) As used in this section, "place of public amusement" means a stadium, theater or other facility, whether licensed or not, at which a live performance, sporting event, or other activity takes place for entertainment of the public and to which access is made available to the public, regardless of whether admission is charged.
- (b) No person, without privilege to do so, shall knowingly enter or remain on any restricted portion of a place of public amusement and, as a result of that conduct, interrupt or cause the delay of the live performance, sporting event, or other activity taking place at the place of public amusement after a printed written notice has been given as provided in subsection (d)(1) of this section that the general public is restricted from access to that restricted portion of the place of public amusement. A restricted portion of a place of public amusement may include, but is not limited to, a playing field, an athletic surface, or a stage located at the place of public amusement.
- (c) An owner or lessee of a place of public amusement, an agent of the owner or lessee, or a performer or participant at a place of public amusement may use reasonable force to restrain and remove a person from a restricted portion of the place of public amusement if the person enters or remains on the restricted portion of the place of public amusement and, as a result of that conduct, interrupts or causes the delay of the live performance, sporting event, or other activity taking place at the place of public amusement. This subsection does not provide immunity from criminal liability for any use of force beyond reasonable force by an owner or lessee of a place of public amusement, an agent of either the owner or lessee, or a performer or participant at a place of public amusement.

- (d)
 - (1) Notice has been given that the general public is restricted from access to a portion of a place of public amusement if a printed written notice of the restricted access has been conspicuously posted or exhibited at the entrance to that portion of the place of public amusement. If a printed written notice is posted or exhibited as described in this subsection, regarding a portion of a place of public amusement, in addition to that posting or exhibition, notice that the general public is restricted from access to that portion of the place of public amusement also may be given, but is not required to be given, by either of the following means:
 - A. By notifying the person personally, either orally or in writing, that access to that portion of the place of public amusement is restricted;
 - B. By broadcasting over the public address system of the place of public amusement an oral warning that access to that portion of the public place of amusement is restricted.
 - (2) If notice that the general public is restricted from access to a portion of a place of public amusement is provided by the posting or exhibition of a printed written notice as described in subsection (d)(1) of this section, the Municipality, in a criminal prosecution for a violation of subsection (b) of this section, is not required to prove that the defendant received actual notice that the general public is restricted from access to a portion of a place of public amusement.
 - (e)
 - (1) Whoever violates subsection (b) of this section is guilty of criminal trespass on a place of public amusement, a misdemeanor of the first degree.
 - (2) In addition to any jail term, fine or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (e)(1) of this section, a court may require an offender who violates this section to perform not less than thirty and not more than one hundred twenty hours of supervised community service work. (ORC 2911.23)

541.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 543
Storage of Materials and Vehicles

543.01	Definitions.	543.05	Removal and impounding of vehicles.
543.02	Storage on private property prohibited; exception.	543.06	Service of notice.
543.03	Notice of nuisance; violation.	543.99	Penalty.
543.04	Storage of building materials.		

CROSS REFERENCES

Impounding of vehicles - see TRAF. 303.08
 Leaving abandoned junk motor vehicle on private property without permission - see TRAF. 303.09
 Maximum street parking time; parking on private or public property - see TRAF. 351.14
 Abandoned refrigerators and airtight containers - see GEN. OFF. 521.01
 Removing obstructions from culverts, covered drains and natural watercourses - see GEN. OFF. 521.05
 Littering and deposit of garbage, rubbish, junk, etc. - see GEN. OFF. 521.08
 Storage of building materials on front or side yards prohibited - see P. & Z. 1165.06

543.01 DEFINITIONS.

As used in this chapter:

- (a) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (b) "Inoperable vehicle" means any style or type of vehicle which is in a dangerous condition, has defective or missing parts or is in such a condition generally as to be unfit for further use as a conveyance, or which will not start and run. (Ord. 5575. Passed 11-17-66.)

543.02 STORAGE ON PRIVATE PROPERTY PROHIBITED; EXCEPTION.

No person in charge of or in control of any private property, whether as owner, tenant, occupant, lessee or otherwise, shall allow any automobile parts, scrap metal, junk or inoperable vehicle to remain on such property longer than ten days after receipt of a written notice from the Police Department to remove the inoperable vehicle, automobile parts, scrap metal or junk from the property. However, this section shall not apply to automobile parts, scrap metal, junk or an inoperable vehicle in an enclosed building, shed or other enclosure, specially designed for the purpose of storage of such material unless the same should become a nuisance. (Ord. 5575. Passed 11-17-66.)

543.03 NOTICE OF NUISANCE; VIOLATION.

When, in the opinion of the Chief of Police, the storage of inoperable vehicles, automobile parts, scrap metal or junk in any building or specially designed enclosure has become a nuisance because the building or enclosure harbors rats, roaches or other vermin, or because of danger from fire or entry therein by juveniles or suspicious persons or upon repeated complaints by residents in the surrounding area, the Chief of Police or any member of the Police Department designated by him, shall give notice to the person in charge of or in control of the property that the building or enclosure has become a nuisance.

No person in charge of or in control of any property, whether as owner, tenant, occupant, lessee or otherwise, shall allow any inoperable vehicle, automobile parts, scrap metal or any junk or any junked vehicle to remain in any building or enclosure longer than thirty days after receipt of a written notice from the Chief of Police or any member of the Police Department designated by him that such building or enclosure has become a nuisance.

If any person, served with the notice as provided in this section, fails to cause such violation to cease within thirty days of the date upon which such notice was issued, he shall be subject to the penalties provided in this chapter. A separate offense shall be deemed committed on each day during or on which the violation occurred or continues beyond the thirty day period and no additional notice of violation is required to be given in such cases.
(Ord. 5575. Passed 11-17-66.)

543.04 STORAGE OF BUILDING MATERIALS.

Notwithstanding any other provision of this chapter, a person in charge of or in control of any property may purchase new or used building materials and place or store them on any lot or parcel of land when such materials are to be used by the purchaser or person in charge of or in control of the property in later construction on the same lot or any lot owned or controlled by the person; however, such material shall not remain on the lot, or parcel of land for a period of more than thirty days unless actual construction or erection planned for the use of the material has commenced and continues unabated daily, and such materials are actually used or consumed in the construction or are removed from the premises within a period of four months from the time such materials are first placed on the lot or parcel of land. No person shall move any material so stored or placed to another location within the City for the purpose of avoiding the intent of this section, except that any such material may be moved to another lot or parcel of land when the same has been sold to a bona fide purchaser for value for the purchaser's own use.

(Ord. 5575. Passed 11-17-66.)

543.05 REMOVAL AND IMPOUNDING OF VEHICLES.

Police are hereby authorized to remove or have removed any vehicle left at any place which is in violation of this chapter. Such a vehicle shall be impounded until claimed or disposed of in accordance with Ohio R.C. Chapter 737.

(Ord. 5575. Passed 11-17-66.)

543.06 SERVICE OF NOTICE.

A notice under this chapter shall be in writing and shall be served upon the person in charge of or in control of property, whether as owner, tenant, occupant, lessee or otherwise, either personally or at the usual place of residence of such person in charge of or in control of the property, or by registered or certified mail, addressed to the person's last known place of residence. (Ord. 5575. Passed 11-17-66.)

543.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor. Each day a violation is committed or permitted to continue shall constitute a separate offense.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 545 Theft and Fraud

545.01	Definitions.	545.11	Making or using slugs.
545.02	Determining property value in theft offense.	545.12	Tampering with coin machines.
545.03	Property exceptions as felony offense.	545.13	Criminal simulation.
545.04	Detention of shoplifters; rights of museums and libraries.	545.14	Tampering with records.
545.05	Petty theft.	545.15	Securing writings by deception.
545.06	Unauthorized use of a vehicle; vehicle trespass.	545.16	Personating an officer.
545.07	Insurance fraud.	545.17	Defrauding creditors.
545.08	Unauthorized use of property.	545.18	Receiving stolen property.
545.09	Passing bad checks.	545.19	Possession of criminal tools.
545.10	Misuse of credit cards.	545.20	Forgery of identification cards.
		545.21	Identity fraud.
		545.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Property defined - see GEN. OFF. 501.01(j)
 Cheating - see GEN. OFF. 517.05
 Falsification - see GEN. OFF. 525.02
 Impersonating a public servant - see GEN. OFF. 525.03

545.01 DEFINITIONS.

As used in this chapter, unless the context requires that a term be given a different meaning:

- (a) "Deception" means knowingly deceiving another or causing another to be deceived, by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act or omission that creates, confirms or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.

- (b) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.
- (c) "Deprive" means to do any of the following:
 - (1) Withhold property of another permanently, or for such period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
 - (2) Dispose of property so as to make it unlikely that the owner will recover it;
 - (3) Accept, use or appropriate money, property or services, with purpose not to give proper consideration in return for the money, property or services, and without reasonable justification or excuse for not giving proper consideration.
- (d) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license or interest is unlawful.
- (e) "Services" include labor, personal services, professional services, rental services, public utility services, including wireless service as defined in Ohio R.C. 5507.01(F)(1), common carrier services, and food, drink, transportation, entertainment and cable television services.
- (f) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film or other thing having in or upon it any written, typewritten or printed matter, and any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.
- (g) "Forge" means to fabricate or create, in whole or in part and by any means any spurious writing, or to make, execute, alter, complete, reproduce or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.
- (h) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver or display.
- (i) "Coin machine" means any mechanical or electronic device designed to do both of the following:
 - (1) Receive a coin, bill, or token made for that purpose;
 - (2) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.
- (j) "Slug" means an object that, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.
- (k) "Theft offense" means any of the following:
 - (1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42 to 2913.45, 2913.47, 2913.48, 2913.51, 2915.05, 2915.06 or 2921.41.

- (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (k)(1) hereof or a violation of Ohio R.C. 2913.41, 2913.81 or 2915.06 as it existed prior to July 1, 1996;
- (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit or fraud;
- (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (k)(1), (2) or (3) hereof.
- (l) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use or data that is contained within a computer system or computer network.
- (m) "Computer" means an electronic device that performs logical, arithmetic and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program or communication facilities that are connected or related, in a computer system or network to an electronic device of that nature.
- (n) "Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.
- (o) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.
- (p) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.
- (q) "Computer software" means computer programs, procedures and other documentation associated with the operation of a computer system.
- (r) "Data" means a representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system or computer network. For purposes of Section 545.07, "data" has the additional meaning set forth in subsection (a) of that section.
- (s) "Cable television service" means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.
- (t) "Gain access" means to approach, instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.
- (u) "Credit card" includes, but is not limited to, a card, code, device or other means of access to a customer's account for the purpose of obtaining money, property, labor or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine or a cash dispensing machine.
- (v) "Electronic fund transfer" has the same meaning as in 92 Stat. 3728, 15 U.S.C.A. 1693a, as amended.

- (w) “Rented property” means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the duration of possession of the property.
- (x) “Telecommunication” means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence or any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method.
- (y) “Telecommunications device” means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.
- (z) “Telecommunications service” means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.
- (aa) “Counterfeit telecommunications device” means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. “Counterfeit telecommunications device” includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or changing the electronic serial number in a wireless telephone.
- (bb)
 - (1) “Information service” means, subject to subsection (bb)(2) hereof, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing.
 - (2) “Information service” does not include any use of a capability of a type described in subsection (bb)(1) hereof for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
- (cc) “Elderly person” means a person who is sixty-five years of age or older.
- (dd) “Disabled adult” means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this State or the United States that has the function of so classifying persons.
- (ee) “Firearm” and “dangerous ordnance” have the same meanings as in Ohio R.C. 2923.11.

- (ff) “Motor vehicle” has the same meaning as in Ohio R.C. 4501.01.
- (gg) “Dangerous drug” has the same meaning as in Ohio R.C. 4729.01.
- (hh) “Drug abuse offense” has the same meaning as in Ohio R.C. 2925.01.
- (ii) “Police dog or horse” has the same meaning as in Ohio R.C. 2921.321.
- (jj) “Anhydrous ammonia” is a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described in this subsection. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately eighty-two per cent nitrogen to eighteen per cent hydrogen.
- (kk) “Assistance dog” has the same meaning as in Ohio R.C. 955.011.
- (ll) “Active duty service member” means any member of the armed forces of the United States performing active duty under Title 10 of the United States Code. (ORC 2913.01)

545.02 DETERMINING PROPERTY VALUE IN THEFT OFFENSE.

(a) If more than one item of property or service is involved in a theft offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property or services involved in the offense.

- (b) (1) When a series of offenses under Section 545.05, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06, or 545.08, 545.10(b)(1) or (2), or Section 545.15 or 545.20 involving a victim who is an elderly person or disabled adult, is committed by the offender in the offender’s same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. When a series of offenses under Section 545.05, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Sections 545.05 or 545.15 involving a victim who is an active duty service member or spouse of an active duty service member is committed by the offender in the offender’s same employment, capacity or relationship to another, all of those offenses shall be tried as a single offense. The value of the property or services involved in the series of offenses for the purpose of determining the value is the aggregate value of all property and services involved in all offenses in the series.
- (2) If an offender commits a series of offenses under Section 545.05 that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06 or 545.08, Section 545.10(b)(1) or (2), or Section 545.15 or 545.20, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05 or 545.15, whether committed against one victim or more than one victim, involving a victim who is an active duty service member or spouse of an active duty service member pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of

the property or services involved for the purpose of determining the value is the aggregate value of all property and services involved in all of the offenses in the course of conduct.

- (3) In prosecuting a single offense under subsection (b)(1) or (2), it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses in the offender's same employment, capacity, or relationship to another as described in subsection (b)(1) of this section or that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in subsection (b)(2) of this section. While it is not necessary to separately allege and prove each offense in the series in order to prosecute a single offense under subsection (b)(1) or (2) hereof, it remains necessary in prosecuting them as a single offense to prove the aggregate value of the property or services in order to meet the requisite statutory offense level sought by the prosecution.

(c) The following criteria shall be used in determining the value of property or services involved in a theft offense:

- (1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that has intrinsic worth to its owner and that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, is the amount that would compensate the owner for its loss.
- (2) The value of personal effects and household goods, and of materials, supplies, equipment and fixtures used in the profession, business, trade, occupation or avocation of its owner, which property is not covered under subsection (c)(1) hereof, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing the property with new property of like kind and quality.
- (3) The value of any real or personal property that is not covered under subsections (c)(1) or (2) hereof, and the value of services, is the fair market value of the property or services. As used in this section, "fair market value" is the money consideration that a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.

(d) Without limitation on the evidence that may be used to establish the value of property or services involved in a theft offense:

- (1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima-facie evidence of its value.
- (2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense, is prima-facie evidence of the value of the security or commodity.
- (3) When the property involved is livestock, poultry or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of the livestock, poultry or products.
- (4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of the instrument.

- (5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima-facie evidence of the value of the instrument.
- (6) When the property involved is a ticket of admission, ticket for transportation, coupon, token or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services that may be received by the instrument, is prima-facie evidence of the value of the instrument.
- (7) When the services involved are gas, electricity, water, telephone, transportation, shipping or other services for which the rate is established by law, the duly established rate is prima-facie evidence of the value of the services.
- (8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima-facie evidence of the value of the services. (ORC 2913.61)

545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, the provisions of Section 545.05 or 545.18 do not apply if the property involved is any of the following:

- (a) A credit card;
- (b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;
- (c) A firearm or dangerous ordnance as defined in Ohio R.C. 2923.11;
- (d) A motor vehicle identification license plate as prescribed by Ohio R.C. 4503.22, a temporary license placard or windshield sticker as prescribed by Ohio R.C. 4503.182, or any comparable license plate, placard or sticker as prescribed by the applicable law of another state or the United States;
- (e) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R.C. 4505.07;
- (f) A blank form for any license listed in Ohio R.C. 4507.01(A).
(ORC 2913.71)

545.04 DETENTION OF SHOPLIFTERS; RIGHTS OF MUSEUMS AND LIBRARIES.

(a) A merchant, or his employee or agent, who has probable cause to believe that items offered for sale by a mercantile establishment have been unlawfully taken by a person, may, for the purposes set forth in subsection (c) hereof, detain the person in a reasonable manner for a reasonable length of time within the mercantile establishment or its immediate vicinity.

(b) Any officer, employee or agent of a library, museum or archival institution may, for the purposes set forth in subsection (c) hereof or for the purpose of conducting a reasonable investigation of a belief that the person has acted in a manner described in subsections (b)(1) and (2) hereof, detain a person in a reasonable manner for a reasonable length of time within, or in the immediate vicinity of the library, museum or archival

institution, if the officer, employee or agent has probable cause to believe that the person has either:

- (1) Without privilege to do so, knowingly moved, defaced, damaged, destroyed or otherwise improperly tampered with property owned by or in the custody of the library, museum or archival institution; or
- (2) With purpose to deprive the library, museum or archival institution of property owned by it or in its custody, knowingly obtained or exerted control over the property without the consent of the owner or person authorized to give consent, beyond the scope of the express or implied consent of the owner or person authorized to give consent, by deception, or by threat.

(c) An officer, agent or employee of a library, museum or archival institution pursuant to subsection (b) hereof or a merchant or his employee or agent pursuant to subsection (a) hereof may detain another person for any of the following purposes:

- (1) To recover the property that is the subject of the unlawful taking, criminal mischief or theft;
- (2) To cause an arrest to be made by a peace officer;
- (3) To obtain a warrant of arrest.
- (4) To offer the person, if the person is suspected of the unlawful taking, criminal mischief, or theft and notwithstanding any other provision of this General Offenses or the Ohio Revised Code, an opportunity to complete a pretrial diversion program and to inform the person of the other legal remedies available to the library, museum, archival institution or merchant.

(d) The officer, agent or employee of the library, museum or archival institution, or the merchant or his employee or agent acting under subsection (a) or (b) hereof shall not search the person, search or seize any property belonging to the person detained without the person's consent, or use undue restraint upon the person detained.

(e) Any peace officer may arrest without a warrant any person that he has probable cause to believe has committed any act described in subsection (b)(1) or (2) hereof or that he has probable cause to believe has committed an unlawful taking in a mercantile establishment. An arrest under this subsection shall be made within a reasonable time after the commission of the act or unlawful taking.

(f) As used in this section:

- (1) "Archival institution" means any public or private building, structure or shelter in which are stored historical documents, devices, records, manuscripts or items of public interest, which historical materials are stored to preserve the materials or the information in the materials, to disseminate the information contained in the materials, or to make the materials available for public inspection or for inspection by certain persons who have a particular interest in, use for or knowledge concerning the materials.
- (2) "Museum" means any public or private nonprofit institution that is permanently organized for primarily educational or aesthetic purposes, owns or borrows objects or items of public interest, and cares for and exhibits to the public the objects or items.
- (3) "Pretrial diversion program" means a rehabilitative, educational program designed to reduce recidivism and promote personal responsibility that is at least four hours in length and that has been approved by any court in this State. (ORC 2935.041)

545.05 PETTY THEFT.

(a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(b) Whoever violates this section is guilty of petty theft, a misdemeanor of the first degree. Petty theft is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property or services stolen is one thousand dollars (\$1,000) or more; or
- (2) The victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, or
- (3) The property stolen is a firearm or dangerous ordnance, or
- (4) The property stolen is a motor vehicle, or
- (5) The property stolen is any dangerous drug, or
- (6) The property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, or
- (7) The property stolen is anhydrous ammonia, or
- (8) The property stolen is a special purpose article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.

(c) In addition to the penalties described in subsection (b) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

- (1) Unless subsection (c)(2) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
- (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to subsection (c)(1) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in Ohio R.C. 4510.02(A)(7), provided that the suspension shall be for at least six months.
- (3) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to subsections (c)(1) or (2) of this section, instead may require the offender to perform community service for a number of hours determined by the court.

(d) In addition to the penalties described in subsection (b) hereof, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the

property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of Ohio R.C. 2913.72.

(e) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under subsection (c) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Ohio R.C. Chapter 4510. (ORC 2913.02)

545.06 UNAUTHORIZED USE OF A VEHICLE; VEHICLE TRESPASS.

(a) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(b) This section does not apply to property removed from the State or if possession is kept for more than forty-eight hours.

(c) The following are affirmative defenses to a charge under this section:

- (1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that the actor was authorized to use or operate the property.
- (2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(d) No person shall knowingly enter into or upon a motor vehicle, motorcycle or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(e) Whoever violates subsection (a) hereof is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree. If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of subsection (a) hereof is a felony and shall be prosecuted under appropriate State law. (ORC 2913.03)

(f) Whoever violates subsection (d) hereof is guilty of vehicle trespass, a misdemeanor of the fourth degree.

545.07 INSURANCE FRAUD.

(a) As used in this section:

- (1) "Data" has the same meaning as in Section 545.01 and additionally includes any other representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner.
- (2) "Deceptive" means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information or by any other conduct, act or omission creates, confirms or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind or other objective or subjective fact.
- (3) "Insurer" means any person that is authorized to engage in the business of insurance in this State under Title XXXIX of the Ohio Revised Code; The Ohio Fair Plan Underwriting Association created under Ohio R.C. 3929.43; any health insuring corporation; and any legal entity that is self-insured and provides benefits to its employees or members.

- (4) "Policy" means a policy, certificate, contract or plan that is issued by an insurer.
- (5) "Statement" includes, but is not limited to, any notice, letter or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical or dental chart or other record; X-Ray, photograph, videotape or movie film; test result; other evidence of loss, injury or expense; computer-generated document; and data in any form.

(b) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do either of the following:

- (1) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive;
- (2) Assist, aid, abet, solicit, procure or conspire with another to prepare or make any written or oral statement that is intended to be presented to an insurer as part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive.

(c) Whoever violates this section is guilty of insurance fraud a misdemeanor of the first degree. If the amount of the claim that is false or deceptive is one thousand dollars (\$1,000) or more, insurance fraud is a felony and shall be prosecuted under appropriate State law.

(d) This section shall not be construed to abrogate, waive or modify Ohio R.C. 2317.02(A). (ORC 2913.47)

545.08 UNAUTHORIZED USE OF PROPERTY.

(a) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.

(b) The affirmative defenses contained in Section 545.06(c) are affirmative defenses to a charge under this section.

(c) Whoever violates this section is guilty of unauthorized use of property. Except as provided in subsection (d) hereof, unauthorized use of property is a misdemeanor of the fourth degree.

(d) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is a misdemeanor of the first degree. Unauthorized use of property is a felony and shall be prosecuted under appropriate State law if:

- (1) Unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, and if the value of the property is one thousand dollars (\$1,000) or more; or
- (2) If the victim of the offense is an elderly person or disabled adult.
(ORC 2913.04)

545.09 PASSING BAD CHECKS.

(a) As used in this section:

- (1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:
 - A. A check, bill of exchange, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument;
 - B. An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.
- (2) "Issue a check" means causing any form of debit from a demand deposit account.

(b) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.

(c) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored, if either of the following occurs:

- (1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later.
- (2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

(d) For purposes of this section, a person who issues or transfers a check, bill of exchange or other draft is presumed to have the purpose to defraud if the drawer fails to comply with Ohio R.C. 1349.16 by doing any of the following when opening a checking account intended for personal, family or household purposes at a financial institution:

- (1) Falsely stating that the drawer has not been issued a valid driver's or commercial driver's license or identification card issued under Ohio R.C. 4507.50;
- (2) Furnishing such license or card, or another identification document that contains false information;
- (3) Making a false statement with respect to the drawer's current address or any additional relevant information reasonably required by the financial institution.

(e) In determining the value of the payment for purposes of subsection (f) of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or transferred or caused to be issued or transferred in violation of subsection (a) of this section within a period of one hundred eighty consecutive days.

(f) Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this subsection, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of one thousand dollars (\$1,000) or more or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of one thousand five hundred dollars (\$1,500) or more, passing bad checks is a felony and shall be prosecuted under appropriate State law. (ORC 2913.11)

545.10 MISUSE OF CREDIT CARDS.

- (a) No person shall do any of the following:
 - (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
 - (2) Knowingly buy or sell a credit card from or to a person other than the issuer.
- (b) No person, with purpose to defraud, shall do any of the following:
 - (1) Obtain control over a credit card as security for a debt;
 - (2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained or is being used in violation of law;
 - (3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;
 - (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.
- (c) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.
- (d) Whoever violates this section is guilty of misuse of credit cards, a misdemeanor of the first degree. Misuse of credit cards is a felony and shall be prosecuted under appropriate State law if:
 - (1) The cumulative retail value of the property and services involved in one or more violations of subsection (b)(2), (3) or (4) hereof, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one thousand dollars (\$1,000) or more; or
 - (2) The victim of the offense is an elderly person or disabled adult and the offense involves a violation of subsection (b)(1) or (2) hereof.(ORC 2913.21)

545.11 MAKING OR USING SLUGS.

- (a) No person shall do any of the following:
 - (1) Insert or deposit a slug in a coin machine, with purpose to defraud;
 - (2) Make, possess or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.
- (b) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree. (ORC 2913.33)

545.12 TAMPERING WITH COIN MACHINES.

- (a) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with or insert any part of an instrument into any coin machine.
- (b) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of Ohio R.C. 2911.32 or of any theft offense, tampering with coin machines is a felony and shall be prosecuted under appropriate State law. (ORC 2911.32)

545.13 CRIMINAL SIMULATION.

- (a) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Make or alter any object so that it appears to have value because of antiquity, rarity, curiosity, source, or authorship, which it does not in fact possess;
- (2) Practice deception in making, retouching, editing, or reproducing any photograph, movie film, video tape, phonograph record, or recording tape;
- (3) Falsely or fraudulently make, simulate, forge, alter, or counterfeit any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, falsely or fraudulently cause to be made, simulated, forged, altered, or counterfeited any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, or use more than once any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303.
- (4) Utter, or possess with purpose to utter, any object that the person knows to have been simulated as provided in subsection (a)(1), (2) or (3) of this section.

(b) Whoever violates this section is guilty of criminal simulation, a misdemeanor of the first degree. If the loss to the victim is one thousand dollars (\$1,000) or more, criminal simulation is a felony and shall be prosecuted under appropriate State law. (ORC 2913.32)

545.14 TAMPERING WITH RECORDS.

(a) No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:

- (1) Falsify, destroy, remove, conceal, alter, deface or mutilate any writing, computer software, data, or record;
- (2) Utter any writing or record, knowing it to have been tampered with as provided in subsection (a)(1) hereof.

(b) Whoever violates this section is guilty of tampering with records, a misdemeanor of the first degree. If the violation involves data or computer software the value of which or loss to the victim is one thousand dollars (\$1,000) or more, or if the writing or record is a will unrevoked at the time of the offense, tampering with records is a felony and shall be prosecuted under appropriate State law. (ORC 2913.42)

545.15 SECURING WRITINGS BY DECEPTION.

(a) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.

(b) Whoever violates this section is guilty of securing writings by deception, a misdemeanor of the first degree. Securing writings by deception is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property or obligation involved is one thousand dollars (\$1,000) or more; or
 - (2) The victim of the offense is an elderly person, disabled adult, active duty service member or spouse of an active duty service member.
- (ORC 2913.43)

545.16 PERSONATING AN OFFICER.

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

(b) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree. (ORC 2913.44)

545.17 DEFRAUDING CREDITORS.

(a) No person, with purpose to defraud one or more of the person's creditors, shall do any of the following:

- (1) Remove, conceal, destroy, encumber, convey or otherwise deal with any of the person's property.
- (2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage the person's affairs or estate, the existence, amount or location of any of the person's property, or any other information regarding such property that the person is legally required to furnish to the fiduciary.

(b) Whoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree. If the value of the property involved is one thousand dollars (\$1,000) or more, defrauding creditors is a felony and shall be prosecuted under appropriate State law. (ORC 2913.45)

545.18 RECEIVING STOLEN PROPERTY.

(a) No person shall receive, retain or dispose of property of another, knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.

(b) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.

(c) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree. Receiving stolen property is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property involved is one thousand dollars (\$1,000) or more; or
 - (2) The property involved is:
 - A. Listed in Section 545.03; or
 - B. A motor vehicle as defined in Ohio R.C. 4501.01; or
 - C. A dangerous drug as defined in Ohio R.C. 4729.01.
 - D. A special purchase article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.
- (ORC 2913.51)

545.19 POSSESSION OF CRIMINAL TOOLS.

(a) No person shall possess or have under the person's control any substance, device, instrument, or article, with purpose to use it criminally.

- (b) Each of the following constitutes prima-facie evidence of criminal purpose:
- (1) Possession or control of any dangerous ordnance, or the materials or parts for making dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials, or parts are intended for legitimate use;
 - (2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use;

- (3) Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.

(c) Whoever violates this section is guilty of possessing criminal tools, a misdemeanor of the first degree. If the circumstances indicate that the substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, possessing criminal tools is a felony and shall be prosecuted under appropriate State law. (ORC 2923.24)

545.20 FORGERY OF IDENTIFICATION CARDS.

- (a) No person shall knowingly do either of the following:

- (1) Forge an identification card;
- (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.
- (3) As used in this section, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card" or other similar words appear on the card.

(b) Whoever violates subsection (a) hereof is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this subsection, forging or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or Ohio R.C. 2913.31 (B), forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars (\$250.00). (ORC 2913.31)

545.21 IDENTITY FRAUD.

(EDITOR'S NOTE: Former Section 545.21 has been deleted from the Codified Ordinances. Ohio R.C. 2913.49, from which Section 545.21 was derived, has been reclassified from a misdemeanor to a felony offense.)

545.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 549 Weapons and Explosives

549.01	Definitions.	549.06	Unlawful transactions in weapons.
549.02	Carrying concealed weapons.	549.07	Underage purchase of firearm.
549.03	Using weapons while intoxicated.	549.08	Discharging firearms.
549.04	Improperly handling firearms in a motor vehicle.	549.09	Throwing or shooting missiles.
549.05	Failure to secure dangerous ordnance.	549.10	Possessing replica firearm in school.
		549.11	Defacing identification marks of a firearm; possessing a defaced firearm.
		549.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law

License or permit to possess dangerous ordnance - see
Ohio R.C. 2923.18

Hunting prohibited - see GEN. OFF. 505.11

Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)

Property destruction by tear gas device, etc. - see GEN. OFF. 541.04

549.01 DEFINITIONS.

As used in this chapter:

- (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.
- (b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.
- (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.
- (c) "Handgun" means any of the following:
 - (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
 - (2) Any combination of parts from which a firearm of a type described in subsection (c)(1) of this section can be assembled.
- (d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.

- (e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.
- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall.
- (g) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:
 - (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pectretol, cyclitol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
 - (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
 - (5) Any firearm muffler or suppressor;
 - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.
- (l) "Dangerous ordnance" does not include any of the following:
 - (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
 - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;

- (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
 - (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (l)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
 - (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.
 - (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C.921(a)(4), as amended, and regulations issued under that Act.
- (m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.
- (n) (1) "Concealed handgun license" or "license to carry a concealed handgun" means, subject to subsection (n)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.
- (2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.1213, a licence to carry a concealed handgun issued under Ohio R.C. 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Ohio R.C. 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.

- (o) “Valid concealed handgun license” or “valid license to carry a concealed handgun” means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.
- (p) “Misdemeanor punishable by imprisonment for a term exceeding one year” does not include any of the following:
 - (1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;
 - (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.
- (q) “Alien registration number” means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien’s permanent resident card and may also be commonly referred to as the “USCIS number” or the “alien number”.
(ORC 2923.11)
- (r) “Active duty” has the same meaning as defined in 10 U.S.C. 101.
(ORC 2923.11)

549.02 CARRYING CONCEALED WEAPONS.

- (a) No person shall knowingly carry or have, concealed on the person’s person or concealed ready at hand, any of the following:
 - (1) A deadly weapon other than a handgun;
 - (2) A handgun other than a dangerous ordnance;
 - (3) A dangerous ordnance.
- (b) No person who has been issued a concealed handgun license, shall do any of the following:
 - (1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;
 - (2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person’s hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
 - (3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person’s hands in plain sight.

- (c) (1) This section does not apply to any of the following:
- A. An officer, agent or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this State, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.
 - C. A person's transportation or storage of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;
 - D. A person's storage or possession of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in the actor's own home for any lawful purpose.
- (2) Subsection (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, either is carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, unless the person knowingly is in a place described in division (B) of Ohio R.C. 2923.126.

(d) It is an affirmative defense to a charge under subsection (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:

- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.
- (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.
- (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.

(e) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsections (f)(2), (5) and (6) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law.
- (2) Except as provided in subsection (f)(5) of this section, if a person being arrested for a violation of subsection (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that subsection. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that subsection, and the offender shall be punished as follows:
- A. The offender shall be guilty of a minor misdemeanor if both of the following apply:
1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the arrest to the law enforcement agency that employs the arresting officer.
 2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars (\$500.00) if all of the following apply:
1. The offender previously had been issued a concealed handgun license and that license expired within the two years immediately preceding the arrest.
 2. Within forty-five days after the arrest, the offender presents any type of concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
 3. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

- C. If subsections (f)(2)A. and B. and (f)(5) of this section do not apply, the offender shall be punished under subsection (f)(1) or (6) of this section.
- (3) Except as otherwise provided in this subsection, carrying concealed weapons in violation of subsection (b)(1) hereof is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of subsection (b)(1) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed handgun license, carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128.
- (4) Except as otherwise provided herein, carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of Ohio R.C. 2923.12(B)(2) or (B)(4) or a substantially equivalent municipal ordinance, carrying concealed weapons is a felony and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a violation of subsection (b)(2) or (b)(3) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).
- (5) If a person being arrested for a violation of subsection (a)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125 and if the person is not in a place described in division (B) of Ohio R.C. 2923.126, the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than five hundred dollars (\$500.00). The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:
- A. Within ten days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, which were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.
- B. At the time of the citation, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

- (6) If a person being arrested for a violation of subsection (a)(2) of this section is knowingly in a place described in division (B)(5) of Ohio R.C. 2923.126, and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:
- A. Except as otherwise provided in this subsection, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a minor misdemeanor;
 - B. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;
 - C. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to two violations of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;
 - D. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to three or more violations of subsection (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.

(g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies. (ORC 2923.12)

549.03 USING WEAPONS WHILE INTOXICATED.

(a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree. (ORC 2923.15)

549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

(a) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

- (1) In a closed package, box or case;
- (2) In a compartment which can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;

- (4) If the firearm is at least twenty-four inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least eighteen inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(b) No person who has been issued a concealed handgun license, or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

- (1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active duty member of the armed forces of the United States and that the person then possesses or has a loaded handgun in the motor vehicle;
- (2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active duty member of the armed forces of the United States and that the person then possesses or has a loaded handgun in the commercial motor vehicle.
- (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.
- (4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

- (c)
 - (1) This section does not apply to any of the following:
 - A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this State, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.
 - (2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

- A. The person transporting or possessing the handgun is either carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125.
 - B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- (3) Subsection (a) of this section does not apply to a person if all of the following apply:
 - A. The person possesses a valid electric-powered all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the Chief of the Division of Wildlife.
 - B. The person is on or in an electric-powered all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.
 - C. The person is on or in an electric-powered all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, provided that the road is identified by an electric-powered all-purpose vehicle sign.
- (d)
 - (1) The affirmative defenses authorized in Section 549.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.
 - (2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.
- (e)
 - (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
 - (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b) of this section as it existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (b) of this section on or after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.
If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (a) of this section as the subsection existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (a) of this section on or after September 30, 2011, due to the

application of subsection (b)(4) of this section as it exists on and after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

(f) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (a) of this section is a misdemeanor of the fourth degree. Except as otherwise provided in this subsection, a violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in Ohio R.C. 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of subsection (b)(1) or (b)(2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128. A violation of subsection (b)(3) or (4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(3) or (4) of this section, a felony and shall be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (b)(3) or (4) of this section, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

(g) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies.

(h) As used in this section:

- (1) "Motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.
- (2) A. "Unloaded" means:
 1. With respect to a firearm other than a firearm described in subsection (h)(2)B. of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question and one of the following applies:
 - a. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.
 - b. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.
 2. For the purposes of subsection (h)(2)A.1.b. of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

- a. A package, box or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;
 - b. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.
3. For the purposes of subsection (h)(2)A. of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.
- B. “Unloaded” means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.
- (3) “Commercial motor vehicle” has the same meaning as in Ohio R.C. 4506.25(A).
- (4) “Motor carrier enforcement unit” means the motor carrier enforcement unit in the Department of Public Safety, Division of State Highway Patrol, that is created by Ohio R.C. 5503.34.

(i) Subsection (h)(2) of this section does not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in that subsection, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter or Ohio R.C. Chapter 2923. A person who is carrying a valid concealed handgun license may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter or Ohio R.C. Chapter 2923. (ORC 2923.16)

549.05 FAILURE TO SECURE DANGEROUS ORDNANCE.

(a) No person, in acquiring, possessing, carrying or using any dangerous ordnance shall negligently fail to take proper precautions:

- (1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person;
- (2) To insure the safety of persons and property.

(b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree. (ORC 2923.19)

549.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall:

- (1) Manufacture, possess for sale, sell or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack, sandbag, switchblade knife, springblade knife, gravity knife or similar weapon;
- (2) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing him to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
- (3) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Whoever violates this section is guilty of unlawful transactions in weapons.

Violation of subsections (a)(1) or (2) hereof is a misdemeanor of the second degree. Violation of subsection (a)(3) hereof is a misdemeanor of the fourth degree. (ORC 2923.20)

549.07 UNDERAGE PURCHASE OF FIREARM.

(a) No person under eighteen years of age shall purchase or attempt to purchase a firearm.

(b) No person under twenty-one years of age shall purchase or attempt to purchase a handgun, provided that this subsection does not apply to the purchase or attempted purchase of a handgun by a person eighteen years of age or older and under twenty-one years of age if either of the following apply:

- (1) The person is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.
- (2) The person is an active or reserve member of the armed services of the United States or the Ohio national guard, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio national guard, and the person has received firearms training from the armed services or the national guard or equivalent firearms training.

(c) Whoever violates subsection (a) hereof is guilty of underage purchase of a firearm, a delinquent act that would be a felony of the fourth degree if it could be committed by an adult. Whoever violates subsection (b) hereof is guilty of underage purchase of a handgun, a misdemeanor of the second degree. (ORC 2923.211)

549.08 DISCHARGING FIREARMS.

(a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality.

(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

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

549.09 THROWING OR SHOOTING MISSILES.

(a) No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction nor when otherwise lawfully authorized.

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

549.10 POSSESSING REPLICA FIREARM IN SCHOOL.

(a) No person shall knowingly possess an object in a school safety zone if both of the following apply:

- (1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.
- (2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

(b) Subsection (a) hereof does not apply to premises upon which home schooling is conducted. Subsection (a) hereof also does not apply to a school administrator, teacher, or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher, or employee, or any other person who with the express prior approval of a school administrator possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, reenactment, or other dramatic presentation, or a ROTC activity or another similar use of the object.

(c) Whoever violates subsection (a) hereof is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this subsection, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of Ohio R.C. 2923.122, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony and shall be prosecuted under appropriate State law.

- (d) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section and subject to subsection (d)(2) of this section, if the offender has not attained nineteen years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit, or probationary commercial driver's license that then is in effect from the range specified in division (A)(4) of Ohio R.C. 4510.02 and shall deny the offender the issuance of any permit or license of that type during the period of the suspension.

If the offender is not a resident of this State, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in division (A)(4) of Ohio R.C. 4510.02.

- (2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits, or privileges specified in subsection (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in that subsection, the court in its discretion may choose not to impose the suspension, revocation, or denial required in that subsection, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.

(e) As used in this section, “object that is indistinguishable from a firearm” means an object made, constructed, or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm. (ORC 2923.122)

**549.11 DEFACING IDENTIFICATION MARKS OF A FIREARM;
POSSESSING A DEFACED FIREARM.**

- (a) No person shall do either of the following:
 - (1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer’s serial number, or other mark or identification on a firearm.
 - (2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer’s serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.
- (b)
 - (1) Whoever violates subsection (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this subsection, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(1) of this section, defacing identification marks of a firearm is a felony and shall be prosecuted under appropriate State law.
 - (2) Whoever violates subsection (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this subsection, possessing a defaced firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, possessing a defaced firearm is a felony and shall be prosecuted under appropriate State law.
(ORC 2923.201)

549.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 551 Weeds and Trees

551.01	Trimming of trees and shrubbery.	551.03	Removal of weeds; assessment of costs.
551.02	Interference with electrical lines; trimming authorized.	551.99	Penalty.

CROSS REFERENCES

Assessments for tree planting or maintenance - see Ohio R.C. 727.011
 Notice to cut noxious weeds - see Ohio R.C. 731.51 et seq.
 Destruction of weeds - see Ohio R.C. 971.33 et seq.
 Injury or destruction of trees and growing products - see
 GEN. OFF. 541.06

551.01 TRIMMING OF TREES AND SHRUBBERY.

The owner of every lot or parcel of land within the corporate limits upon which there is a tree, plant or shrubbery with any part upon or overhanging a public street or sidewalk shall conform to the regulations of this section; otherwise, the City shall cause such tree, plant or shrubbery to be trimmed or cut down and removed in accordance with these regulations and assess the cost thereof against the owner of the lot or parcel of land.

- (a) The owner shall trim or cause to be trimmed the tree, plant or shrubbery so that a clear height of eight feet between the lowest branches of it and the street or sidewalk is maintained.
- (b) The owner shall trim or remove, as the case may require, every dead, decayed or broken tree, plant or shrubbery or part thereof, so that it shall not fall to the street or sidewalk.
- (c) The owner shall cut down and remove any tree, plant or shrubbery or any part thereof as may be necessary to provide a clear and unobstructed view of traffic from all directions at any street intersection, or to abate any nuisance in the protection of life, limb or property of persons, drivers of any vehicles or pedestrians using the street or sidewalk.
 (Ord. 4871. Passed 11-6-58.)

551.02 INTERFERENCE WITH ELECTRICAL LINES; TRIMMING AUTHORIZED.

(a) The Public Service Department is hereby authorized to trim any tree that may interfere with electrical lines of the City, strung along the streets and alleys and owned by the City.

(b) Such work may be done by City employees or by professional tree trimmers.
 (Ord. 5553. Passed 6-30-66.)

551.03 REMOVAL OF WEEDS; ASSESSMENT OF COSTS.

(a) The owner, occupant or person having the charge or management of any lot or parcel of land situated within the corporate limits, whether it be improved or unimproved, vacant, or occupied, shall cut or destroy or cause to be cut or destroyed any noxious or poisonous weeds or vines, or grass, growing upon any such lot or parcel of land, and prevent them/it from blooming or going to seed, or exceeding a height of twelve (12) inches.

(b) If the owner or person having charge of such land fails to comply with this chapter, the Director of Public Service/Safety shall cause the weeds, vines or grass to be cut. All expenses and labor costs incurred shall, when approved by Council, be paid out of municipal funds. Council shall make a written return to the Belmont County Auditor of the City's action, with a statement of charges for its services, the amount paid for labor, the applicable administrative fees, and a proper description of the premises. Such amounts, when allowed, shall be entered upon the tax duplicate and shall be a lien upon such lands from and after the date of the entry, and be collected as other taxes and returned to the City and deposited into the General Fund.

(c) The penalty for a violation of this section shall be as set forth in Section 551.99. (Ord. 2008-24. Passed 10-16-08.)

551.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 553 Railroads

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| 553.01 Obstructing streets by
railroad companies.
553.011 Obstructing streets by
abandoning the locomotive.
553.02 Climbing upon railroad cars. | 553.03 Duties of locomotive
engineer.
553.99 Penalty. |
|---|---|

CROSS REFERENCES

See sectional histories for similar State law
 Lighting railroads - see Ohio R.C. 723.33 et seq.
 Power to regulate train speed - see Ohio R.C. 723.48
 Vehicular homicide - see GEN. OFF. 537.02
 Criminal mischief - see GEN. OFF. 541.04

553.01 OBSTRUCTING STREETS BY RAILROAD COMPANIES.

- (a) (1) No railroad company shall obstruct or permit or cause to be obstructed a public street, road or highway by permitting a railroad car, locomotive or other obstruction to remain upon or across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon such street, road or highway.
- (2) At the end of each five minute period of obstruction of a public street, road or highway, each railroad company shall cause such railroad car, locomotive or other obstruction to be removed for sufficient time, not less than three minutes, to allow the passage of persons and vehicles waiting to cross.
- (3) This section does not apply to obstruction of a public street, road or highway by a continuously moving through train or caused by circumstances wholly beyond the control of the railroad company, but does apply to other obstructions, including without limitation those caused by stopped trains and trains engaged in switching, loading or unloading operations.
- (4) If a railroad car, locomotive, or other obstruction is obstructing a public street, road, or highway in violation of subsection (a)(1) hereof and the violation occurs in the unincorporated area of one or more counties, or in one or more municipal corporations, the officers and employees of each affected county or municipal corporation may charge the railroad company with only one violation of the law arising from the same facts and circumstances and the same act.

- (5) Upon the filing of an affidavit or complaint for violation of this subsection (a)(1) hereof, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred. (ORC 5589.21)

(b) For purposes of this section, "railroad company" includes the officers, employees and agents of such company.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be fined one thousand dollars (\$1,000).

553.011 OBSTRUCTING STREETS BY ABANDONING THE LOCOMOTIVE.

(a) No railroad company shall obstruct, or permit or cause to be obstructed, a public street, road, or highway, by permitting any part of a train whose crew has abandoned the locomotive to remain across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon the street, road, or highway, unless the safety of the train crew requires them to abandon the locomotive.

(b) Upon the filing of an affidavit or complaint for violation of this section, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred. (ORC 5589.211)

(c) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be fined five thousand dollars (\$5,000).
(ORC 5589.99)

553.02 CLIMBING UPON RAILROAD CARS.

(a) No person shall climb, jump, step or stand upon or cling or attach himself to a locomotive, engine or car upon the track of a railroad, unless in compliance with law or by permission under the rules of the corporation managing such railroad.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4999.02)

553.03 DUTIES OF LOCOMOTIVE ENGINEER.

(a) No person in charge of a locomotive shall fail to bring the locomotive to a full stop at least 200 feet before arriving at a crossing with another track, or proceed through the crossing before signaled to do so or before the way is clear.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If violation of this misdemeanor causes physical harm to any person, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4999.04)

553.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 555 Noise Control

555.01	Title.	555.09	Stopping and testing of motor vehicles by law enforcement officer.
555.02	Definitions.	555.10	Emergency exception.
555.03	Noise disturbances prohibited.	555.11	Special variances.
555.04	Specific prohibitions.	555.12	Abatement orders.
555.05	Maximum permissible sound levels by receiving land use.	555.13	Notice of violation.
555.06	Exemptions.	555.14	Other remedies.
557.07	Immediate threats to health and welfare.	555.99	Penalty.
555.08	Inspections by Safety Director and/or by law enforcement officers.		

CROSS REFERENCES

Making unreasonable noise - see GEN. OFF. 509.03(a)(2)

555.01 TITLE.

This chapter may be cited as the "Noise Control Ordinance of the City of Martins Ferry".
(Ord. 82-80. Passed 8-15-82.)

555.02 DEFINITIONS.

The following words and terms shall, throughout this chapter, have the meaning given as hereinafter set forth and defined. All terminology used by this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- (1) "A-weighted sound level" means the sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(a) or dBA.
- (2) "Construction" means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or on public or private rights of way, structures, utilities or similar property.
- (3) "Decibel" (db) means a unit for measuring the volume of a sound, equal to twenty times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty micropascals (twenty micronewtons per square meter).

- (4) "Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.
- (5) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage or loss which demands immediate action.
- (6) "Emergency work" means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency
- (7) "Gross vehicle weight rating" means the value specified by the manufacturer as the recommended maximum loaded weight of a single motor vehicle. In cases where trailers and tractors are separable, the gross combination weight rating (GCWR), which is the value specified by the manufacturer as the recommended maximum loaded weight of the combination vehicle, shall be used.
- (8) "Impulsive sound" means sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.
- (9) "Industrial area" means those areas so specified in the City Zoning Code.
- (10) "Motor vehicle" means every vehicle specified in Section 301.20 of the Traffic Code.
- (11) "Motorcycle" means every motor vehicle specified in Section 301.19 of the Traffic Code.
- (12) "Muffler or sound dissipative device" means a device for abating the sound of escaping gases of an internal combustion engine
- (13) "Noise" means any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
- (14) "Noise disturbance" means any sound which: endangers or injures the safety or health of humans or animals; or annoys or disturbs a reasonable person of normal sensitivities; or endangers or injures personal or real property.
- (15) "Person" means any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.
- (16) "Place of public employment" means any commercial facility open to the general public for purposes of entertainment.
- (17) "Powered model vehicle" means any self-propelled air-borne, waterborne or land-borne plan, vessel or vehicle, which is not designed to carry persons including but not limited to, any model airplane, boat, car or rocket.
- (18) "Public right of way" means any street, avenue, boulevard, highway, sidewalk, or alley or similar place which is owned or controlled by a governmental entity.
- (19) "Public space" means any real property or structure thereon which are owned or controlled by a governmental entity.
- (20) "Real property boundary" mean an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.
- (21) "Residential area" means those areas so specified in the City Zoning Code and Map.

- (22) "Commercial area" means those areas so specified in the City Zoning Code and Map.
- (23) "RMS sound pressure" means the square root of the time averaged square of the sound pressure, denoted P_{rms} .
- (24) "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.
- (25) "Sound level" means the weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, such as A, B, or C, as specified in the American National Standards Institute specifications for sound level meters (ANSI S1. 4-1971), or the latest approved revision thereof. If the frequency weighting employed is not indicated, the A-weighting shall apply.
- (26) "Sound level meter" means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter, and weighting networks used to measure sound pressure levels.
- (27) "Sound pressure" means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by sound energy.
- (28) "Sound pressure level" means twenty times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of twenty micropascals (20×10^{-6} N/m²). The sound pressure level is denoted L_p or SPL and is expressed in decibels.
- (29) "Weekday" means any day Monday through Saturday.
(Ord. 82-80. Passed 8-15-82.)

555.03 NOISE DISTURBANCES PROHIBITED.

No person shall unreasonably make, continue or cause to be made or continued, or permit any noise disturbance.

Noncommercial public speaking and public assembly activities conducted on any public space or public right of way with a permit from the Safety Director shall be exempt from the operation of this section.

(Ord. 82-80. Passed 8-15-82.)

555.04 SPECIFIC PROHIBITIONS.

The following acts, and the causing or permitting thereof, are declared to be in violation of this chapter:

- (a) Animals and Birds. Owning, possessing or harboring any animal or bird which frequently or for continued duration, howls, barks, meows, squawks, or makes other sounds which create a noise disturbance across a residential area real property boundary.
- (b) Place of Public Entertainment. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound in any place of public entertainment at a sound level greater than ninety-five dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near each public entrance, stating "WARNING: SOUND LEVELS WITHIN MAY CAUSE PERMANENT HEARING IMPAIRMENT".

- (c) Vehicle or Motorboat Repairs and Testing. Repairing, rebuilding, modifying or testing any motor vehicle, motorcycle or motor boat in such a manner as to cause a noise disturbance across a residential area real property boundary.
- (d) Adequate Mufflers or Sound Dissipative Devices.
 - (1) Operating or causing to be operated any motor vehicle or motorcycle not equipped with a stock muffler system or other sound dissipative device in good working order and in constant operation.
 - (2) Removing or rendering inoperative, or causing to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any stock muffler or sound dissipative device on a motor vehicle or motorcycle.
 - (3) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor boat, except through a muffler system or other device in good working order and in constant operation.
- (e) Motor Vehicles.
 - (1) Operating or permitting the operation of any motor vehicle or trailer with a gross vehicle weight rating (GVWR) in excess of 10,000 pounds or any auxiliary equipment attached to such a vehicle or trailer, for a period longer than twenty minutes in any hour while the vehicle is stationary, for reasons other than traffic congestion, between the hours of 11:00 p.m. and 6:00 a.m. of the following day.
 - (2) Racing the motor of any vehicle unnecessarily or operating any motor vehicle, except in an emergency in such manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicles squeal, or leave tire marks on the pavement or other surface, commonly called "peeling".
- (f) Loading and Unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects between the hours of 11:00 p.m. and 6:00 a.m. of the following day in such a manner as to cause a noise disturbance across a residential area real property boundary.
- (g) Construction. Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work:
 - (1) Between the hours of 9:00 p.m. and 6:00 a.m. of the following day on weekdays or 8:00 p.m. and 10:00 a.m. on Sundays, such that the sound therefrom creates a noise disturbance across a residential area real property boundary, except for emergency work of public service utilities or by special variance.
 - (2) This section shall not apply to the use of domestic power tools subject to subsection (k) hereof.
- (h) Emergency Signaling Devices.
 - (1) The intentional sounding or permitting the sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subsections (h)(2) and (3) hereof.

- (2) Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 8:00 a.m. or after 9:00 p.m. or the closing time of a commercial establishment, whichever shall occur later. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty seconds.
 - (3) Testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur before 8:00 a.m. or after 9:00 p.m. In no case shall such test time exceed ten minutes.
 - (4) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within two minutes of activation, or within a reasonable time after notification of activation.
 - (5) The sounding of any horn or other auditory signaling device on or in any motor vehicle on any public right of way or public space, except as a warning of danger.
- (i) Radios, Television Sets, Musical Instruments and Similar Devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound:
- (1) Between the hours of 11:00 p.m. and 6:00 a.m. the following day in such a manner as to create a noise disturbance across a residential area real property boundary.
 - (2) In such a manner as to create a noise disturbance at fifty feet (fifteen meters) from such device, when operated in or on a motor vehicle on a public right of way or public space.
- (j) Loudspeakers/Public Address Systems.
- (1) Using or operating for any noncommercial purpose any loudspeaker, public address system or similar device between the hours of 9:00 p.m. and 8:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential area real property boundary. Mobile sound vehicles amplifying noncommercial spoken language between 9:00 p.m. and 8:00 a.m. of the following day shall be exempt from this subsection with a permit from the Safety Director.
 - (2) Using or operating for any commercial purpose any loudspeaker, public address system or similar device between the hours of 9:00 p.m. and 8:00 a.m. of the following day such that the sound therefrom creates a noise disturbance on a public right of way or public space.
- (k) Domestic Power Tools. Operating or permitting the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, lawnmower, or other similar device used outdoors, other than powered snow removal equipment in residential areas between the hours of 11:00 p.m. and 6:00 a.m. of the following day on weekdays and before 9:00 a.m. or after 11:00 p.m. on Sundays so as to cause a noise disturbance across a residential area real property boundary.

(l) Powered Model Vehicle.

- (1) Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential area real property boundary or in a public space between the hours of 9:00 p.m. and 8:00 a.m. of the following day.
- (2) During the permitted period of operation, maximum sound levels in a residential area shall not exceed sixty dBA measured at a distance of fifty feet from any point on the path of a vehicle.
(Ord. 82-80. Passed 8-15-82.)

555.05 MAXIMUM PERMISSIBLE SOUND LEVELS BY RECEIVING LAND USE.

No person shall operate, cause to be operated, or permit on private property any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in Table I when measured at or within the property boundary of the receiving land use.

TABLE I. SOUND LEVELS BY RECEIVING LAND USE

<u>Receiving Land Use Category</u>	<u>Time (dBA)</u>	<u>Sound Level Limit</u>
Residential Area: two-family; Multi-family; high-rise; single family	6:00 a.m. to 11:00 p.m.	60
Residential, public space, open space, or institutional	11:00 p.m. to 6:00 a.m.	50
General commercial business or local commercial business	At all times	65
Industrial	At all times	70

(Ord. 82-80. Passed 8-15-82.)

555.06 EXEMPTIONS

The provisions of Section 555.04 and 555.05 shall not apply to organized school-related programs, activities or events, or to City authorized parades, or to sanctioned concerts in public parks.

The provisions of Section 555.05 shall not apply to:

- (a) Activities covered by Section 555.04 (g), (h) and (k);
 - (b) Refuse collection vehicles; and
 - (c) Railway locomotives and cars.
- (Ord. 82-80. Passed 8-15-82.)

555.07 IMMEDIATE THREATS TO HEALTH AND WELFARE.

No person shall operate, cause to be operated or permit on public or private property any source of continuous and/or impulsive sound in such a manner as to create sound levels which exceed the limits set forth in Table II or Table III when measured at a distance of fifty feet or fifteen meters from such source.

TABLE II

**CONTINUOUS SOUND LEVELS WHICH POSE
AN IMMEDIATE THREAT TO HEALTH AND
WELFARE (MEASURED AT 50 FEET OR 15
METERS)***

<u>Sound Level Limit (dBA)</u>	<u>Duration</u>
90	24 hours
93	12 hours
96	6 hours
99	3 hours
102	1.5 hours
105	45 minutes
108	22 minutes

* Use equal energy time-intensity trade-off if level varies; find energy equivalent over 24 hours.

TABLE III

**IMPULSIVE SOUND LEVELS WHICH POSE AN
IMMEDIATE THREAT TO HEALTH AND WELFARE
(MEASURED AT 50 FEET OR 15 METERS)**

<u>Sound Level Limit (dB)</u>	<u>Number of Repetitions Per 24-hour Period</u>
145	1
135	10
125	100

(Ord. 82-80. Passed 8-15-82.)

**555.08 INSPECTIONS BY SAFETY DIRECTOR AND/OR BY LAW
ENFORCEMENT OFFICERS**

The Safety Director and/or law enforcement officers shall, in addition to any other authority vested in them, have the power, upon presentation of proper credentials, to enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant may be obtained from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this chapter may exist. Such inspection may include administration of any necessary tests.

(Ord. 82-80. Passed 8-15-82.)

**555.09 STOPPING AND TESTING OF MOTOR VEHICLES BY LAW
ENFORCEMENT OFFICER.**

The law enforcement officer shall, in addition to any other authority vested in him, have the power to stop and test any motor vehicle or motorcycle operated on a public right of way or public space, reasonably suspected of violating any provision of this chapter, and issue a notice of violation or abatement order.

(Ord. 82-80. Passed 8-15-82.)

555.10 EMERGENCY EXCEPTION.

The provisions of this chapter shall not apply either to the emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work.

(Ord. 82-80. Passed 8-15-82.)

555.11 SPECIAL VARIANCES.

(a) The Safety Director shall have the authority consistent with this section, to grant special variances.

(b) Any person seeking a special variance pursuant to this section shall file an application with the Safety Director. The application shall contain information which demonstrates that bringing the source of sound or activity for which the special variance is sought into compliance with this chapter would constitute an unreasonable hardship on the applicant, on the community, or on other persons. Notice of an application for a special variance shall be given by the Safety Director to persons who frequent the area of the sound or activity and who may be adversely affected by the granting of the variance. Any individual who claims to be adversely affected by allowance of the special variance may file a statement with the Safety Director containing any information to support his claim.

(c) In determining whether to grant or deny the application, the Safety Director shall balance the hardship to the applicant, the community and other persons of not granting the special variance against the adverse impact on the health, safety and welfare of persons affected, the adverse impact on property affected, and any other adverse impacts of granting the special variance. Applicants for special variances and persons contesting special variances may be required to submit any information the Safety Director may reasonably require. In granting or denying an application the Safety Director shall place on public file a copy of the decision and the reasons for denying or granting the special variance.

(d) Special variances shall be granted by notice to the applicant containing all necessary conditions, including a time limit on the permitted activity. The special variance shall not become effective until all conditions are agreed to by the applicant. Noncompliance with any conditions of the special variance shall terminate it and subject the person holding it to those provisions of this chapter regulating the source of sound or activity for which the special variance was granted.

(e) Application for extension of time limits specified in special variances or for modification of other substantial conditions shall be treated like applications for initial special variances.

(f) The Safety Director may issue guidelines approved by resolution of Council defining the procedures to be followed in applying for a special variance and the criteria to be considered in deciding whether to grant a special variance.

(g) The decision of the Safety Director may be appealed by the person denied the special variance or by any person claiming to be adversely affected by allowance of the special variance. Such appeal shall be made to the Board of Zoning Appeals and review by the Board shall be "de novo".
(Ord. 82-80. Passed 8-15-82.)

555.12 ABATEMENT ORDERS.

In lieu of issuing a notice of violation as provided for in Section 555.13, the Safety Director or law enforcement officer may issue an order requiring the immediate abatement of any source of sound alleged to be in violation of this chapter.
(Ord. 82-80. Passed 8-15-82.)

555.13 NOTICE OF VIOLATION.

Except where a person is acting in good faith to comply with an abatement order issued pursuant to Section 555.12 violation of any provision of this chapter shall be cause for a notice of violation to be issued by the Safety Director or law enforcement officer.
(Ord. 82-80. Passed 8-15-82.)

555.14 OTHER REMEDIES.

No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom of any person for injury or damage arising from any violation of this chapter or from other law.
(Ord. 82-80. Passed 8-15-82.)

555.99 PENALTY.

(a) Whoever violates any provision of this chapter is guilty of a minor misdemeanor.

(b) Whoever willfully or knowingly violates any provision of this chapter, or violates Section 555.07 is guilty of a misdemeanor of the fourth degree.

(c) Each day of violation of any provision of this chapter shall constitute a separate offense.
(Ord. 82-80. Passed 8-15-82.)

CODIFIED ORDINANCES OF MARTINS FERRY
PART SEVEN - BUSINESS REGULATION CODE

- Chap. 705. Auctions.
- Chap. 709. Bench Advertising.
- Chap. 711. Amusement Devices.
- Chap. 713. Bowling Alleys and Billiard Rooms.
- Chap. 717. Canvassers and Solicitors.
- Chap. 721. Carnivals.
- Chap. 725. Fortunetellers.
- Chap. 729. Handbills.
- Chap. 733. Junk Dealers.
- Chap. 741. Pawnbrokers.
- Chap. 745. Peddlers and Transient Dealers.
- Chap. 753. Roller Rinks.
- Chap. 757. Taxicabs.
- Chap. 761. Transient Photographers.
- Chap. 765. Going Out of Business Sales.

CODIFIED ORDINANCES OF MARTINS FERRY
PART SEVEN - BUSINESS REGULATION CODE

CHAPTER 705
Auctions

EDITOR'S NOTE: Former Chapter 705 has been deleted from the Codified Ordinances. Ohio R.C. Chapter 4707, as amended by Am. H.B. 608 effective July 9, 1982, licenses both auction companies and auctioneers. Ohio R.C. 4707.111 now provides, "by enactment of Chapter 4707 of the Revised Code, it is the intent of the General Assembly to preempt municipal corporations and other political subdivisions from the regulation and licensing of auctioneers and auction sales."

(The next printed page is Page 7.)

CHAPTER 709 Bench Advertising

709.01	Permit required.	709.05	Permit issuance.
709.02	Permit application.	709.06	Permit revocation.
709.03	Permission of property owner required.	709.07	Benches prohibited in certain places.
709.04	Permit fee.	709.99	Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.65

Posting bills without consent of owner - see GEN. OFF. 537.07

Sign and billboard restrictions - see GEN. OFF. 537.21

709.01 PERMIT REQUIRED.

No person shall build, place or install a bench with advertising on it without first obtaining a permit from the Mayor.
(Ord. 5019. Passed 11-4-60.)

709.02 PERMIT APPLICATION.

An application for a permit for bench advertising shall be made out by the Mayor, shall be signed by the applicant and shall contain the following information and any additional information determined necessary by the Mayor:

- (a) Name of applicant;
 - (b) Complete description of the bench and the manner in which it is to be placed and maintained;
 - (c) Place where the bench is to be placed and maintained; and
 - (d) Type or nature of the advertising to be placed thereon.
- (Ord. 5019. Passed 11-4-60.)

709.03 PERMISSION OF PROPERTY OWNER REQUIRED.

Written permission from the property owner permitting the bench with advertising on it to be installed shall accompany the application.
(Ord. 5019. Passed 11-4-60.)

709.04 PERMIT FEE.

The fee for a bench advertising permit shall be one dollar (\$1.00) per bench per year.
(Ord. 5019. Passed 11-4-60.)

709.05 PERMIT ISSUANCE.

The Mayor is directed to issue a bench advertising permit only after it has been determined that the placement or erection of the bench containing advertising thereon is not harmful to the public morals, safety and health of the residents of the City and does not interfere with a place of business.

(Ord. 5019. Passed 11-4-60.)

709.06 PERMIT REVOCATION.

Whenever the Mayor determines that the bench advertising permittee or anyone in his employ has built, placed or installed a bench for which a permit would have been denied under Section 709.05, or whenever, at the discretion of the Mayor, it is determined that after due investigation the bench has become a public nuisance or is being used and occupied as a loafing place, then the Mayor, after written notice to the permittee, shall have the power to suspend and revoke the permit issued under the provisions of this chapter.

(Ord. 5019. Passed 11-4-60.)

709.07 BENCHES PROHIBITED IN CERTAIN PLACES.

No person shall build, place or install a bench containing advertising on it in the Martins Ferry City Park or Martins Ferry Memorial Park.

(Ord. 5019. Passed 11-4-60.)

709.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than twenty-five dollars (\$25.00). Each day a bench remains erected without complying with the provisions of this chapter, or after a permit has been revoked, shall constitute a separate offense.

(Ord. 5019. Passed 11-4-60.)

CHAPTER 711 Amusement Devices

711.01	Definitions.	711.16	Unlicensed or unregistered devices.
711.02	License required.	711.17	Operation by minors.
711.03	Issuance of license.	711.18	Hours of operation of arcades.
711.04	Denial of license.	711.19	Prohibited devices.
711.05	Applications.	711.20	Records to be kept.
711.06	Issuance of restrictions.	711.21	Coin-operated billiard tables; licensing; fees; minors.
711.07	License for one device or for group of devices.	711.22	Transfer of license and registration.
711.08	Fees.	711.23	Misrepresentation by a minor under the age of eighteen.
711.09	Additional devices.	711.24	Misrepresentation of name, age or identification of minor under the age of eighteen.
711.10	Affidavit required; false affidavit.	711.25	Posting of notice.
711.11	Gambling devices not to be licensed.	711.26	Compliance.
711.12	License and registration information.	711.99	Penalty.
711.13	License expiration.		
711.14	Suspension or revocation.		
711.15	Metal tag or plastic decal to be displayed on each machine.		

CROSS REFERENCES

State licensing of portable amusement devices - see Ohio
R.C. 1711.11(H); OAC 901-11-01
Gambling - see GEN. OFF. Ch. 517
Slugs - see GEN. OFF. 545.11
Tampering with coin machine - see GEN. OFF. 545.12

711.01 DEFINITIONS.

For the purpose of this chapter:

- (a) "Amusement arcade" means any place of business at which three or more mechanical or electrically operated amusement devices are located for the use of entertainment of persons patronizing the place of business.
- (b) "Exhibitor" means any individual, corporation or other entity owning and exhibiting or contracting or permitting any mechanical amusement device, as defined in subsection (e) hereof, to be installed, used and exhibited in his own place of business irrespective of the ownership of such device.

- (c) "Gambling device" means a device as defined in Section 517.01 of the General Offenses Code or which contains an automatic pay-off device for the return of slugs, money, coins, checks, tokens, merchandise or anything of value, or which contains an automatic device by the operation of which the player may win at uncertain intervals a free game, a free play or any other additional amusement.
- (d) "Good moral character" means not having been convicted of a crime involving moral turpitude within five years next preceding the date of the application.
- (e) "Mechanical amusement device" or "electrically operated amusement device" means a machine, device or instrument which, upon the insertion of a coin, token or slug, operates or may be operated for use as a game, contest of skill or amusement of any description and which is not a gambling device. "Mechanical amusement device" or "electrically operated amusement device" is not intended to and does not include merchandise vending machines or coin-operated mechanical or electrical musical instruments or devices.
- (f) "Owner" means any individual, corporation or other entity having title to any mechanical amusement device or amusement arcade as hereinabove defined.
- (g) "Minor" means any individual who is not eighteen years of age.
(Ord. 92-113. Passed 12-30-92.)

711.02 LICENSE REQUIRED.

No owner or exhibitor shall install the use of any coin-operated mechanical amusement device, or "skill pool" devices, and no owner or other person shall operate an amusement arcade without first obtaining an exhibitor's license therefor from the Chief of Police.
(Ord. 92-113. Passed 12-30-92.)

711.03 ISSUANCE OF LICENSE.

The Chief of Police is authorized to issue licenses to owners and exhibitors of coin-operated mechanical amusement devices, upon compliance with the requirements set forth in this chapter. This is to include coin-operated pool or billiard tables, commonly known as "skill pool" tables.
(Ord. 92-113. Passed 12-30-92.)

711.04 DENIAL OF LICENSE.

The Chief of Police is authorized and empowered to deny, for reasonable cause, applications for licenses. No license shall be issued under the provisions of this chapter to any applicant therefor unless the Chief of Police has found that such applicant is of good moral character. The lack of such qualification on the part of the applicant shall be deemed grounds for denial or revocation of such license by the Chief.
(Ord. 92-113. Passed 12-30-92.)

711.05 APPLICATIONS.

Every owner or other person, corporation, lodge or association desiring to obtain any exhibitor's license or licenses shall file an application with the Chief of Police upon a form to be prescribed by him, prior to the receiving of any such license or licenses, stating the number of coin-operated machines intended to be exhibited and including information as to the applicant's arrest record over the past five-year period immediately prior to the date of application, such application to include also an affidavit as to the good moral character of the applicant. (Ord. 92-113. Passed 12-30-92.)

711.06 ISSUANCE OF RESTRICTIONS.

The Chief of Police is authorized and empowered to establish, adopt and enforce, or cause to be enforced, such rules and regulations governing the issuance of the licenses and registrations required under this chapter as he may deem responsible and necessary and not inconsistent with the provisions of this chapter. The Chief shall adopt and enforce a rule or regulation requiring an affidavit by each applicant relative to his good moral character. (Ord. 92-113. Passed 12-30-92.)

711.07 LICENSE FOR ONE DEVICE OR FOR GROUP OF DEVICES.

The Chief of Police may issue licenses for one coin-operated mechanical amusement device or skill pool table or for more than one such device on the same license blank, in case one person or company is the owner of several machines, which it is desired to exhibit at different locations. However, for each machine issued, a numbered metal tag or plastic decal shall be issued to the licensee for each machine so covered. Such metal tags or plastic decals are to be provided by the Chief, one for each machine so licensed, and one is to be attached to each machine exhibited, for identification purposes.

In addition thereto, each owner requesting a group license shall file with his application a list of the machines to be licensed, showing the name of each exhibitor; the address of each exhibitor; the number of machines to be exhibited at each address; the nature of the business to be conducted at each place of exhibit; the make, name, model and other identifying information relative to the machines to be exhibited. Each group license issued shall show the numbers of the metal tags or plastic decals issued to cover such licensed machines. The license fee for a group license shall be the product of the number of machines licensed, times the fee for one license.

(Ord. 92-113. Passed 12-30-92.)

711.08 FEES.

The fees for licenses and registration shall be paid at the time of the issuance thereof and shall be as follows:

Mechanical or electrically operated amusement device:

One to ten - one hundred dollars (\$100.00) each, per calendar year;

Eleven to twenty - fifty dollars (\$50.00) each, per calendar year; and

Twenty-one and above - twenty-five dollars (\$25.00) each, per calendar year.
(Ord. 92-113. Passed 12-30-92.)

711.09 ADDITIONAL DEVICES.

A licensee desiring to exhibit additional mechanical amusement devices shall apply for a license and registration to cover the exhibition of such additional mechanical amusement devices in the manner above set forth, and shall pay the fees required by Section 711.08 for the exhibition of any such additional mechanical amusement devices.
(Ord. 92-113. Passed 12-30-92.)

711.10 AFFIDAVIT REQUIRED; FALSE AFFIDAVIT.

The exhibitor shall be required to furnish the Chief of Police the name of the owner of each mechanical amusement device. In the event the exhibitor is also the owner of such device he shall file an affidavit with the Chief setting forth that he is the actual bona fide owner of such mechanical amusement device and that, as such owner, he receives all the benefits from the operation thereof and that no other person has any actual or beneficial interest therein, either directly or indirectly.

Any person who swears falsely in any affidavit required to be made under the terms of this chapter shall be subject to the penalties provided therefor by State law.
(Ord. 92-113. Passed 12-30-92.)

711.11 GAMBLING DEVICES NOT TO BE LICENSED.

No license or registration shall be issued to an exhibitor or owner for any mechanical or electrically operated amusement device which is a gambling device.
(Ord. 92-113. Passed 12-30-92.)

711.12 LICENSE AND REGISTRATION INFORMATION.

Upon payment of the fees required by Section 711.08, the Chief of Police shall issue a license and registration which shall contain the name and address of the licensee; the number of mechanical amusement devices exhibited; the address at which it is desired to exhibit and operate the devices; the nature of the business conducted at such place; the make, name, model and other identifying information with reference to the particular devices desired to be exhibited; the serial number of the license; and such other further information as the Chief, in his discretion, may require.
(Ord. 92-113. Passed 12-30-92.)

711.13 LICENSE EXPIRATION.

All licenses shall expire at 11:59 p.m. on December 31 of each year unless earlier revoked by the Chief of Police.
(Ord. 92-113. Passed 12-30-92.)

711.14 SUSPENSION OR REVOCATION.

The license of any person violating any of the terms of this chapter or any of the rules and regulations established and adopted by the Chief of Police as provided in Section 711.06, except those relating to the exhibition or operation of such machine or device for gambling, shall, for the first violation thereof, be suspended by the Chief for not less than ten nor more than thirty days; for the second violation thereof, be suspended by the Chief for not less than thirty nor more than sixty days; and for the third violation thereof, shall be revoked by the Chief. For violation of the terms of this chapter or the rules and regulations established and adopted by the Chief of Police relating to the exhibition or operation of such machine or device for gambling, such license shall be revoked by the Chief.

In case of any hearing before the Chief of Police involving the denial of a license to an applicant therefor, as provided by Section 711.04, or involving the suspension or revocation of a license or a licensee, as provided herein, the Chief shall notify such applicant or licensee of such hearing by registered mail directed to the last address of such applicant or licensee on file with the Chief. In the event such license is denied, suspended or revoked, the Chief of Police shall notify such applicant or licensee of such denial, suspension or revocation in the same manner as provided above for notification of hearings.
(Ord. 92-113. Passed 12-30-92.)

711.15 METAL TAG OR PLASTIC DECAL TO BE DISPLAYED ON EACH MACHINE.

One of the metal tags or plastic decals issued by the Chief of Police, as required by this chapter, shall be attached to each device on the front thereof, adjacent to the coin slot of such mechanical amusement device or skill pool table licensed, so that the fact that the machine is licensed can be readily determined by municipal authorities at a glance.
(Ord. 92-113. Passed 12-30-92.)

711.16 UNLICENSED OR UNREGISTERED DEVICES.

No person shall keep, maintain, permit or allow any unlicensed and unregistered device to be in or upon any public place or place of business under the control, supervision or direction of such person, except such device as in this chapter is exempt from license and registration. (Ord. 92-113. Passed 12-30-92.)

711.17 OPERATION BY MINORS.

No exhibitor or owner of a mechanical or electrically operated amusement device shall permit any minor to use or operate any such device, located at a place of business operated by such owner or exhibitor, at any time that the serving or consumption of alcoholic beverages is permitted at such place of business unless:

- (a) Such device is located in a room in which the serving and consumption of alcoholic beverages is prohibited and such room is separated, by floor-to-ceiling walls and doors which are kept closed except when used by an individual for ingress and egress, from all rooms in which the serving or consumption of alcoholic beverages is permitted; or
- (b) Such minor is accompanied by a parent, guardian or other adult relative.
(Ord. 92-113. Passed 12-30-92.)

711.18 HOURS OF OPERATION OF ARCADES.

(a) No owner or exhibitor of an amusement arcade shall be open or permit playing between the hours of 2:30 a.m. and 9:00 a.m., Tuesday through Saturday; 2:30 a.m. to noon on Sunday; and midnight to 9:00 a.m. on Monday.

(b) No minor shall be within an amusement arcade during hours of curfew, as established by Section 509.08 of the General Offenses Code, unless accompanied by a parent, guardian or other adult charged with the care of such minor.
(Ord. 92-113. Passed 12-30-92.)

711.19 PROHIBITED DEVICES.

No owner or exhibitor shall install or permit the use of any mechanical or electrically operated amusement device which is a gambling device.

Any machine, device, instrument, apparatus or contrivance which is determined to be a gambling device may be seized, destroyed or demolished in the manner provided by law.
(Ord. 92-113. Passed 12-30-92.)

711.20 RECORDS TO BE KEPT.

The Chief of Police shall keep and maintain on file in his office a full and complete list of all licenses issued under the provisions of this chapter, and also a full and complete list of all mechanical amusement devices which are licensed and registered under the provisions of this chapter, together with a cross index showing the location of each such licensed and registered mechanical amusement device.
(Ord. 92-113. Passed 12-30-92.)

711.21 COIN-OPERATED BILLIARD TABLES; LICENSING; FEES; MINORS.

(a) Notwithstanding any other provision in this chapter, the exhibition and operation of coin-operated tables resembling pool or billiard tables, sometimes known as "skill pool", shall be permitted within the City when licensed under the provisions of this chapter and exhibited or operated in conformity with this chapter.

(b) No exhibitor shall install or permit the use of the aforesaid tables without first obtaining a license therefor from the Chief of Police.

(c) The Chief of Police is authorized and directed to issue licenses to exhibitors of such tables; provided, however, that no license shall be issued to an applicant therefor until the Chief has found that such applicant is of good moral character, and provided further, that such license shall not be issued unless the application is accompanied by the license fee therefor, which shall be one hundred dollars (\$100.00) per table per calendar year.

- (d) (1) No exhibitor or owner of such table shall permit any minor to use or operate such table, located at any place of business operated by such exhibitor or owner, at any time that the serving or consumption of alcoholic beverages is permitted at the place of business unless:
- A. Such table is located in a room in which the serving and consumption of alcoholic beverages is prohibited and such room is separated by floor-to-ceiling walls and doors which are kept closed except when used by an individual for ingress and egress, from all rooms in which the serving or consumption of alcoholic beverages is permitted; or
 - B. Such minor is accompanied by a parent, guardian or other adult relative.
- (2) No owner or exhibitor of such a table shall permit playing between the hours of 2:30 a.m. to 9:00 a.m., Tuesday through Saturday; 2:30 a.m. to noon on Sunday; and midnight to 9:00 a.m. on Monday.
- (3) No owner or exhibitor of such a table shall permit minors to be within a place of business where such table is located during the hours of curfew, as established by Section 509.08 of the General Offenses Code, unless accompanied by a parent, guardian or other adult charged with the care of such minor.
- (4) No minor shall be within a place of business where such table is located during the hours of curfew, as established by Section 509.08 of the General Offenses Code, unless accompanied by a parent, guardian or other adult charged with the care of such minor.
- (Ord. 92-113. Passed 12-30-92.)

711.22 TRANSFER OF LICENSE AND REGISTRATION.

The license and registration required by this chapter shall not be transferable to any other person, but may be transferred to another instrument or device of the same classification. Upon the transfer of ownership of a licensed instrument or upon the removal of such instrument out of the corporate limits of the City, the license and registration of such instrument shall expire and the original owner in case of a sale or owner in case of a transfer outside of the corporate limits shall remove either the registration slip or sticker. Should the original owner in the case of a sale, or owner

in case of a transfer, make application for the licensing and registration of another instrument as required by this section during the remainder of the current days, he may file an application for transfer of registration and license accompanied by a transfer fee of two dollars (\$2.00) and the original license and registration. The Chief of Police shall thereon transfer the license and registration to the new instrument provided the applicant has in all other respects qualified for the issuance of a license and registration as set forth in this chapter.
(Ord. 92-113. Passed 12-30-92.)

711.23 MISREPRESENTATION BY A MINOR UNDER THE AGE OF EIGHTEEN.

No person under the age of eighteen years shall knowingly show or give false information concerning his name, age or identification for the purposes of operating any mechanical or electrically operated amusement device or skill pool table or remaining on the premises of an amusement arcade or an establishment having a skill pool table in violation of any provisions of this chapter.
(Ord. 92-113. Passed 12-30-92.)

711.24 MISREPRESENTATION OF NAME, AGE OR IDENTIFICATION OF MINOR UNDER THE AGE OF EIGHTEEN.

No person shall knowingly furnish any false information as to the name, age or other identification of another person under the age of eighteen for the purpose of such other person operating any mechanical or electrically operated amusement device or skill pool table or remaining on the premises of an amusement arcade or an establishment having a skill pool table in violation of any provisions of this chapter.
(Ord. 92-113. Passed 12-30-92.)

711.25 POSTING OF NOTICE.

The owner or exhibitor of every amusement arcade or skill pool table shall display at all times in a prominent place on the premises of every amusement arcade in the City and of every place in the City in which a skill pool table required by this chapter to be licensed is installed or used, a printed notice, which shall be furnished by the Chief of Police with the required license and which shall read substantially as follows:

WARNING TO PERSONS UNDER AGE

If you are under the age of 18, under the Ordinances of the City, if you remain on these premises after the established curfew, as set forth in Section 509.08 of the Codified Ordinances of the City of Martins Ferry, Ohio, and if you are not accompanied by a parent, guardian or other adult relative or furnish false information as to name, age or other identification, you are guilty of a misdemeanor of the fourth degree.

(Ord. 92-113. Passed 12-30-92.)

711.26 COMPLIANCE.

All owners or operators affected by the terms of this chapter shall be in full compliance with same no later than April 15, 1993.
(Ord. 92-113. Passed 12-30-92.)

711.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the fourth degree.
(Ord. 92-113. Passed 12-30-92.)

CHAPTER 713
Bowling Alleys and Billiard Rooms

713.01 License required.
 713.02 Fees.

713.03 Hours of business.
 713.99 Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.51, 751.61
 Gambling- see GEN. OFF. Ch. 517
 Permitting minors to play billiards - see GEN. OFF. 529.01
 Permitted in C-1, I-1 and I-2 Districts - see P. & Z.
 1147.01, 1151.01 and 1153.01

713.01 LICENSE REQUIRED.

No person shall operate a bowling alley or pool or billiard room without first obtaining a license from the Mayor. No license shall be granted for a period of less than one year. (1941 Code, Sec. 9-140.)

713.02 FEES.

The annual license fee for each bowling alley is ten dollars (\$10.00). The annual license fee for the first pool or billiard table is ten dollars (\$10.00); for the second table, seven dollars and fifty cents (\$7.50) and for each additional table, five dollars (\$5.00). (1941 Code, Sec. 9-140.)

713.03 HOURS OF BUSINESS.

No bowling alley, pool or billiard room shall be open for use between the hours of 1:00 a.m. and 7:00 a.m. of each day except Saturday when the closing hour shall be 12:00 midnight, and Sunday, when it may be open only between the hours of 1:00 p.m. and 11:00 p.m. (Ord. 5642. Passed 7-20-67.)

713.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00). (Ord. 5642. Passed 7-20-67.)

CHAPTER 717
Canvassers and Solicitors

717.01	License required.	717.05	License to be carried; police inspection.
717.02	Definition.	717.06	License fees.
717.03	License application.	717.07	License revocation.
717.04	License issuance; license not transferable.	717.99	Penalty.

CROSS REFERENCES

Charitable solicitations - see Ohio R.C. Ch. 1716
Trespass - see GEN. OFF. 537.06
Peddlers; transient dealers - see BUS. REG. Ch. 745
Transient photographers - see BUS. REG. Ch. 761

717.01 LICENSE REQUIRED.

No solicitor or canvasser shall engage in canvassing or soliciting within the corporate limits of the City without first obtaining a license in compliance with the provisions of this chapter. (Ord. 5176. Passed 7-5-62.)

717.02 DEFINITION.

"Canvasser" or "solicitor" means any individual, whether a resident of the City or not, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance from place to place, from house to house or from street to street, taking or attempting to take orders for the sale of goods, wares or merchandise, personal property of any nature for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether or not he is collecting advance payment on such sale. This definition includes any person who, for himself or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad box car, boat, hotel room, lodging house, apartment, shop or any other place within the City for the sole purpose of exhibiting samples and taking orders for future delivery. (Ord. 5176. Passed 7-5-62.)

717.03 LICENSE APPLICATION.

Any application for a canvasser's or solicitor's license shall be made in writing to the Mayor and shall set forth the following:

- (a) The name and description of the applicant;
- (b) The permanent home address and full local address of the applicant;
- (c) A brief description of the nature of the business and the goods to be sold;

- (d) The name and address of the applicant's employer, if any; and
- (e) The length of time for which the license is desired.
(Ord. 5176. Passed 7-5-62.)

717.04 LICENSE ISSUANCE; LICENSE NOT TRANSFERABLE.

The Mayor may issue a canvasser's or solicitor's license if he is satisfied with the character of the applicant. The license shall not be transferable, nor shall it be used by any person other than the licensee, his employee or agent.
(Ord. 5176. Passed 7-5-62.)

717.05 LICENSE TO BE CARRIED; POLICE INSPECTION.

Each person to whom a canvasser's or solicitor's license is issued shall carry the license on his person at all times, and shall, when requested by any member of the Police Department, produce his license for inspection.
(Ord. 5176. Passed 7-5-62.)

717.06 LICENSE FEES.

The Mayor may issue a canvasser's or solicitor's license to any suitable person who applies for one, upon payment of a fee of twenty-five dollars (\$25.00) per day. The Mayor may issue a license for a period of one year, six months or three months according to the following fee schedule:

- \$300.00 for one year;
- \$200.00 for six months,
- \$100.00 for three months.

(Ord. 5176. Passed 7-5-62; Ord. 2016-15. Passed 12-27-16.)

717.07 LICENSE REVOCATION.

Any canvasser's or solicitor's license may be revoked by the Mayor for cause, but in such case the pro-rata part of the license fee for the unexpired term shall be returned to the licensee. (Ord. 5176. Passed 7-5-62.)

717.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00). (Ord. 5176. Passed 7-5-62.)

CHAPTER 721 Carnivals

721.01 License required.
721.02 Fees.

721.99 Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.48, 715.63, 3765.02
Indecency and obscenity - see GEN. OFF. Ch. 521
Fortunetellers - see BUS. REG. Ch. 725

721.01 LICENSE REQUIRED.

Any person who is the owner, lessee, manager or proprietor of any traveling carnival or part thereof, consisting of two or more shows, exhibitions or other devices for public entertainment, before engaging in such business in the City, shall obtain a license from the Mayor. (Ord. 3719. Passed 8-17-45.)

721.02 FEES.

Carnival license fees, payable to the Mayor, are three hundred dollars (\$300.00) for the first day a carnival is conducted, and two hundred dollars (\$200.00) for each additional day. The sums shall be used to regulate such business in the City. (Ord. 3719. Passed 8-17-45.)

721.99 PENALTY.

Whoever violates any provision of this chapter, or fails to pay the license fee, shall be fined not more than five hundred dollars (\$500.00). (Ord. 4871. Passed 11-6-58.)

CHAPTER 725
Fortunetellers

725.01 License required; fee.

725.99 Penalty.

CROSS REFERENCE
State law provisions - see Ohio R.C. 2911.16

725.01 LICENSE REQUIRED; FEE.

The Mayor may grant a license to any person to represent himself as a fortuneteller, astrologer, clairvoyant, phrenologist or palmister, upon receiving from the applicant a fee of fifty dollars (\$50.00) for each day.
(1941 Code, Sec. 9-201.)

725.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00).
(Ord. 4871. Passed 11-6-58.)

CHAPTER 729 Handbills

729.01	Definitions.	729.06	License fees.
729.02	Identification required.	729.07	Exceptions.
729.03	License required.	729.08	Offensive handbills.
729.04	License application.	729.99	Penalty.
729.05	License revocation; license not transferable.		

CROSS REFERENCES

Littering- see GEN. OFF. 517.08
Trespass - see GEN. OFF. 537.06
Posting bills without permission - see GEN. OFF.
537.07

729.01 DEFINITIONS.

As used in this chapter the following words, terms and phrases have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "Commercial handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter or literature:
 - (1) Which advertises for sale any merchandise, product, commodity or thing;
 - (2) Which directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interests thereof by sales;
 - (3) Which directs attention to or advertises any meeting, theatrical or other performance or event, for which an admission fee is charged; or
 - (4) Which, while containing reading matter other than advertising matter, is predominately and essentially an advertisement, and is distributed or circulated for advertising purposes.
- (b) "Newspaper" means any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office of the United States in accordance with Federal regulation and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, means any periodical or current magazine regularly published with not less than four issues per year and sold to the public.
- (c) "Handbill distributor" means any person engaged in the sale of noncommercial handbills, the distribution of noncommercial handbills, the distribution for contribution of noncommercial handbills and any person receiving compensation directly or indirectly for the distribution of such noncommercial handbills.

- (d) "Noncommercial handbill" means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature not included in the definition of a commercial handbill, or a newspaper.
- (e) "Private premises" means any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and includes any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant thereto.
- (f) "Public place" means any street, avenue, lane, alley or other public way, and any public park, square, space, ground or building.
(Ord. 3562. Passed 12-5-42.)

729.02 IDENTIFICATION REQUIRED.

No person shall distribute, deposit, scatter or circulate any noncommercial handbill in any place, under any circumstances, which does not have printed on the front or back cover, the name and address of the following:

- (a) The person who printed, wrote, compiled or manufactured the handbill.
- (b) The person who caused the handbill to be distributed; in the case of a fictitious person or club, in addition to such fictitious name, the true names and addresses of the owners, managers or agents of the person sponsoring the handbill shall also appear on it.
(Ord. 3562. Passed 12-5-42.)

729.03 LICENSE REQUIRED.

No person shall sell noncommercial handbills, distribute noncommercial handbills or hand out noncommercial handbills for contribution in any public place or private premises, without first obtaining a license.
(Ord. 3562. Passed 12-5-42.)

729.04 LICENSE APPLICATION.

Any person desiring a handbill license shall apply in writing to the Mayor upon a form provided for this purpose. The form shall contain, among other information which may be required, the name, the business address and a brief description of the nature of the business to be conducted by the applicant, together with a request for a license for the period for which the applicant seeks to engage in such business.
(Ord. 3562. Passed 12-5-42.)

729.05 LICENSE REVOCATION; LICENSE NOT TRANSFERABLE.

Without excluding other just grounds for revocation, the Mayor may revoke any handbill license obtained under an application containing a false or fraudulent statement knowingly made by the applicant, for violation of any provision of this chapter, or on any other grounds specified by law. The application shall be accompanied by the fee specified in Section 729.06. No license issued under this chapter shall be transferable; and if any such license is surrendered by the licensee therein named, or is revoked for cause, neither the licensee named in such license, nor any other person, shall be entitled to any refund of any part of such fee.
(Ord. 3562. Passed 12-5-42.)

729.06 LICENSE FEES.

The fee for a handbill license is ten dollars (\$10.00) for a period of one year or less.
(Ord. 4871. Passed 11-6-58.)

729.07 EXCEPTIONS.

The provisions of this chapter do not apply to the distribution of mail by the United States, nor to newspapers or commercial handbills.

The provisions of this chapter do not apply to the distribution of political literature and political cards of candidates running for public office.
(Ord. 3562. Passed 12-5-42.)

729.08 OFFENSIVE HANDBILLS.

No person shall post, hand out for contribution, distribute or sell any noncommercial handbill, and the Mayor shall refuse to issue a license to any person to post, hand out for contribution, distribute or sell any noncommercial handbill, when such person by his actions or by the contents of his noncommercial handbill may:

- (a) Reasonably tend to incite riot or other public disorder; advocate disloyalty to or the overthrow of the Government of the United States or of this State by means of an artifice, scheme or violence; urge any unlawful conduct; encourage or tend to encourage a breach of the public peace or good order of the community; or
- (b) Be offensive to public morals or decency or contain blasphemous, obscene, libelous or scurrilous language.

(Ord. 3562. Passed 12-5-42.)

729.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00).
(Ord. 4871. Passed 11-6-58.)

CHAPTER 733 Junk Dealers

733.01	License required.	733.05	New yards must be east of
733.02	License fee.		First Street.
733.03	Records, reports and inspections.	733.99	Penalty.
733.04	Building or fenced enclosure required for business and storage.		

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.61
 Automobile dealers and salesmen- see Ohio R.C. Ch. 4517
 Secondhand dealers - see Ohio R.C. Ch. 4737
 Record of transactions required - see Ohio R.C. 4737.01,
 4737.04
 Dealing with minors prohibited - see Ohio R.C. 4737.03
 Receiving stolen property - see GEN. OFF. 537.14
 Junk yards permitted in I-2 District - see P. & Z. 1153.01(t)

733.01 LICENSE REQUIRED.

No person who is the owner of a junk shop or who is engaged in the business of a junk dealer shall engage in any such business unless a license is obtained from the Mayor.
 (1941 Code, Sec. 9-100.)

733.02 LICENSE FEE.

The cost of a junk dealer's license is fifty dollars (\$50.00) per year, and no license shall be issued for less than one year.
 (Ord. 4884. Passed 1-15-59.)

733.03 RECORDS, REPORTS AND INSPECTIONS.

Each junk dealer shall keep a ledger or book showing an accurate record of each purchase with a description of the merchandise including the name and address of the seller.

It is the duty of each junk dealer to make a weekly report to the Chief of Police of all merchandise bought during the preceding week.

It is the duty of each junk dealer to admit to his premises at any time any member of the Police Department for the purpose of examining merchandise and searching for stolen property without the formality of a search warrant.
 (Ord. 4871. Passed 11-6-58.)

733.04 BUILDING OR FENCED ENCLOSURE REQUIRED FOR BUSINESS AND STORAGE.

(a) No person shall maintain a junk yard or junk shop unless the business is carried on entirely inside a building, or unless the premises on which the business is carried on is entirely enclosed by a solidly built fence at least seven feet high and approved by the Chief of the Fire Department. The fence shall be maintained in a neat, substantial, safe condition and shall be painted. Gates for access to the premises shall swing inwardly, and the gates shall be kept closed when the premises are not open for business.

(b) No junk shall be stored in the City unless the same is in a building or enclosed yard. Such junk, whether inside a building or in an enclosed yard, shall be so piled or placed that adequate passageways are open.
(Ord. 4975. Passed 4-2-60.)

733.05 NEW YARDS MUST BE EAST OF FIRST STREET.

(a) There shall be no establishment of junk yards west of First Street within the corporate limits of the City.

(b) Junk yards may be established east of First Street, provided the required license is secured.

(c) Junk yards that are now in business may remain at their present locations, but shall not move to a new location except to one that is east of First Street.
(Ord. 5446. Passed 7-15-65.)

733.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00). (Ord. 4871. Passed 11-6-58.)

CHAPTER 741 Pawnbrokers

741.01 License; fee; bond.

741.99 Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.61

State law provisions - see Ohio R.C. Ch. 4727

Maximum interest and charges allowed - see Ohio R.C. 4727.06

Daily report to Police Department - see Ohio R.C. 4727.09

Purchase from minor or drunkard prohibited - see Ohio R.C. 4727.10

741.01 LICENSE; FEE; BOND.

The Mayor may grant a pawnbroker's license to any person of good moral character who may apply therefor, when the applicant pays the sum of forty dollars (\$40.00) per year and executes a bond as provided by Ohio R.C. 4727.03.
(1941 Code, Sec. 9-200.)

741.99 PENALTY.

Whoever violates any provisions of this chapter shall be fined not more than fifty dollars (\$50.00).
(Ord. 4871. Passed 11-6-58.)

CHAPTER 745 Peddlers and Transient Dealers

745.01	Definitions; applicability.	745.04	Huckster's license and fees.
745.02	License required; exceptions.	745.05	Revocation of license.
745.03	Mayor may grant license; fees.	745.99	Penalty.

CROSS REFERENCES

Power to inspect food products - see Ohio R.C. 715.46
 Power to regulate peddlers - see Ohio R.C. 715.61
 Power to regulate temporary stores, transient dealers - see Ohio R.C. 715.64
 Frozen desserts - see Ohio R.C. 3717.51 et seq.
 Littering - see Ohio R.C. 3767.20; GEN. OFF. 517.08
 Sales of goods and services within right of way of interstate and other state highways - see Ohio R.C. 5515.07
 Retail sales license - see Ohio R.C. 5739.17
 Trespassing - see GEN. OFF. 537.06
 Use of stands on sidewalks prohibited - see GEN. OFF. 537.21
 Canvassers; solicitors- see BUS. REG. Ch. 717
 Transient photographers - see BUS. REG. Ch. 761

745.01 DEFINITIONS; APPLICABILITY.

As used in this chapter:

- (a) "Hawker, " "peddler " or "itinerant vendor" means any person who sells, barter or exchanges any goods, wares, produce, merchandise or other articles of value at any place in, upon, along or through the streets or alleys or other public places or from house to house.
- (b) "Transient dealer" means any person who opens a store temporarily for the sale of goods, wares and merchandise or other articles of value or purchases the entire stock of a merchant for the purpose of closing it out at reduced prices.
- (c) "Billposter" means any person who engages in the business of billposting, card tacking or the distributing of advertising material of any article or compound.

The provisions of this chapter shall not apply to any person doing business continuously for the period of one year within the City.
 (1941 Code, Sec. 9-60.)

745.02 LICENSE REQUIRED; EXCEPTIONS.

No person shall engage in or carry on the business of billposter, itinerant vendor, peddler, transient dealer, sign painter, hawker or second-hand dealer without having

procured a license to do so. The provisions of this chapter shall not apply to a sign painter who is a resident of the City, to any person selling agricultural produce of his own production, to the manufacturer of any article manufactured by him, to sales by sample only or to any person selling newspapers.

(1941 Code, Sec. 9-61.)

745.03 MAYOR MAY GRANT LICENSE; FEES.

(a) The Mayor may grant a license as required by Section 745.02 to any suitable applicant upon payment of the fee specified:

- (1) One hundred dollars (\$100.00) per calendar year for itinerant vendors, peddlers, hawkers or transient dealers; and
(Ord. 2016-15. Passed 12-27-16.)
- (2) Fifteen dollars (\$15.00) per calendar year for billposters, sign painters and second-hand dealers.
(Ord. 89-58. Passed 8-3-89.)

(b) The Mayor may issue a license for the period of one year, six months or three months, to any suitable applicant except to a transient dealer, upon payment of the fee specified:

- (1) \$500.00 for one year;
- (2) \$300.00 for six months;
- (3) \$200.00 for three months.

(1941 Code, Sec. 9-62.)

745.04 HUCKSTER'S LICENSE AND FEES.

The provisions of this chapter shall not apply to hucksters dealing in vegetables or other farm products.

The Mayor may grant a huckster's license to any suitable applicant, dealing in vegetables or in any other farm produce upon payment of the fee specified:

- (a) \$1.00 per day;
- (b) \$25.00 per month;
- (c) \$100.00 per year.

(Ord. 4871. Passed 11-6-58.)

745.05 REVOCATION OF LICENSE .

Any license required by this chapter may be revoked by the Mayor for cause, but in such case the pro rata part of the license fee for the unexpired term shall be returned to the licensee. (1941 Code, Sec. 9-64.)

745.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00). (Ord. 4871. Passed 11-6-58.)

CHAPTER 753 Roller Rinks

753.01	License required.	753.03	Closing hours.
753.02	License fee.	753.99	Penalty.

CROSS REFERENCES

Authority to license - see Ohio R.C. 3773.19
 Intoxication - see GEN. OFF. 509.03
 Minor's curfew - see GEN. OFF. 529.07
 Permitted in C-1, I-1 and I-2 Districts - see P. & Z. 1147.01,
 1151.01 and 1153.01

753.01 LICENSE REQUIRED.

No person shall operate a roller rink without first obtaining a license from the Mayor. No license shall be granted for a period less than one year.
 (Ord. 5067. Passed 3-18-61.)

753.02 LICENSE FEE.

The annual license fee for each roller rink is twenty-five dollars (\$25.00).
 (Ord. 5067. Passed 3-18-61.)

753.03 CLOSING HOURS.

The closing hour of a roller rink shall be 10:00 p.m. For later closing and special events, permission may be granted by the Chief of Police and the Mayor. The closing hour for children under sixteen years of age shall be no later than 10:00 p.m. at all times, except when accompanied by a parent or legal guardian.
 (Ord. 5067. Passed 3-18-61.)

753.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00).
 (Ord. 5067. Passed 3-18-61.)

CHAPTER 757 Taxicabs

757.01	Definitions.	757.08	License suspension or revocation.
757.02	License to operate required.	757.09	Board of Appeals.
757.03	License application and fee.	757.10	Appeal procedure.
757.04	Additional information; applicants licensed outside City.	757.11	Driver qualifications.
757.05	Inspection of taxicabs.	757.12	Taxicab stands; rules; license and fee.
757.06	Insurance required; license card; display.	757.99	Penalty.
757.07	Vehicle license fee.		

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.22, 715.66
 Power to establish stands and fix rates - see Ohio R.C. 715.25
 Operators to be eighteen years of age - see Ohio R.C. 4507.321
 Operation and equipment - see Part Three, TRAFFIC CODE
 Transporting for immoral purpose - see GEN. OFF. 521.02
 Liquor consumption in motor vehicle - see GEN. OFF. 525.04

757.01 DEFINITIONS.

As used in this chapter:

- (a) "Taxicab" means every public vehicle equipped with or without a taximeter, used for the transportation for hire of not more than five passengers at any one time for which public patronage is solicited in whole or in part upon the streets or in quasi-public places.
 - (b) "Director" means the Director of Public Safety.
 - (c) "Owner" means any person, firm or corporation who has control, direction of operation, maintenance or the benefit of the collection of revenue, derived from the operation of a taxicab, on or over the streets of the City, whether as owner, licensee, bailee or otherwise, except a driver.
 - (d) "Driver" means every person actually in charge of the operation as the chauffeur of a taxicab, whether as owner, agent, servant or employee of the owner.
 - (e) "Taxicab stand" means those portions of the street set aside and designated by the Director of Public Safety for the parking of taxicabs waiting and seeking employment.
- (Ord. 5045. Passed 12-17-60.)

757.02 LICENSE TO OPERATE REQUIRED.

No owner shall operate a taxicab within or from the City unless he is the holder of a license issued pursuant to the provisions of this chapter.
(Ord. 5045. Passed 12-17-60.)

757.03 LICENSE APPLICATION AND FEE.

Any person desiring a taxicab owner's license shall file with the Director of Public Safety a written application on a form to be provided by the City. The application shall be in affidavit form and contain the following information:

- (a) The full name, age and residence of the applicant; if the applicant is a partnership, the full name, age and residence of each of the partners; if a corporation, the full name of the corporation, together with the full names of its principal officers;
- (b) The name under which the applicant will do business;
- (c) The type of vehicle which is proposed to be used in the service, with information as to age, carrying capacity and motor power; the color scheme and local symbols to be used, together with all other lettering or marks proposed to be used by the applicant on the vehicle;
- (d) The number of vehicles proposed to be used, the rate of fare to be charged and the method of charging; and
- (e) That the applicant is capable of and will carry liability insurance as specified in Section 757.06.
- (f) The Director or Council may require information as to the applicant's financial responsibility or fitness and such other information as they believe necessary.

The application shall be accompanied by a fee of ten dollars (\$10.00) to cover the expense of investigating the application, serving notice of the public hearing and granting or refusing to issue the license.
(Ord. 5045. Passed 10-17-60.)

757.04 ADDITIONAL INFORMATION; APPLICANTS LICENSED OUTSIDE CITY.

The Director of Public Safety may require additional information as to the financial responsibility and fitness of management, officers and stockholders of the applicant, and such other information as he may believe necessary. The Director shall have affixed thereto an affidavit duly sworn to by the applicant. However, in the case of applicants already licensed by a municipality abutting the City and whose principal business is the carrying of passengers elsewhere than in the City, it shall be sufficient to file an affidavit containing a description of the vehicle, together with the license number of the Municipality issuing the license, and a statement as to the surety bond or liability insurance filed with the municipality which issued the license covering the operation of the vehicle.
(Ord. 5045. Passed 10-17-60.)

757.05 INSPECTION OF TAXICABS.

The Director of Public Safety is authorized to establish such reasonable rules and regulations for the inspection of taxicabs and automobiles for hire, and their appurtenances, construction and condition of fitness as he believes necessary for the safety and adequate transportation of passengers and the public in general.
(Ord. 5045. Passed 10-17-60.)

757.06 INSURANCE REQUIRED; LICENSE CARD; DISPLAY.

No person shall engage in the business of operating a taxicab or permit it to be operated until the approved applicant for a license deposits with the Auditor a policy or certificate of liability insurance, approved by the Solicitor, indemnifying the applicant in the sum of fifty thousand dollars (\$50,000) for injury to one person, and one hundred thousand dollars (\$100,000) for injury to more than one person, and five thousand dollars (\$5,000) for property damage in any one accident, for the operation of each taxicab for which the license is applied. The policy shall contain a clause obligating the surety company or insurance company to give ten days' written notice to the Mayor before the lapse, expiration or termination of such policy or policies. If any policy is allowed to lapse, the license to operate shall immediately expire.

If the applicant complies with all regulations, there shall be delivered to the owner a license card which shall contain the official license number, name and address of the licensee and such other information as the Director of Public Safety shall prescribe. The license card shall be affixed to the interior of the taxicab and be readily visible at all times. Any license issued under this chapter shall expire on December 31 of the year of which it is issued. (Ord. 5045. Passed 12-17-60.)

757.07 VEHICLE LICENSE FEE.

Every owner shall pay a fee of ten dollars (\$10.00) per year in advance for each taxicab license. However, the fee for licensing after July 1 in any year shall be five dollars (\$5.00) for the balance of that year or any fraction thereof. (Ord. 5045. Passed 12-17-60.)

757.08 LICENSE SUSPENSION OR REVOCATION.

Any license to operate a taxicab may be suspended or revoked at any time by the Director of Public Safety if:

- (a) The Director finds that owner's past record to be unsatisfactory;
- (b) The owner fails to operate his licensed taxicab or taxicabs in accordance with the provisions of this chapter, other ordinances of this City or the laws of Ohio;
- (c) The owner shall cease to operate such taxicabs for a period of thirty consecutive days without having first obtained the consent of the Director.

Any person whose license to operate has been revoked by the Director of Public Safety may appeal from the decision of the Director to the Board of Appeals as provided in Sections 757.09 and 757.10. (Ord. 5045. Passed 12-17-60.)

757.09 BOARD OF APPEALS.

An appeal from any decision of the Director of Public Safety revoking a license to operate a taxicab may be made to a Board of Appeals which is hereby created. The Board shall be composed of the Mayor, the Public Safety Director and the Solicitor, and it is empowered, after a full hearing, to affirm, modify or reverse the decision of the Director. (Ord. 5045. Passed 12-17-60.)

757.10 APPEAL PROCEDURE.

In order to avail himself of the appeal referred to in Section 757.09, the appellant shall, within ten days after receiving notice of such revocation, give written notice of such appeal to the Director of Public Safety and also to the Mayor. The appeal shall be heard by the Board of Appeals within ten days after the notice is filed, and the decision of the Board shall be final. (Ord. 5045. Passed 12-17-60.)

757.11 DRIVER QUALIFICATIONS.

No person, shall drive a taxicab unless he is licensed to do so by the State of Ohio and he shall:

- (a) Be at least twenty-one years of age or over, an American citizen, or have declared his intention to become a citizen;
 - (b) Be of sound physique, with good eyesight and not subject to epilepsy, vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe operation of a taxicab;
 - (c) Be able to read, write and speak the English language;
 - (d) Be clean in dress and person, of good moral character and not be addicted to the use of intoxicating liquors or drugs.
- (Ord. 5045. Passed 12-17-60.)

757.12 TAXICAB STANDS; RULES; LICENSE AND FEE.

(a) The Director of Public Safety is directed to establish such taxicab stands as will best serve the interest of the public. He shall designate the same by stanchions or signs bearing the legend that the area is a taxicab stand and designate the number of taxicabs permitted to park there. No vehicle other than a taxicab shall be allowed to park there except as provided in Section 351.10 of the Traffic Code. The Director is authorized to establish such rules and regulations with reference to the use of the taxicab stands and the operation of taxicabs in the City as, in his judgment, are needed to facilitate traffic on the streets and insure the safety of the public.

(b) The Director of Public Safety shall collect from the owner or operator of any taxicab or taxicab stand, as a license fee for parking such vehicles, an amount based on the following:

- Space necessary for parking of one taxi - \$25.00
- Space necessary for parking of two taxis - \$50.00

Such license shall be for a period of one year, ending on the fifteenth day of March of each year. (Ord. 3944. Passed 2-12-49.)

757.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00). (Ord. 4871. Passed 11-6-58.)

CHAPTER 761
Transient Photographers

761.01	Definition.	761.04	Daily license fee.
761.02	License required.	761.99	Penalty.
761.03	License issuance; conditions.		

CROSS REFERENCES

Power to regulate transient vendors - see Ohio R.C. 715.64
 Trespassing - see GEN. OFF. 541.05
 Retail sales license - see Ohio R.C. 5739.17
 Canvassers and solicitors - see BUS. REG. Ch. 717
 Peddlers; transient dealers - see BUS. REG. Ch. 745

761.01 DEFINITION.

As used in this chapter: "transient photographer" means any person doing business as an itinerant photographer, coupon salesman, enlargement solicitor or canvasser therefor. (1941 Code, Sec. 9-80.)

761.02 LICENSE REQUIRED.

No person shall engage in business as a transient photographer until a license is obtained from the Mayor. (Ord. 4871. Passed 11-6-58.)

761.03 LICENSE ISSUANCE; CONDITIONS.

A transient photographer's license shall be issued by the Mayor to an applicant who complies with the terms and conditions of this chapter but the license shall not be transferable, nor shall it be used by any person other than the licensee, his employee or agent. The license so issued must, at any time upon demand, be exhibited to any police officer. (1941 Code, Sec. 9-81.)

761.04 DAILY LICENSE FEE.

The license fee for carrying on the business of a transient photographer shall be twenty dollars (\$20.00) per day, and the Mayor, before issuance of the license, shall require the applicant to pay such sum. The license shall expire at the end of the day for which it is issued. (1941 Code, Sec. 9-82.)

761.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00). (Ord. 4871. Passed 11-6-58.)

CHAPTER 765

Going Out of Business Sales

765.01	Definitions.	765.03	Application information.
765.02	License required; fee; restrictions.	765.04	Duties of licensee.
		765.99	Penalty.

CROSS REFERENCES

Falsification - see GEN. OFF. 525.02

Fraud - see GEN. OFF. 545.05

765.01 DEFINITIONS.

As used in this chapter:

- (a) "Going out of business sale" means a sale held out in such a manner as to reasonably cause the public to believe that upon the disposal of the stock of goods on hand the business will cease and be discontinued, including but not limited to the following sales: adjuster's, adjustment, alteration, assignee's, bankrupt, benefit of creditors', benefit of trustees, building coming down, closing, creditor's end, executor's, final days, forced out, forced out of business, insolvents', last days, lease expires, liquidation, loss of lease, mortgage sale, receiver's, trustee's, quitting business.
- (b) "Removal of business sale" means a sale held out in such a manner as to reasonably cause the public to believe that the person conducting the sale will cease and discontinue business at the place of sale upon disposal of the stock of goods on hand and will then move to and resume business at a new location in the City or will then continue business from other existing locations in the City.
- (c) "Fire and other altered goods sale" means a sale held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.
(Ord. 6504. Passed 6-6-74.)

765.02 LICENSE REQUIRED; FEE; RESTRICTIONS.

No person shall sell or offer to sell any goods at a sale to be advertised, represented or held out by any means to be a going out of business sale, removal of business sale, or fire and other altered stock sale without first making written application to the Director of Public Service and obtaining the required license therefor. The license fee to conduct a going out of business sale, removal of business sale, or fire and other altered stock sale shall be twenty-five dollars (\$25.00). The license fee for a renewal of a license to hold such sale shall be ten dollars (\$10.00). A license shall authorize the sale described in the application for a period of not more than thirty consecutive days, Sundays and legal holidays excluded, following the issuance thereof. A renewal license shall be issued for one period

of time only, such period to be in addition to that permitted under the original license and not to exceed thirty consecutive days, Sundays and holidays excluded, when the licensee has filed a written application for a renewal, submitted a revised inventory showing the items listed on the original inventory remaining unsold and when the licensing officer shall find that facts exist justifying a renewal of license. No person who has held a sale, regulated hereunder, at the location stated in the application, within the period of one year preceding an application for license shall be granted a license. Where a person applying for a license operates more than one place of business the license issued shall apply only to one store or branch specified in the application and no other store or branch shall advertise or represent that it is cooperating with or in any way participating in the licensed sale, nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with it or participating in any way in the licensed sale.
(Ord. 6504. Passed 6-6-74.)

765.03 APPLICATION INFORMATION.

A person desiring to conduct a going out of business sale, removal of business sale, and fire and other altered goods sale shall make a written application to the Director of Public Service setting forth and containing the following information:

- (a) The true name and address of the owner of the goods to be the object of the sale;
- (b) The true name and address of the person from whom he purchased the goods to be sold and the price therefor, and if not purchased, the manner of such acquisition;
- (c) A description of the place where such sale is to be held;
- (d) The nature of the occupancy, whether by lease or sublease and the effective date of termination of such occupancy;
- (e) The dates of the period of time in which the sale is to be conducted;
- (f) A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted;
- (g) The means to be employed in advertising such sale together with the proposed content of any advertisement;
- (h) A complete and detailed inventory of the goods to be sold at such sale as disclosed by the applicant's records. The inventory shall be attached to and become part of the required application.
(Ord. 6504. Passed 6-6-74.)

765.04 DUTIES OF LICENSEE.

A licensee under this chapter shall:

- (a) Make no additions whatsoever, during the period of the licensed sale, to the stock of goods set forth in the inventory attached to the application for license.
- (b) Refrain from employing any untrue, deceptive or misleading advertising.
- (c) Conduct the licensed sale in strict conformity with any advertising or holding out incident thereto.
- (d) Keep available at the place of sale a duplicate copy of the inventory submitted with the application and shall present such duplicate to inspecting officials upon request.

- (e) Keep any other goods separate and apart from the goods listed in the filed inventory as being objects of sale and shall make such distinction clear to the public by placing tags on all inventoried goods in and about the place of sale apprising the public of the status of all such goods.
(Ord. 6504. Passed 6-6-74.)

765.99 PENALTY.

Whoever violates this chapter shall be fined not less than fifty dollars (\$50.00) nor more than one hundred fifty dollars (\$150.00) and shall be imprisoned for not less than thirty days nor more than six months, or both for the first offense. Each day that the offense continues shall constitute a separate offense.

For the second or subsequent offense, the fine shall be not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) and imprisonment for not less than sixty days nor more than nine months, or both.
(Ord. 6504. Passed 6-6-74.)

CODIFIED ORDINANCES OF MARTINS FERRY

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE ONE - Street and Sidewalk Areas

Chap. 905. Street Excavations.

Chap. 909. Sidewalks, Driveways and Curbs.

Chap. 913. Culverts and Drains.

Chap. 917. Street Improvements.

TITLE THREE - Utilities

Chap. 925. Sewers.

Chap. 933. Water.

TITLE FIVE - Other Public Services

Chap. 935. Solid Waste Collection.

CODIFIED ORDINANCES OF MARTINS FERRY

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 Chap. 913. Culverts and Drains.
 Chap. 917. Street Improvements.
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CHAPTER 905 Street Excavations

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| 905.01 Permit required. | 905.03 Backfill; surface. |
| 905.02 Application; insurance; fee; deposit. | 905.99 Penalty. |

CROSS REFERENCES

- Power to establish and care for streets - see Ohio R.C. 715.19, 717.01, 723.01
 Openings by municipality - see Ohio R.C. 723.02
 Excavation liability - see Ohio R.C. 723.49 et seq.
 Digging, excavating and piling earth on streets - see Ohio R.C. 5589.10
 Barricades and warning lights - see GEN. OFF. 521.03
 Curb cutting - see S.U. & P.S. 909.03
 Service excavations - see S.U. & P.S. 925.02
 Widening streets - see P. & Z. 1165.11
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905.01 PERMIT REQUIRED .

No person shall dig, trench, excavate, grade, tunnel or do any work in or over or under any public street within the City without first obtaining a permit from the Director of Public Service. (Ord. 4871. Passed 11-6-58.)

905.02 APPLICATION; INSURANCE; FEE; DEPOSIT.

No permit shall be issued by the Director of Public Service for doing any of the work referred to in this chapter unless the applicant has complied with the following requirements:

- (a) Application. An appropriate application must be filed with the Director of Public Service for permission to do the work referred to in Section 905.01 which, in addition to such other information as the Director may request, shall contain:
- (1) The area where the work is to be done;
 - (2) The name and address of the owner;
 - (3) The name of the person who will be doing the work.
- (b) Insurance Policy. A public liability insurance policy must be deposited with the City insuring the City as well as the person doing the work against any loss or damage to persons or property resulting from the work being done, the policy having limits of liability in the amount of five thousand dollars (\$5,000) for injury to one person; ten thousand dollars (\$10,000) for injury to more than one person and five thousand dollars (\$5,000) for property damage in any one accident and be in a form acceptable to the Solicitor. The insurance policy shall be in force while the work is being done and for a period of six months thereafter.
- (c) Permit Fee. A permit fee of ten dollars (\$10.00) shall be paid for each one of the various work projects for which a permit from the Director of Public Service is being requested.
- (d) Deposits. The following deposits shall be made in connection with the various types of work for which a permit application is filed:
- (1) Two hundred fifty dollars (\$250.00) with each application for permission to excavate in any dedicated but unpaved street in the City;
 - (2) Five hundred dollars (\$500.00) with each application for permission to excavate any dedicated and paved street if the excavation is to be made in the paved portion thereof.
- These deposits shall be held and used by the City to cover the cost of maintaining, reconditioning and repaving that portion of the dedicated street which may have been disturbed when the excavation was made, or to reimburse the City for any other expenditure in connection with the excavation. Any unused part of the deposit shall be returned within six months.
(Ord. 4871. Passed 11-6-58; Ord. 2016-15. Passed 12-27-16.)

905.03 BACKFILL; SURFACE.

An excavation shall be replaced in six inch layers and heavily rammed by a tamper not to exceed six inches square. If the excavation is dry it shall be made wet while being tamped. This process shall be continued until the excavation is full to street level. The top or cap of the excavation shall be made and constructed of the same material and to the same thickness as exists in the roadway.
(Ord. 4871. Passed 11-6-58.)

905.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than two hundred dollars (\$200.00), and each day's violation shall be considered a separate offense.
(Ord. 4871. Passed 11-6-58.)

CHAPTER 909

Sidewalks, Driveways and Curbs

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| <p>909.01 Construction or repair; permit and fee.</p> <p>909.02 Specifications and inspections.</p> <p>909.03 Curb cutting; permit and fee.</p> | <p>909.04 Street paving to include curbing.</p> <p>909.99 Penalty.</p> |
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CROSS REFERENCES

Construction or repair of sidewalks and gutters - see Ohio R.C. 729.01

Notice to construct or repair sidewalks - see Ohio R.C. 729.03 et seq.

Use and maintenance of sidewalks - see GEN. OFF. 521.04

Access roadways; curbs - see P. & Z. 1169.02

909.01 CONSTRUCTION OR REPAIR; PERMIT AND FEE.

No person shall construct or repair any sidewalk, driveway or curb without first obtaining a permit from the Director of Public Service. The fee for the permit shall be ten dollars (\$10.00) per linear foot.

(Ord. 4871. Passed 11-6-58; Ord. 2016-15. Passed 12-27-16.)

909.02 SPECIFICATIONS AND INSPECTIONS.

Sidewalks and curbs shall be repaired or constructed to conform to the sidewalks or curbs which they adjoin, unless such adjoining sidewalks or curbs are not in conformity with the specifications of the Director of Public Service, in which event so much of the sidewalk or curb which is to be constructed or repaired shall be made to conform with the specifications of the Director. The construction or repair of sidewalks, driveways or curbs is subject to the inspection and approval of the Director.

(Ord. 4871. Passed 11-6-58.)

909.03 CURB CUTTING; PERMIT AND FEE .

No person shall cut any curb for the purpose of constructing a driveway entrance without first obtaining a permit from the Director of Public Service. The curb shall be removed and the driveway constructed in accordance with the specifications of the Director and all work shall be subject to the inspection and approval of the Director. The person applying for the permit shall pay a fee of one dollar (\$1.00) per lineal foot of curb removed.

(Ord. 4871. Passed 11-6-58.)

909.04 STREET PAVING TO INCLUDE CURBING.

All new street paving done in the City, whether done upon petition of abutting property owners or upon initiative of the City, shall include curbing as specified by the engineers employed by the City.

(Ord. 5977. Passed 2-4-71.)

909.99 PENALTY.

Whoever violates or fails to comply with any requirement of this chapter shall be fined not more than fifty dollars (\$50.00). Each day's violation shall constitute a separate offense. (Ord. 4871. Passed 11-6-58.)

CHAPTER 913 Culverts and Drains

913.01	Permit required.	913.03	Supervision; removal.
913.02	Application and fee.	913.99	Penalty.

CROSS REFERENCES

Drainage to culverts - see Ohio R.C. 5577.12
Barricades and warning lights - see GEN. OFF. 521.03

913.01 PERMIT REQUIRED .

No person shall construct any culvert or drain over any natural or artificial watercourse or drain within the City, without first having secured a permit from the Director of Public Service. (1941 Code, Sec. 17-30.)

913.02 APPLICATION AND FEE.

(a) In order to procure a permit to construct a culvert or drain, an application shall be filed with the Director of Public Service, accompanied by a plan and specification showing the proposed mode of construction, together with a description of the property upon which the culvert is to be constructed.

(1941 Code, Sec. 17-31, 17-33.)

(b) The fee for the permit shall be twenty-five dollars (\$25.00).
(Ord. 2016-15. Passed 12-27-16.)

913.03 SUPERVISION; REMOVAL.

The Director of Public Service shall supervise the work and insure that it is done in accordance with the approved plan and specifications. Any culvert or drain constructed contrary to the provisions of this chapter shall be removed at the owner's or builder's expense. (1941 Code, Sec. 17-32, 17-35.)

913.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than five hundred dollars (\$500.00).
(Ord. 4871. Passed 11-6-58; Ord. 2016-15. Passed 12-27-16.)

CHAPTER 917
Street Improvements

917.01 Approval required.

CROSS REFERENCES

Assessments - see Ohio R.C. 701.05, Ch. 727

Power to establish and care for streets - see Ohio R.C. 715.19, 717.01, 723.01

Dedication and acceptance - see Ohio R.C. 723.03

Surface treatment - see Ohio R.C. 723.23, 723.31

Compulsory service connections - see Ohio R.C. 729.06 (sewer and water), 743.37 (gas)

Changing established grade - see Ohio R.C. 727.07

917.01 APPROVAL REQUIRED

(a) No improvements may be made to any street or alley by abutting property owners in the City unless Council first approves the plans, specifications and profiles of the proposed improvement.

(b) The plans, specifications and profiles submitted to Council must bear the certification of a civil engineer who is registered in the State, or some other person or entity satisfactory to Council, that the proposed improvement is planned and will be done in accordance with the specifications then currently required by the Ohio Department of Transportation.

(c) Council's approval of the plans, specifications and profiles shall in no way be construed as an acceptance by the City of a permanent improvement.
(Ord. 82-92. Passed 10-7-82.)

TITLE THREE - Utilities
 Chap. 925. Sewers.
 Chap. 933. Water.

CHAPTER 925
 Sewers

925.01	Application and permit to construct or tap sewer.	925.06	Permissible use of sewer.
925.02	Excavating and tapping fees; deposit.	925.07	Rules and regulations; records; removal of unlawful connections.
925.03	Work must be done by authorized person.	925.08	Connections outside City limits.
925.04	Additional connections prohibited.	925.09	Sewer connection mandatory.
925.05	Specifications and inspections.	925.10	Prohibited connections.
		925.99	Penalty.

CROSS REFERENCES

Power to license sewer tappers and vault cleaners - see Ohio R.C. 715.27

Power to construct sewerage system - see Ohio R.C. 715.40, 717.01

Compulsory sewer connections - see Ohio R.C. 729.06

Management and control of sewerage system - see Ohio R.C. 729.50

Regulations to control house sewers and connections - see Ohio R.C. 729.51

Untreated sewage - see Ohio R.C. 3701.59

Interference with sewage flow - see Ohio R.C. 4933.24

Street excavations - see S.U. & P.S. Ch. 905

925.01 APPLICATION AND PERMIT TO CONSTRUCT OR TAP SEWER.

No house sewer shall be constructed to connect with a public sewer, nor shall any connection be made to a public sewer within the City, until a written permit from the Director of Public Service has been obtained by the person employed to perform the work. The application for a permit shall be signed by the owner, agent or lessee of the property for which the connection is to be made and by the person employed to perform the work and it must describe the property and state the fixtures to be connected.
 (1941 Code, Sec. 17-10.)

925.02 EXCAVATING AND TAPPING FEES; DEPOSIT.

The applicant for the permit required by Section 925.01 shall pay to the Director of Public Service a street excavation fee plus a deposit as provided in Section 905.02 and also a tapping fee of one dollar (\$1.00).
(Ord. 4871. Passed 11-6-58.)

925.03 WORK MUST BE DONE BY AUTHORIZED PERSON.

No house sewer shall be constructed nor connection made to a public sewer by any person who has not been authorized to perform such work.
(1941 Code, Sec. 17-13.)

925.04 ADDITIONAL CONNECTIONS PROHIBITED .

No person, making sewer connections as authorized in this chapter, shall permit any other person to connect any additional sewer pipes to the property of the person granted permission by the Director of Public Service.
(1941 Code, Sec. 17-14.)

925.05 SPECIFICATIONS AND INSPECTIONS.

A house sewer and connection to a public sewer shall be constructed in accordance with specifications of the Director of Public Service.

After the sewer is laid and before it is covered or used it shall be inspected and approved by the Director or his authorized agent.
(1941 Code, Sec. 17-15.)

925.06 PERMISSIBLE USE OF SEWER.

A permit to construct a house sewer or to connect to a public sewer shall specify the permissible use of such house sewer and connection, and such specifications shall be governed by the following requirements:

- (a) Sewage, including wastes from water closets, urinals, lavatories, sinks, bathtubs, showers, laundries, cellar floor drains, garage floor drains, bars, soda fountains, refrigerator drips, drinking fountains and other objectionable wastes, shall be discharged into a sanitary or combined sewer and in no case into a storm water sewer.
- (b) Industrial waste shall not be discharged into a storm sewer but may be discharged into a sanitary sewer if the waste is of such a character as not to be detrimental to the sewer system or to the sewage treatment works. Where such waste is detrimental to the sewer system or sewage treatment works, it shall be otherwise disposed of in a manner satisfactory or so improved in character as not to be detrimental to the sewer system or sewage treatment works.
- (c) A connection from a cesspool or privy vault shall not be made into a sanitary, combined or storm water sewer.
- (d) A trap for the interception of grease and oil shall be provided on a connection from a hotel, restaurant, club or institutional kitchen and from a public garage or automobile washing station. Such trap shall be satisfactory to the Director of Public Service.
- (e) No person shall discharge into a house sewer or tap a house sewer for the purpose of discharging into it any waste or drainage water prohibited by the provisions of this section.
- (f) Any existing connection in violation of the provisions of this section shall be abandoned and removed.

(1941 Code, Sec. 17-16.)

925.07 RULES AND REGULATIONS; RECORDS; REMOVAL OF UNLAWFUL CONNECTIONS.

The Director of Public Service shall adopt and enforce specifications and regulations in accordance with the provisions of this chapter for the purpose of providing control of the installation of sewer connections and the inspection thereof. He shall maintain accurate and complete records of all permits issued and of inspections made of the construction of house sewers and connections to the public sewers. He shall also require the abandonment and removal of connections to the public sewers which violate the provisions of this chapter. (1941 Code, Sec. 17-17.)

925.08 CONNECTIONS OUTSIDE CITY LIMITS.

Persons owning property outside the corporate limits of the City may connect sanitary sewers to sanitary sewers within the limits of the City, by proceeding in the manner set forth in this chapter and complying with the rules and regulations of the Director of Public Service. (1941 Code, Sec. 17-18.)

925.09 SEWER CONNECTION MANDATORY.

Each owner or occupant of a building on a private lot or land abutting a sanitary sewer shall make, maintain and use a connection with the public sanitary sewer, or shall make a connection to a sanitary sewer as soon as such sewer is made accessible. If a sanitary sewer is accessible, or as soon as such sewer is made accessible, any privy vault, cesspool or other receptacle for sewage or excreta within a distance of 500 feet shall be thoroughly cleaned, disinfected, filled with suitable filling material and abandoned. (Ord. 4871. Passed 11-6-58.)

925.10 PROHIBITED CONNECTIONS.

(a) No person shall connect any downspout of any building, any subsoil drain or the waste drain of any hydrant or water plug, either directly or indirectly, to any sanitary sewer, or permit any storm water to be in any manner discharged into such sewer.

(b) No person shall connect any open gutter, cesspool or privy vault with any Municipal sanitary sewer or with any private sewer which is or shall be connected to such Municipal sanitary sewer. (Ord. 6490. Passed 4-18-74.)

925.99 PENALTY.

(a) Whoever violates any provision of this chapter for which no other penalty is provided shall be fined not more than fifty dollars (\$50.00). (Ord. 4871. Passed 11-6-58.)

(b) Whoever violates any provision of Section 925.10 or fails to comply with any requirement thereof or who assists in such violation or noncompliance shall be fined not more than one hundred dollars (\$100.00). Each day's violation shall constitute a separate offense. (Ord. 6490. Passed 4-18-74.)

CHAPTER 933 Water

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| 933.01 Minimum rate. | 933.05 Backflow prevention. |
| 933.02 Standard rates. | 933.06 Water tanker truck filling charge. |
| 933.03 Discontinuance of utility service. | |
| 933.04 Water emergency. | |

CROSS REFERENCES

Power to provide and regulate water system - see Ohio R.C. 715.08, 717.01, 743.01
 Water pollution - see Ohio R.C. 715.08, 743.24 et seq.
 Right of eminent domain - see Ohio R.C. 719.01 et seq., 743.39 et seq.
 Compulsory water connections - see Ohio R.C. 729.06, 743.23
 Management and control of waterworks - see Ohio R.C. 743.02 et seq.
 Waterworks mortgage revenue bonds - see Ohio R.C. 743.06
 Tampering with water hydrants, pipes or meters; unauthorized connections - see Ohio R.C. 4933.22
 Water Department - see ADM. 135.01
 Billing - see ADM. 135.05

933.01 MINIMUM RATE.

There is hereby established a minimum rate of two dollars (\$2.00) per month for water for quarterly and monthly water meter customers. This rate shall take effect March 1, 1971. (Ord. 5984. Passed 2-18-71.)

933.02 STANDARD RATES.

The rate for water service to unmetered households in the City shall be four dollars (\$4.00) per month. This rate shall take effect February 1, 1976. (Ord. 6772. Passed 1-8-76.)

(EDITOR'S NOTE: Except as provided above, water rates are established by the Director of Public Service pursuant to the authority granted by Ohio R.C. 743.04.)

933.03 DISCONTINUANCE OF UTILITY SERVICE.

(a) The policy for the City concerning the discontinuance of water and/or sanitation utility service for all applicable customers of such services, as recently developed and promulgated by the Director of Public Service, is hereby formally adopted by Council and made applicable thereby to all customers of the City water and/or sanitation services.

(b) A copy of such policy and any properly adopted amendments thereto shall be kept by the Council Clerk in a file bearing the same number as Ordinance 86-18, and shall be open for public inspection, on request, at all reasonable times.
(Ord. 86-18. Passed 5-1-86.)

933.04 WATER EMERGENCY.

(a) The Director of Public Service is hereby granted the authority to declare a water shortage emergency, and to place restrictions on the use and consumption of water as the Director of Public Service may deem appropriate. Further, in addition to the authority herein granted applying within the corporate limits of the City, it shall also apply to:

- (1) The City's Water Extension System, which includes Colerain, Sunset Heights, Ferryview and Crawford Heights, and
- (2) All areas outside the Extension Area for wholesale bulk sales.

(b) The determination of whether a water shortage emergency shall be declared is one reserved to the sole and sound discretion of the Director of Public Service.

(c) In order to be enforceable hereunder, all water shortage emergency declarations shall be in writing. Further, they shall be posted conspicuously at the City Building and they shall be published at least one time in a newspaper of general circulation in the area affected prior to any of the below listed penalties being imposed.

(d) Any person, firm or corporation who uses or consumes water during the period of a water shortage emergency, in violation of the written order of the Director of Public Service, shall be penalized as follows:

First Offense: A verbal or written warning shall be issued, and their account "red tagged" as a violator;

Second Offense: Water service shall be terminated for forty-eight hours, and a one hundred dollar (\$100.00) turn-on fee assessed; and

Third Offense: Waterline shall be disconnected at the main and the regular and standard fee shall be charged to reconnect same after the emergency situation is over.

(Ord. 89-07. Passed 3-2-89.)

933.05 BACKFLOW PREVENTION.

(a) If, in the judgement of the Superintendent of Water, an approved backflow prevention device is necessary for the safety of the public water system, the Superintendent of Water will give notice to the water consumer to install such an approved device immediately. The water consumer shall, at his own expense, install such an approved device at a location and in a manner approved by the Superintendent of Water and shall have inspections and tests made of such approved devices as required by the Superintendent of Water.

(b) No person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of Martins Ferry may enter the supply or distributing system of said Municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent of Water and by the Ohio Environmental Protection Agency.

(c) It shall be the duty of the Superintendent of Water to cause surveys and investigations to be made of industrial and other properties served by the public water supply where actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated as often as the Superintendent of Water shall deem necessary.

(d) The Superintendent of Water or his or its duly authorized representative shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of Martins Ferry for the purpose of inspecting the piping system thereof. On demand the owner, lessee or occupants of any property so served shall furnish to the Superintendent of Water any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information, when requested shall, within the discretion of the Superintendent of Water, be deemed evidence of the presence of improper connections as provided in this section.

(e) The Superintendent of Water is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this section is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions shall have been eliminated or corrected in compliance with the provisions of this section.
(Ord. 95-34. Passed 8-17-95.)

933.06 WATER TANKER TRUCK FILLING CHARGE.

(a) The Water Department will pay five dollars (\$5.00) per tanker truck filled at the Water Department to the General Fund. This will be effective as of November 1, 2016. The Water Department will inform the Auditor of the amount of trucks filled each month.

(b) The amount paid by the Water Department under this section is appropriated to the Street Department in order to help defer the cost of additional maintenance necessary on City streets as a result of the increased truck traffic.
(Ord. 2016-13. Passed 12-27-16.)

CHAPTER 935 Solid Waste Collection

935.01	Definitions.	935.08	City's duty to collect garbage.
935.02	Placing garbage and solid waste for collection; prohibited items.	935.09	Garbage to be drained and wrapped.
935.03	Points of collection for solid waste; time limit for solid waste containers on tree lawns.	935.10	Ownership of refuse.
935.04	Container requirements.	935.11	Landlord's responsibility.
935.05	Rubbish container and disposition.	935.12	Disposal except at landfill area.
935.06	Compliance.	935.13	Rules and regulations.
935.07	Unlawful to keep longer than between collections.	935.14	Rates for collection.
		935.15	Required markings for dumpsters.
		935.99	Penalty.

CROSS REFERENCES

Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01

Employment of scavengers - see Ohio R.C. 3707.39

Disposal and transportation upon public ways - see Ohio R.C. 3767.20 et seq.

Sanitation Department - see ADM. 135.01

Billing - see ADM. 135.05

Vehicle loads dropping, leaking - see TRAF. 339.08

Littering - see GEN. OFF. 521.08

Rubbish fires - see FIRE PREV. 1515.01

935.01 DEFINITIONS.

For purposes of this chapter the following definitions shall apply:

- (a) "Garbage" means all putrescible waste except sewage and body waste, including vegetable and animal offal and carcasses of small dead animals, but excluding recognizable industrial by-products, and shall include all such substances from all public and private establishments and from all residents.
- (b) "Rubbish" means ashes, bottles, broken glass, crockery, tin cans, cast iron, printed matter, paper, boots, shoes, hats and other clothing. It does not, however, include any material in the nature of earth, sand, brick, stone, plaster, ashes or other substances that may accumulate as a result of building operations.
- (c) "City" means the City of Martins Ferry, Ohio.
- (d) "Director" means the Director of Public Service of the City.
- (e) "Householder" means the head of a family or one maintaining his separate living rooms or quarters on the premises and includes owners, tenants and occupants of all premises upon which garbage or rubbish, or both, is created.
- (f) "Premises" means land or buildings, or both, or parts of either or both, occupied by one householder or commercial establishment.

- (g) "Commercial establishment" means and includes all other premises and institutions, public or private, charitable or non-charitable, upon which garbage or rubbish, or both, is created.
- (h) "Garbage collector" means the City, and each and all of its duly authorized agents and/or employees connected with the collection and disposal of garbage or rubbish, or both.
- (i) "Collecting agent" means each and all employees of the City charged with the duty of collecting or receiving fees, or both, for collecting and disposing of garbage or rubbish by the City.
- (j) The term "person" as used herein shall mean every natural person or association of persons, a partnership or corporation. Words in the singular shall include the plural, words in the present tense shall include the future tense and vice versa; words in the masculine gender shall include the feminine gender and vice versa.
- (k) "Hazardous waste" means those substances which, singularly or in combination, pose a significant present or potential threat or hazard to human health or to the environment, and which singularly or in combination, require special handling, processing, or disposal because they are or may be flammable, explosive, reactive, corrosive, toxic, carcinogenic, bioconcentrative, or persistent in nature, potentially lethal, or an irritant or strong sensitizer.
- (l) "Asbestos" means the asbestiform varieties of serpentinite (chrysolite), riebeckite (crocidolite), cummingtonitegrunerite, anthophyllite, and actinolite tremolite.
- (m) "Asbestos-containing waste materials" means those wastes identified in Chapter 3745-20-01(B)(4) of the Ohio Administrative Code (OAC).
- (n) "Infectious waste" means those wastes identified in Chapter 3745-27-01 (V) of the Ohio Administrative Code (OAC).
(Ord. 2000-24. Passed 3-13-00.)

935.02 PLACING GARBAGE AND SOLID WASTE FOR COLLECTION; PROHIBITED ITEMS.

All items of solid waste shall be placed in standard garbage and solid waste containers as provided herein. However, brush and branch clippings may be tied securely in bundles, not exceeding four bundles, and each bundle not exceeding four feet in length, and placed at the usual place of collection. Bundles in excess of the above four will be an additional charge, as established by the Service Director.
(Ord. 2000-24. Passed 3-13-00.)

935.03 POINTS OF COLLECTION FOR SOLID WASTE; TIME LIMIT FOR SOLID WASTE CONTAINERS ON TREE LAWNS.

(a) Solid waste containers shall be placed at the normal pickup location, as approved by the Director of Public Service.

(b) No solid waste container is permitted to remain on the tree lawn of the public street for a period longer than twenty-four hours prior to or after the pickup and removal of the refuse contained therein.
(Ord. 2000-24. Passed 3-13-00.)

935.04 CONTAINER REQUIREMENTS.

It shall be the duty of each householder or commercial establishment in or upon premises within the City where garbage is created or allowed, to procure and keep available for the exclusive use of such premises or the part thereof occupied by the householder or commercial establishment, not more than three plastic or metal garbage containers of not less than ten gallons or more than thirty-five gallons capacity, and airtight to hold all garbage created or accumulated thereon between scheduled garbage collections, and pending its removal by the garbage collector. Such containers shall also be watertight, have a close-fitting lid and be provided with a bail or two handles on opposite sides of the same. They shall be placed on the ground level of the premises and easily accessible to and for the garbage collector but not within the limits of a street or other public place. All garbage created or accumulated upon the householder's premises or commercial establishment shall be placed in such containers by the householder.
(Ord. 2008-05. Passed 3-6-08.)

935.05 RUBBISH CONTAINER AND DISPOSITION.

It shall be the duty of each householder or commercial establishment occupying any premises to provide and maintain a substantial container for the reception of rubbish. At least once every seven days and oftener when and if required, the contents of the receptacle shall be hauled to the sanitary landfill by the garbage collector. No rubbish shall be placed nor conveyed in a garbage container. All rubbish containers shall be kept on the householder's premises as far from the street and public way as possible and as great a distance from neighboring premises as is practicable and convenient. Each rubbish container shall be so constructed as to prevent its contents from being scattered by the wind, easily susceptible to catching fire or to dropping its contents when moved.
(Ord. 2000-24. Passed 3-13-00.)

935.06 COMPLIANCE.

No householder shall keep, place or deposit garbage on any grounds or premises whatsoever except in the manner designated herein; and it shall be unlawful for any householder to keep, place or deposit rubbish on any grounds or premises whatsoever except in the manner provided for herein.

No householder or other person in the City shall throw or deposit any garbage, rubbish or waste matter, or cause the same to be thrown or deposited upon any street, way, lane or other public place, or upon any vacant lot, or where rats, mice, dogs, cats, birds, fowl or other living things can feed thereon. Each day's violation of the provisions of this section, or Section 935.07, may be treated as a separate and distinct offense of this chapter.
(Ord. 2000-24. Passed 3-13-00.)

935.07 UNLAWFUL TO KEEP LONGER THAN BETWEEN COLLECTIONS.

No householder or person shall keep garbage or rubbish for a longer period of time upon his premises than that expiring between two consecutive collection dates when actual collections are made by the garbage collector.
(Ord. 2000-24. Passed 3-13-00.)

935.08 CITY'S DUTY TO COLLECT GARBAGE.

It is the duty of the Director of Public Service to collect garbage from all premises within the City at least every week, and all rubbish from the same premises at least once every seven days.

(Ord. 2000-24. Passed 3-13-00.)

935.09 GARBAGE TO BE DRAINED AND WRAPPED.

No person shall place any garbage in a garbage container unless the same has been drained free of water and secured, excepting in such business places as have collection of the same made daily.

(Ord. 2000-24. Passed 3-13-00.)

935.10 OWNERSHIP OF REFUSE.

All junk and other material on the disposal site are the property of the City, and no person is allowed to separate and collect, carry off or dispose of same except under the direction of the Director of Public Service.

(Ord. 2000-24. Passed 3-13-00.)

935.11 LANDLORD'S RESPONSIBILITY.

Landlords shall be primarily responsible for the payment of bills sent to their tenants.

(Ord. 2000-24. Passed 3-13-00.)

935.12 DISPOSAL EXCEPT AT LANDFILL AREA.

No person shall dispose of, bury, burn or dump within the limits of the City, or within 5,000 feet thereof, any garbage or rubbish created within or without the City. In the interest of public health and sanitation, all existing dumping places within the City are hereby declared as a nuisance and ordered closed. All garbage and rubbish shall be conveyed to the site of the approved landfill, as directed by the Director of Public Service.

(Ord. 2000-24. Passed 3-13-00.)

935.13 RULES AND REGULATIONS.

The Director of Public Service, for the purpose of collecting and disposing of garbage and rubbish, is hereby authorized and directed to make such rules and regulations, and prescribe such standards as are necessary or convenient, including the division of the City into collection districts. Further, the Director of Public Service shall set such rates and fees as are reasonable and necessary.

(Ord. 2000-24. Passed 3-13-00.)

935.14 RATES FOR COLLECTION.

The Director of Public Service shall charge, and every householder or person creating garbage or refuse, or both, shall pay, for a period of one (1) month in advance of the furnishing the service of collection, the monthly rate established by the Director of Public Service for collection of ordinary amounts of garbage, refuse and rubbish. The rate for collection of large items, including, but not limited to, stoves, refrigerators, dryers, hot water tanks, pianos, and furniture, shall be established by the Director of Public Service.

In cases where there are no established rates, the Director of Public Service is authorized to establish classifications of service and fix rates governing such classifications, which shall be non-discriminatory as to all others. When, as and if such classifications are made and rates established, they shall have the same force and effect as though they were a part of this chapter.

(Ord. 2000-24. Passed 3-13-00.)

935.15 REQUIRED MARKINGS FOR DUMPSTERS.

(a) All dumpsters located or used on City streets, or any portion thereof, shall be marked and equipped with 72 square inches (2 bands, 6x12 inches each) of reflective surface tape on all four (front and rear) top corners of the dumpster; and, further, street cones shall be positioned 3 feet from the corners of any dumpster which protrudes into any traffic lane(s).

(b) Each violation of this section is a minor misdemeanor, punishable in accordance with law. Each day any violation continues is a distinct and separate offense.

(Ord. 2010-17. Passed 8-18-10.)

935.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this Chapter is guilty of a minor misdemeanor, and shall be fined not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 2000-24. Passed 3-13-00.)

CODIFIED ORDINANCES OF MARTINS FERRY
PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Planning

- Chap. 1101. Planning Commission.
- Chap. 1103. Downtown Architectural District.

TITLE THREE - Zoning Administration

- Chap. 1111. Definitions.
- Chap. 1113. Interpretation; Enforcement; Penalty.
- Chap. 1115. Board of Zoning Appeals.

TITLE FIVE - Zoning Districts; Zoning Map

- Chap. 1131. Districts; Map; Boundaries.
- Chap. 1133. Amendments.

TITLE SEVEN - Zoning District Uses and Regulations

- Chap. 1141. R-1 General Residence District.
- Chap. 1143. R-2 Single-Family Residence District.
- Chap. 1145. R-3 Single-Family Residence District.
- Chap. 1147. C-1 Retail Commercial District.
- Chap. 1149. C-2 Neighborhood Shopping District.
- Chap. 1151. I-1 Light Industry District.
- Chap. 1153. I-2 Heavy Industry District.
- Chap. 1155. Source Water Protection Area.

TITLE NINE - Additional Zoning Standards

- Chap. 1161. Nonconforming Uses; Subdivision Variances.
- Chap. 1163. Prohibited Uses.
- Chap. 1165. General Provisions.
- Chap. 1167. Off-Street Parking Regulations.
- Chap. 1169. Access Roads; Service Stations.

APPENDIX - Access Roadways

CODIFIED ORDINANCES OF MARTINS FERRY
PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Planning
Chap. 1101. Planning Commission.
Chap. 1103. Downtown Architectural District.

CHAPTER 1101
Planning Commission

1101.01 Establishment. 1101.02 Duties.

CROSS REFERENCES

Planning Commission shall be Platting Commission - see Ohio R.C.
713.03
Superintendent of Development as member - see ADM. 139.03
Role in urban renewal - see ADM. 181.05, 181.07, 181.10
Secretary to serve as Secretary of Board of Zoning Appeals - see
P. & Z. 1115.01
Zoning Code amendments - see P. & Z. 1133.01
Granting variance in C-1, I-1 and I-2 Districts for off-street
parking regulations - see P. & Z. 1167.05

1101.01 ESTABLISHMENT.

There is hereby established a Planning Commission for the City, consisting of the Mayor, the Director of Public Service, and three residents of the City, who shall serve without compensation and shall be appointed by the Mayor for a term of six years, except that the term of one of the members of the first Commission shall be for four years and another for two years. (Ord. 4554. Passed 3-3-58.)

1101.02 DUTIES.

The Planning Commission shall perform all duties and exercise all authority required by or given to a Planning Commission under Ohio R.C. Chapter 713. (Ord. 4554. Passed 3-3-58.)

CHAPTER 1103
Downtown Architectural District

1103.01	Purpose.	1103.06	Preservation of property upon demolition of a structure.
1103.02	District boundaries.	1103.07	Repair or maintenance exception.
1103.03	Application and notice.	1103.08	Appeals.
1103.04	Board of Architectural Review.	1103.99	Penalty.
1103.05	Standards for review; certificate of appropriateness.		

1103.01 PURPOSE.

The purpose of this chapter is to maintain a high character of community development, to protect and preserve the property values and to protect real estate from impairment or destruction of value for the general community welfare by regulating the exterior architectural characteristics of structures through the hereafter defined Architectural District. It is the further purpose of this chapter to recognize and preserve the distinctive historical and architectural character of this community which has been greatly influenced by the architecture of an earlier period in this community's history. These purposes will be served by the regulation of exterior design, use of materials, the finish grade line, landscaping and orientation of all structures hereinafter altered, constructed, reconstructed, erected, enlarged or remodeled in the hereinafter defined Architectural District.
(Ord. 97-65. Passed 11-20-97.)

1103.02 DISTRICT BOUNDARIES.

There is hereby established an Architectural District which shall include the frontage of all lots within the area of Fourth Street, commencing at a point located at the south side of Clay Street on the east side of Fourth Street and approximately 150 feet south of Clay Street on the west side of Fourth Street and extending to a point approximately 450 feet north of Hanover Street. On Hanover commencing at State Route 7 and extending west approximately 1000 feet. On Fifth Street commencing at a point located on the south side of Park Street and extending to a point located at the south side of Walnut Street.

The Downtown Architectural District includes that portion of any building or property that fronts on any of the above mentioned streets.
(Ord. 98-74. Passed 12-5-98.)

1103.03 APPLICATION AND NOTICE.

(a) Whenever a structure, as defined by the Zoning Ordinance, whether public or private, within the above described district is proposed to be constructed or erected and whenever an existing structure is proposed to be altered, reconstructed, enlarged or remodeled, if such alteration, construction, enlargement or remodeling involves the exterior design, material, finish grade line, landscaping or orientation of the structure, an application for a certificate of appropriateness shall be filed with the City Clerk.

(b) The application shall be accompanied by a site plan and building elevations drawn to scale indicating at a minimum, the lot dimensions, size, shape, and dimensions of the structure, the location and orientation of the structure on the lot and the actual or proposed building setback lines. In addition, the application shall be accompanied by a detailed narrative description of the proposed design or change of design, use of materials, finish grade line, landscaping and orientation of the structure. Applications for structure to be constructed or remodeled, which remodeling would increase or decrease the total gross building area by fifty percent (50%) or more, shall be accompanied by appropriate, relevant colored elevations showing at a minimum, the design, use of materials, finish grade line, landscaping and orientation of buildings and any significant architectural features. In addition, the Board of Architectural Review may require the submission of colored perspectives or architectural renderings in applications where the Board feels it is required.

(c) Upon receipt of an application for a certificate of appropriateness, which is accompanied by the material required by the provisions of subsection (b) hereof, the City Clerk shall place the application on the agenda for the Board at its next regular meeting following ten days from the date the application is filed. The Clerk shall further cause to be published in a newspaper of general circulation in the City, a public notice of the scheduled hearing date of the application together with a general description of the nature of the application. The applicant shall be notified by mail of the date of the hearing.

In addition, there shall be a notice posted on the subject property stating that an application has been filed and the date of the hearing.
(Ord. 97-65. Passed 11-20-97.)

1103.04 BOARD OF ARCHITECTURAL REVIEW.

The Board of Architectural Review shall consist of five (5) members who shall be appointed by the Mayor and approved by the City Council. These members shall represent the Architectural Review District and at least two (2) of them shall be resident freeholders of such District. (Ord. 97-65. Passed 11-20-97.)

1103.05 STANDARDS FOR REVIEW; CERTIFICATE OF APPROPRIATENESS.

(a) The Board of Architectural Review, in deciding whether to issue a certificate of appropriateness, shall determine that the application under consideration promotes, preserves and enhances the distinctive historical City character of the community and would not be at variance with existing structures within that portion of the district in which the structure is or is proposed to be located as to be detrimental to the interests of the District. In conducting its review, the Board shall make examination of and give consideration to the elements of the application including, but not necessarily limited to:

- (1) Height;
- (2) Building massing, which shall include the relationship to the viewer's and pedestrian's visual perspective;
- (3) Window treatment, which shall include the size, shape and materials of the individual window units and the overall harmonious relationship of window openings;

- (4) Exterior detail and relationships, which shall include all projecting and receding elements of the exterior, including but not limited to, porches and overhangs and the horizontal or vertical expression which is conveyed by these elements;
- (5) Roof shape, which shall include type, form and materials;
- (6) Materials, texture and color, which shall include a consideration of material compatibility among various elements of the structure;
- (7) Compatibility of design and materials, which shall include the appropriateness of the use of exterior design details;
- (8) Landscape design and plant materials, which shall include, but not be limited to, lighting and the use of landscape details to highlight architectural features or screen or soften undesirable view, and the trimming of trees located in the Downtown Architectural District;
- (9) Pedestrian environment, which shall include the provision of features which enhance pedestrian's visual perspective; and
- (10) Signage, which shall include, the appropriateness of signage to the building.

(b) In conducting its inquiry and review, the Board may request from the applicant such additional information, sketches and data as it shall reasonably require. It may call upon experts and specialists for testimony and opinion regarding the matters under examination. It may recommend to the applicant changes in the plans that it considers desirable and may accept a voluntary amendment to the application to include or reflect such changes. The Board shall keep a record of its proceedings and shall append to the application copies of information, sketches and data needed to clearly describe any amendment to it.

(c) When its review is concluded, the Board will determine by a vote of its members, whether the application for certificate of appropriateness shall be approved. If approved by four or more of its members, the Board shall return the application and appended material to the Clerk with the instruction that the certificate of appropriateness be issued, provided all other requirements for a building permit, if applicable, are met. The certificate of appropriateness shall be valid for one year from the date of approval, or such extension as may be granted by the Board. If not approved, the Board shall return the application and appended material to the applicant with a notice that the certificate of appropriateness shall not be issued because the application did not meet the criteria and standards set forth herein. (Ord. 97-65. Passed 11-20-97.)

1103.06 PRESERVATION OF PROPERTY UPON DEMOLITION OF A STRUCTURE.

(a) Whenever a structure within the District is proposed to be demolished, an application for a certificate of appropriateness shall be filed with the City Clerk as provided in this chapter. In considering such application, the Board of Architectural Review shall limit its inquiry to the proposal for grading, landscaping and other design treatment of the property once the structure has been removed.

(b) Nothing in this chapter shall be construed to prevent the demolition of a structure whether public or private, within the District.

(c) Whenever a tree within the District is proposed to be trimmed, an application for a certificate of appropriateness shall be filed with the City Clerk as provided in this chapter. In considering such application, the Board of Architectural Review shall, further, have the power to regulate the requested tree trimming as it sees fit and to require a certificate of appropriateness prior to said tree(s) being trimmed or cut.
(Ord. 97-65. Passed 11-20-97.)

1103.07 REPAIR OR MAINTENANCE EXCEPTION.

Nothing in this chapter shall be construed to prevent any ordinary repair or maintenance of an exterior architectural feature or any ordinary planting and landscaping now in the District. (Ord. 97-65. Passed 11-20-97.)

1103.08 APPEALS.

The Board of Architectural Review shall decide all applications for architectural review not later than thirty days after the first hearing thereon.

- (a) Any person, firm or corporation, or any officer, department, board or agency of the City who has been aggrieved by any decision of the Board involving an application for architectural review approval may appeal such decision to Council by filing notice of intent to appeal with the Clerk within ten days from the date of the decision, setting forth the facts of the case.
- (b) Council may then elect to hold a public hearing on the appeal by the affirmative vote of a majority of its members, or failing to so elect, shall reject the application for appeal. In the event Council elects to hold a public hearing on the request for appeal, the hearing shall be held no later than sixty days after a final decision has been rendered by the Board. Council, by a majority vote of its members, shall decide the matter and its decision shall be final.
- (c) If no notice of intent to appeal is filed with the Clerk within this period specified in subsection (a) hereof, Council may at the option of a majority of its members and not later than ten days following the expiration of the appeal period, elect to review any architectural review decision of the Board. Council shall schedule a public hearing on the matter which shall not be held more than sixty days after a final decision was rendered by the Board. At a public hearing, Council, by a majority vote of its members, shall decide the matter and its decision shall be final.

(Ord. 97-65. Passed 11-20-97.)

1103.99 PENALTY.

It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or land in violation of any regulation adopted by Council. Any person, firm or corporation violating any regulation thereto shall be fined not more than five hundred dollars (\$500.00). Every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance or use continues may be deemed a separate offense. (Ord. 97-65. Passed 11-20-97.)

TITLE THREE - Zoning Administration
 Chap. 1111. Definitions.
 Chap. 1113. Interpretation; Enforcement; Penalty.
 Chap. 1115. Board of Zoning Appeals.

CHAPTER 1111
 Definitions

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1111.24	Lot, corner.	1111.52	Yard, rear.
1111.25	Lot line, front.	1111.53	Yard, side.
1111.26	Lot line, rear.	1111.54	Zone.
1111.27	Lot line, side.	1111.55	Zoning Map.
1111.28	Lot, reverse corner.	1111.56	Zoning Code.

CROSS REFERENCE

Urban renewal definitions - see ADM. 181.03

1111.01 DEFINITIONS.

For the purpose of this Zoning Code, certain words and terms used in it shall be interpreted or defined as follows in this chapter.
(Ord. 4702. Passed 8-21-56.)

1111.02 INTERPRETATION.

Words used in the present tense include the future tense; the singular includes the plural and the plural the singular unless the natural construction of the wording indicates otherwise; "lot" includes "plot" and "parcel"; "shall" is mandatory and not directory; "occupied" or "used" as applied to any building or premises shall be considered to be followed by "or intended, arranged or designed to be occupied or used"; "approve" shall be considered to be followed by "or disapprove"; "City" means the City of Martins Ferry; all distances and areas refer to measurements in a horizontal plane.
(Ord. 4702. Passed 8-21-56.)

1111.03 ACCESSORY BUILDING OR ACCESSORY USE.

"Accessory building" or "accessory use" means a subordinate building or use located on the same lot with, and customarily incidental to, the main use or main building. Accessory buildings and uses are considered to be a part of the primary use of a property.
(Ord. 4702. Passed 8-21-56.)

1111.04 ALLEY.

"Alley" means a permanent service way providing a secondary means of access to abutting properties.
(Ord. 4702. Passed 8-21-56.)

1111.05 ALTERATION.

"Alteration" as applied to a building means a change in or replacement of walls, partitions, floors, roof, foundations or openings, or in corresponding parts of a structure other than a building. Redecorating, repair or replacement of windows, trim and similar small members does not constitute an alteration.
(Ord. 4702. Passed 8-21-56.)

1111.06 ANIMAL HOSPITAL OR ANIMAL CLINIC.

"Animal hospital" or "animal clinic" means any building used to treat small animals or fowl. (Ord. 4702. Passed 8-21-56.)

1111.07 APARTMENT HOUSE.

"Apartment house" means any main building containing more than four dwelling units.
(Ord. 4702. Passed 8-21-56.)

1111.08 BOARDING HOUSE.

"Boarding house" means any dwelling in which more than three persons, either individually or as one or more families, are housed or lodged for hire, with or without meals. A rooming house or furnished room house shall be considered a boarding house.
(Ord. 4702. Passed 8-21-56.)

1111.09 BUILDING.

"Building" means a structure designed or used for the shelter of persons, animals or chattel. Structures such as stadiums, platforms, taverns, sheds, signs and fences of any type over four feet in height shall be considered buildings.
(Ord. 4702. Passed 8-21-56.)

1111.10 CERTIFICATE OF OCCUPANCY.

"Certificate of occupancy" means an authorization for the occupancy or use of any structure or property.
(Ord. 4702. Passed 8-21-56.)

1111.11 DOUBLE HOUSE.

"Double house" means a dwelling designed for or occupied exclusively by two families with a separate entrance for each, but under one roof and with a rail or party wall between, but no interior connection between the two.
(Ord. 4702. Passed 8-21-56.)

1111.12 DWELLING.

"Dwelling" means a building designed or used exclusively for living quarters and containing single-family, two-family, three-family or four-family units but not including apartments, boarding houses, rooming houses, motels, hotels, etc. No trailer, camp car or other portable vehicle, on or off wheels, shall be considered as a dwelling.
(Ord. 4702. Passed 8-21-56.)

1111.13 DWELLING GROUP.

"Dwelling group" means a group of two or more dwellings occupying a lot in one ownership, and having one or more yards in common.
(Ord. 4702. Passed 8-21-56.)

1111.14 DWELLING UNIT.

"Dwelling unit" means a main building, or part of a main building, with one or more rooms designed and intended for occupancy by one family for living, sleeping and cooking purposes. (Ord. 4702. Passed 8-21-56.)

1111.15 FAMILY.

"Family" means one or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit as distinguished from a group occupying a boarding house, tourist home, club, fraternity or hotel.
(Ord. 4702. Passed 8-21-56.)

1111.16 GARAGE APARTMENT.

"Garage apartment" means a dwelling unit constructed as an integral part of any private garage and abutting on a public alley or street less than thirty feet in width.
(Ord. 4702. Passed 8-21-56.)

1111.17 GARAGE, PRIVATE.

"Private garage" means an accessory building for the storage of not more than four automobiles, including not more than one truck of greater than one-half ton capacity, and in which no business is carried on.

(Ord. 4702. Passed 8-21-56.)

1111.18 GARAGE, PUBLIC.

"Public garage" means a building or portion thereof, other than a private garage, designed or used for servicing, repairing, hiring, selling or storing motor-driven vehicles.

(Ord. 4702. Passed 8-21-56.)

1111.19 HEIGHT OF BUILDING OR STRUCTURE.

"Height of building or structure" means the vertical distance, measured from the average elevation of the proposed finished grade at the front of the building, to the highest point of the roof for flat and shed roofs, to the deck line for mansard-type roofs, to the mean height between eaves and ridge for other pitched roofs, or to the highest point of a structure other than a building.

(Ord. 4702. Passed 8-21-56.)

1111.20 HOME OCCUPATION.

"Home occupation" means any use or service conducted for profit solely by the inhabitants of a dwelling and operated entirely within the dwelling, which use is clearly incidental and secondary to the use of the premises for dwelling purposes and does not change the appearance or character thereof.

(Ord. 4702. Passed 8-21-56.)

1111.21 HOSPITAL.

"Hospital" means an establishment for the care of human infirmities.

(Ord. 4702. Passed 8-21-56.)

1111.22 LOT.

"Lot" means a parcel of land occupied or to be occupied by a main building, a group of main buildings or accessory buildings or to be occupied by a permitted use, together with such yards, open spaces, lot widths and lot area as are required by this Zoning Code and having frontage upon a dedicated public street for group dwellings. Where more than one dwelling is placed on a lot, each dwelling structure shall be provided with the minimum lot frontage, lot area, front yard, rear and side yards as are required for one dwelling on a lot in the same zone.

(Ord. 4702. Passed 8-21-56.)

1111.23 LOT AREA.

"Lot area" means the total area of a lot within the property lines, excluding any portion of a street or alley.

(Ord. 4702. Passed 8-21-56.)

1111.24 LOT, CORNER.

"Corner lot" means a parcel of land at the junction of, and fronting on, two or more intersecting streets.

(Ord. 4702. Passed 8-21-56.)

1111.25 LOT LINE, FRONT.

"Front lot line" means the line of property at the right of way of the street or easement that affords the principal means of access to the premises. In the case of a corner lot it is

that street line designated on the subdivision plat as the front lot line, or if there is no such designation on the plat, the front lot line shall be deemed to be the shortest of the side lines facing on the dedicated streets.

(Ord. 4702. Passed 8-21-56.)

1111.26 LOT LINE, REAR.

"Rear lot line" means the lot line generally opposite the front lot line. If less than ten feet in length, or if the lot comes to a point in the rear, the rear lot line shall be considered to be a line parallel to the front lot line, not less than ten feet long, lying wholly within the lot and farthest from the front lot line.

(Ord. 4702. Passed 8-21-56.)

1111.27 LOT LINE, SIDE.

"Side lot line" means a lot line other than a front or rear lot line.

(Ord. 4702. Passed 8-21-56.)

1111.28 LOT, REVERSE CORNER.

"Reverse corner lot" means a corner lot the rear line of which is all or part of the side lot line of an abutting lot.

(Ord. 4702. Passed 8-21-56.)

1111.29 LOT WIDTH.

"Lot width" means the dimension of a lot, measured at right angles to the average bearing of the side lot lines, at the front lot line or at the front yard line.

(Ord. 4702. Passed 8-21-56.)

1111.30 MAIN BUILDING.

"Main building" means a building in which is conducted the principal use of the lot on which it is situated. In a residential district any dwelling shall be considered to be a main building on the lot on which it is located.

(Ord. 4702. Passed 8-21-56.)

1111.31 MOTEL OR TOURIST COURT.

"Motel" or "tourist court" means one or more buildings arranged and constructed for the overnight sleeping accommodation of the automobile-traveling public but not including cooking facilities.

(Ord. 4702. Passed 8-21-56.)

1111.32 NONCONFORMING USE .

"Nonconforming use" means a lawful use of land or of a building which does not conform to the use standards of this Zoning Code for the district in which it is located.

(Ord. 4702. Passed 8-21-56.)

1111.33 OCCUPANCY, MIXED.

"Mixed occupancy" means occupancy of a building or land for more than one use.

(Ord. 4702. Passed 8-21-56.)

1111.34 PORCH.

"Porch" means a roofed, open structure projecting from the front, side or rear wall of the building. (Ord. 4702. Passed 8-21-56.)

1111.35 PROPERTY LINE.

For "property line" see "lot line", Sections 1111.25 through 1111.27. (Ord. 4702. Passed 8-21-56.)

1111.36 PUBLIC PARKING LOT.

"Public parking lot" means any lot municipally or privately owned for off-street parking facilities, providing for the transient storage of automobiles or motor-driven vehicles. Such parking services may be provided as a free service or may be provided for a fee. (Ord. 4702. Passed 8-21-56.)

1111.37 RESIDENTIAL HOTEL.

"Residential hotel" means a dwelling occupied by permanent guests which may or may not have housekeeping facilities for each room or suite of rooms. (Ord. 4702. Passed 8-21-56.)

1111.38 SIGN.

"Sign" means any advertising structure or display located outside a building, including signs attached to or painted on the wall or roof of a building. (Ord. 4702. Passed 8-21-56.)

1111.39 STABLE.

"Stable" means any building, structure or portion thereof which is used in whole or in part for the shelter or care of horses, cattle or other similar animals either permanently or transiently. (Ord. 4702. Passed 8-21-56.)

1111.40 STORY.

"Story" means that portion of a building included between the surface of any floor and the surface of the next floor above it, or if the top story, that part between the surface of the floor and the ceiling above it. A basement shall be counted as a story if it is used as a separate dwelling. (Ord. 4702. Passed 8-21-56.)

1111.41 STORY, HALF.

"Half story" means a story with two or more opposite sides meeting a sloping roof not more than three feet above the floor of such story. (Ord. 4702. Passed 8-21-56.)

1111.42 STREET.

"Street" means a public thoroughfare which affords the principal means of access to abutting property. (Ord. 4702. Passed 8-21-56.)

1111.43 STRUCTURE.

For "structure" see "building", Section 1111.09. (Ord. 4702. Passed 8-21-56.)

1111.44 STRUCTURAL ALTERATION.

"Structural alteration" means any change in the supporting member of a building or structure such as bearing walls, partitions, columns, beams or girders.
(Ord. 4702. Passed 8-21-56.)

1111.45 TELEPHONE EXCHANGE BUILDING.

"Telephone exchange building" means a building and its equipment used for facilitating transmission and exchange of telephone messages between subscribers, but in a residential district not including public business facilities, storage of outside plant materials, trucks or repair facilities, or housing of outside repair crews.
(Ord. 4702. Passed 8-21-56.)

1111.46 TERRACE.

"Terrace" means a natural or artificial embankment between a building and its lot lines. The height of a terrace is the difference in elevation between the curb level and the top of the terrace at the center of the building wall.
(Ord. 4702. Passed 8-21-56.)

1111.47 TOURIST COURT.

For "tourist court" see "motel", Section 1111.31.
(Ord. 4702. Passed 8-21-56.)

1111.48 TOURIST HOME.

"Tourist home" means a dwelling in which overnight accommodations are provided for transient guests for compensation, and the outward appearance of which continues to be residential in character.
(Ord. 4702. Passed 8-21-56.)

1111.49 TRAILER CAMP.

"Trailer camp" means premises occupied or designed for occupancy by one or more trailers or camp care for living purposes.
(Ord. 4702. Passed 8-21-56.)

1111.50 YARD.

"Yard" means an open space of uniform width or depth, and on the same lot with a building or group of buildings, lying between any part of the building and the nearest lot line and which is unoccupied and unobstructed from the ground upward. The width or depth of a yard shall be parallel to and measured at right angles to the corresponding lot line.
(Ord. 4702. Passed 8-21-56.)

1111.51 YARD, FRONT.

"Front yard" means a yard extending across the full width of a lot and lying between the front lot line and the nearest part of a building.
(Ord. 4702. Passed 8-21-56.)

1111.52 YARD, REAR.

"Rear yard" means a yard extending across the full width of a lot and lying between the rear lot line and the nearest part of a building.
(Ord. 4702. Passed 8-21-56.)

1111.53 YARD, SIDE.

"Side yard" means a yard between each side lot line and the nearest part of a building and extending from the front yard to the rear yard, or in the absence of either of such yards, to the front or rear lot line as the case may be.

(Ord. 4702. Passed 8-21-56.)

1111.54 ZONE.

"Zone" means a classification of use, and the standards pertaining thereto, as described in this Zoning Code and as applied to certain areas in the City.

(Ord. 4702. Passed 8-21-56.)

1111.55 ZONING MAP.

"Zoning Map" means the map setting forth the boundaries of the zoning districts of the City, which Map shall be a part of this Zoning Code.

(Ord. 4702. Passed 8-21-56.)

1111.56 ZONING CODE .

"Zoning Code" means Ordinance 4702, passed August 21, 1956, as amended, which comprises Titles Three through Nine of this Planning and Zoning Code.

(Ord. 4702. Passed 8-21-56.)

CHAPTER 1113
Interpretation; Enforcement; Penalty

1113.01	Comprehensive Zoning Plan.	1113.05	Conformity to standards.
1113.02	Title.	1113.06	Unlawful buildings and uses.
1113.03	Purpose of district classification; unlisted uses.	1113.07	Legal action by Solicitor.
1113.04	Public Safety Director to enforce Code.	1113.99	Penalty.

CROSS REFERENCES

Violations - see Ohio R.C. 713.13
Powers and duties of Director of Public Service - see ADM. 135.03
General Plan - see P. & Z. 181.03(l)
Variances - see P. & Z. 1115.04 et seq., 1161.05, 1167.05
Amendment procedure - see P. & Z. 1133.01
Multiple zones under one ownership - see P. & Z. 1165.08
Authority to permit or deny use not provided for - see P. & Z.
1165.10
Permits; fees - see BLDG. Ch. 1309
Abatement of unsafe structures - see BLDG. Ch. 1355

1113.01 COMPREHENSIVE ZONING PLAN.

There is hereby established a "Comprehensive Zoning Plan" for the City of Martins Ferry. This Plan is a part of a long-range general City plan to guide and facilitate the orderly and beneficial growth of the community and to promote the public health, safety, convenience, comfort, prosperity and general welfare. More specifically, the purposes of this "Comprehensive Zoning Plan" are to encourage the social and economic stability of neighborhoods; to protect and conserve property values by minimizing conflicts in the use of neighboring property; to insure adequate open spaces between buildings; to act as a guide for the economical provision of public facilities and services; and to assist private ownership in the enjoyment and use of land and buildings.
(Ord. 4702. Passed 8-21-56.)

1113.02 TITLE.

Ordinance 4702, passed August 21, 1956, as amended, is known and may be cited as the Zoning Code of Martins Ferry, Ohio.
(Ord. 4702. Passed 8-21-56.)

1113.03 PURPOSE OF DISTRICT CLASSIFICATION; UNLISTED USES.

The descriptions of zone districts as set forth in Title Seven, are intended to give clearly defined distinctions as to the types of uses, heights of buildings and lot and yard areas applicable to each district. The specific uses listed for each district are intended to include any other uses of a similar nature but not other uses that are listed, or similar to those uses listed, for another district.

The Planning Commission shall decide the proper district for any type of use not specifically listed herein; an appeal from such a decision may be taken to the Board of Zoning Appeals. (Ord. 4702. Passed 8-21-56.)

1113.04 PUBLIC SAFETY DIRECTOR TO ENFORCE CODE.

The duty of administering and enforcing the provisions of this Zoning Code is hereby conferred upon the Director of Public Safety who shall have such powers as are conferred on him by this Zoning Code and are reasonably implied for that purpose. (Ord. 4702. Passed 8-21-56.)

1113.05 CONFORMITY TO STANDARDS.

Every new use of land or building shall comply with the standards of this Zoning Code and all building construction, moving, alteration or enlargement shall be only in accordance with the uses permitted and standards designated for the zone district in which the area concerned lies. (Ord. 4702. Passed 8-21-56.)

1113.06 UNLAWFUL BUILDINGS AND USES .

Any building erected, constructed, altered, enlarged, converted, moved or used contrary to any of the provisions of this Zoning Code, and any use of land or building which is conducted, operated or maintained contrary to any of the provisions of this Zoning Code is hereby declared to be unlawful. (Ord. 4702. Passed 8-21-56.)

1113.07 LEGAL ACTION BY SOLICITOR.

The Planning Commission, or the Public Safety Department, upon becoming aware of any violation of any provision of this Zoning Code, shall serve notice of such violation on the person or corporation committing or permitting the same, and if the violation has not ceased within such reasonable time as they may specify, they shall present the facts in the case to the Director of Law. The Director of Law shall, immediately upon having a violation of this Zoning Code called to his attention, institute injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate or remove any unlawful construction, reconstruction, alteration, conversion, maintenance or use. Such action may also be instituted by the owner of any contiguous or neighboring property who would be especially damaged by any violation of this Zoning Code. (Ord. 4702. Passed 8-21-56.)

1113.99 PENALTY.

Any person or corporation, whether as owner, lessee, principal, agent, employee or otherwise, who violates any provision of this Zoning Code or permits any such violation or who fails to comply with any of the requirements thereof, or who erects, constructs, alters, enlarges, converts, moves or uses any building, or uses any land in violation of any detailed statement or plan submitted by him and approved under the provisions of this Zoning Code, shall be fined not more than twenty-five dollars (\$25.00). Such person or corporation shall be deemed to be guilty of a separate offense for each day during any portion of which any violation of this Zoning Code is committed, continued or permitted by such person or corporation, and shall be fined therefor as provided herein. (Ord. 4965. Passed 3-19-60.)

CHAPTER 1115 Board of Zoning Appeals

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| 1115.01 Membership; officers; quorum.
1115.02 Meetings and public hearings.
1115.03 Fees for public hearings.
1115.04 Guidelines for granting
variances. | 1115.05 Powers and duties, appeals;
variances . |
|--|--|

CROSS REFERENCES

- Power to establish - see Ohio R.C. 713.11
 Notice and protest - see P. & Z. 1147.06
 Nonconforming uses - see P. & Z. 1161.01 et seq.
 Granting variances - see P. & Z. 1161.05
 Multiple zones under one ownership - see P. & Z. 1165.08
 Off-street parking variances - see P. & Z. 1167.05

1115.01 MEMBERSHIP; OFFICERS; QUORUM.

A Board of Zoning Appeals is hereby established which shall consist of five members. Four of the members shall be residents of the City, appointed by the Mayor; one shall be a member of the Planning Commission, appointed by the Commission. The term of office of the members appointed by the Mayor shall be four years, except that the term of one such member of the first Board shall be for three years, one for two years and one for one year. In case any vacancy occurs in the membership of the Board it shall be so filled in the manner of the original appointment. The Board shall elect its own Chairman for a one-year term at the first meeting of each calendar year. The presence of three members shall constitute a quorum, and the concurring vote of three members shall be necessary to pass upon any matter before the Board. The office secretary of the Planning Commission shall serve as Secretary of the Board. (Ord. 5008. Passed 10-1-60.)

1115.02 MEETINGS AND PUBLIC HEARINGS.

The Board of Zoning Appeals shall hold regular meetings at least once a month when there are matters to come before it, and special meetings when necessary and called by the Chairman. Attendance by members of the Board shall be in person. The Board shall hold a public hearing on all cases coming before it. The Secretary shall send written notice of each public hearing at least five days before the date of the hearing to property owners and residents considered by him to be affected. All meetings of the Board shall be public. Minutes of all meetings shall be recorded, showing the attendance of members and the vote of each member of each case. Such minutes shall be kept at the office of the Planning Commission and shall be a public record. (Ord. 4702. Passed 8-21-56.)

1115.03 FEES FOR PUBLIC HEARINGS.

A request for a hearing by the Board of Zoning Appeals shall be accompanied by a fee of five dollars (\$5.00) payable to the Secretary at the time the request is made. These fees shall be transmitted to the Auditor.

(Ord. 4702. Passed 8-21-56.)

1115.04 GUIDELINES FOR GRANTING VARIANCES.

The specific powers and duties of the Board of Zoning Appeals, which are described in Section 1115.05, are intended to assist in carrying out the purposes of this Zoning Code. In exercising its authority to grant variances of this Zoning Code in individual cases which may be subject to unusual hardship, the Board shall be guided by the following policies:

- (a) Every property owner shall be permitted to enjoy some reasonable use of his land.
- (b) The intent and purpose of this Zoning Code shall be adhered to in all decisions on matters coming before the Board.
- (c) Decisions of the Board may not assume legislative authority by having the effect of changing the meaning of the text of this Zoning Code or of changing the Zoning Map.
- (d) A lack of opportunity to obtain a maximum profit from the sale of property does not itself constitute grounds for relief by action of the Board.
- (e) Personal relationships in the use and ownership of property are of relatively brief duration and do not belong in considerations of long term improvement of and protection to the community.

(Ord. 4702. Passed 8-21-56.)

1115.05 POWERS AND DUTIES, APPEALS; VARIANCES.

The specific duties of the Board of Zoning Appeals are as follows:

- (a) To grant variances for certain buildings and for uses in residential districts, following which the Director of Public Safety may issue building permits and certificates of occupancy;
- (b) To grant variances in certain cases for those uses permitted in an I-2 District. This action may be taken when there are specific safeguards to protect surrounding properties from the nuisance factors of explosion and fire hazard, noise, smell, dust, smoke, vibration and unsightliness, and when there is assurance that these protective measures will be continued and maintained through succeeding years and ownerships, following which the Director of Public Safety may issue a building permit or certificate of occupancy;
- (c) To grant variances for side, front or rear yards whenever the provisions of this Zoning Code in respect to these requirements shall affect construction on any lot which is nonconforming as to size or area as a result of the adoption of this Zoning Code. Owners of such property must show that the normal application of the standards for the zoning district in which the lot is located would deprive the owner of practicable use of the lot or would be contrary to established front, side or rear yard setbacks by a majority of the structures within the same block in which the lot is located. The variance shall be to the minimum degree necessary to permit reasonable use of the lot. The variance shall not be granted if a majority of the buildings on lots within the block, in which the lot for which the variance is requested is found, are not substandard in respect to the variances being requested;

- (d) To decide, in case of question, the exact location of a zone district boundary line on the Zoning Map or to interpret any of the provisions of this Zoning Code;
- (e) To hear any appeal taken by a property owner as a result of the denial of a building permit or a certificate of occupancy by the Director of Public Safety when the property owner holds that such a denial is unreasonable or unjust or would require him to adhere to standards not adhered to by at least fifty percent of the properties within the block in which the lot is located;
- (f) In granting any variance the Board of Zoning Appeals may designate specific conditions for the approval of the building permit or certificate of occupancy for which the variance is granted and such conditions shall be listed on the permit or certificate by the Director of Public Safety. Failure to adhere to such conditions of approval will automatically invalidate the right of a property owner to proceed further under such permit or certificate;
- (g) To establish a zone boundary line within fifty feet in either direction of a zone boundary line dividing a property in one ownership.
(Ord. 4702. Passed 8-21-56.)

TITLE FIVE - Zoning Districts; Zoning Map
Chap. 1131. Districts; Map; Boundaries.
Chap. 1133. Amendments.

CHAPTER 1131
Districts; Map; Boundaries

1131.01 Districts designated.	1131.02 Establishment of districts on Zoning Map.
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CROSS REFERENCES

Basis of districts - see Ohio R.C. 713.10
District boundary lines - see P. & Z. 1115.05(g), 1165.09
Amendment procedure - see P. & Z. 1133.01
Effect of change of district - see P. & Z. 1161.04
Several types of uses on one property - see P. & Z. 1165.03
Zoning annexed areas - see P. & Z. 1165.07

1131.01 DISTRICTS DESIGNATED.

The City is hereby divided into the following types of districts:

- R-1 General Residence District
- R-2 Single-Family Residence District
- R-3 Single-Family Residence District
- C-1 Commercial District
- C-2 Neighborhood Shopping District
- I-1 Light Industry District
- I-2 Heavy Industry District.

(Ord. 4702. Passed 8-21-56.)

1 131.02 ESTABLISHMENT OF DISTRICTS ON ZONING MAP.

(a) All of the districts described in Section 1131.01 are hereby established.

(b) The locations and boundaries of these districts are as shown on the map entitled "Zoning Map of Martins Ferry, Ohio" which bears the date of approval of this section and which is on file with the Clerk of Council, the Planning Commission and the Director of Public Service.

(c) This map and all notations, references, data and other information shown on it is attached hereto and incorporated herein by reference and is hereby made part of this Zoning Code. (Ord. 88-17. Passed 4-7-88.)

CHAPTER 1133 Amendments

1133.01 Amendment procedure.

1133.02 Advertising cost.

CROSS REFERENCES

Council may amend districting or zoning - see Ohio R.C. 713.10

Council to hold public hearing - see Ohio R.C. 713.12

Change in urban renewal plan - see ADM. 181.10

Planning Commission membership, authority and duties - see P. & Z.
Ch. 1101

Effect of change of district - see P. & Z. 1161.04

Multiple zones under one ownership - see P. & Z. 1165.08

1133.01 AMENDMENT PROCEDURE .

Amendments to the text or Map of this Zoning Code may be made in the manner prescribed by law as follows:

- (a) The Planning Commission, Council, or any property owner or a group of property owners may propose amendments to this Zoning Code. All such proposed amendments shall be submitted to the Planning Commission in writing for study and approval.
- (b) The Planning Commission shall have a reasonable time but not more than forty-five days to report its findings. For any proposed amendment submitted by Council or a property owner or a group of property owners, the Planning Commission shall report its findings whether favorable or unfavorable to Council.
- (c) No amendment that is reported unfavorably by the Planning Commission shall be adopted by Council except by affirmative vote of not less than three-fourths of all Council members.
(Ord. 4702. Passed 8-21-56.)
- (d) Following the receipt of the Planning Commission's report on any proposed amendment and prior to the third reading of the amending ordinance, Council shall hold a public hearing thereon and shall give thirty days notice of the hearing by legal advertising and by any other means it considers proper. If the proposed amendment intends to rezone or redistrict ten or less parcels of land, as listed on the tax duplicate, written notice of the hearing shall be mailed by the Clerk of Council in the manner provided in Ohio R.C. 713.12.
(Ord. 7189. Passed 3-1-79.)
- (e) During the thirty-day period the amending ordinance, together with any maps that may be part of it and the report of the Planning Commission shall be on file in the office of the Clerk of Council and in the Planning Commission office for public inspection.
(Ord. 4702. Passed 8-21-56.)

1133.02 ADVERTISING COST.

Advertising costs for legal notices for amending this Zoning Code shall be charged to the General Advertising Fund for the City. (Ord. 4702. Passed 8-21-56.)

TITLE SEVEN - Zoning District Uses and Regulations

- Chap. 1141. R-1 General Residence District.
- Chap. 1143. R-2 Single-Family Residence District.
- Chap. 1145. R-3 Single-Family Residence District.
- Chap. 1147. C-1 Retail Commercial District.
- Chap. 1149. C-2 Neighborhood Shopping District.
- Chap. 1151. I-1 Light Industry District.
- Chap. 1153. I-2 Heavy Industry District.
- Chap. 1155. Source Water Protection Area.

CHAPTER 1141

R-1 General Residence District

1141.01 Permitted uses.

1141.02 Uses permitted with approval.

CROSS REFERENCES

- Storage of materials and vehicles - see GEN. OFF. Ch. 543,
P. & Z. 1165.06
- Prohibited uses - see P. & Z. 1163.01
- Dwelling lots - see P. & Z. 1165.01
- Dwelling group standards - see P. & Z. 1165.02
- Signs - see P. & Z. 1165.04
- Fences - see P. & Z. 1165.05
- Uses not provided for - see P. & Z. 1165.10
- Building numbering - see BLDG. Ch. 1359

1141.01 PERMITTED USES.

The following uses are permitted in an R-1 General Residence District:

- (a) One-family, two-family and multi-family uses;
 - (b) Recreation activities which are noncommercial;
 - (c) Home occupations.
- (Ord. 4702. Passed 8-21-56.)

1141.02 USES PERMITTED WITH APPROVAL.

The following uses, and extensions of present uses, when they are established in a manner that will give adequate protection to surrounding property from noise, traffic and parking congestion and when approved by the Board of Zoning Appeals are also permitted in an R-1 District:

- (a) Auditoriums;
- (b) Churches, convents, monasteries and similar religious activities;
- (c) Day nurseries and kindergartens;

- (d) Libraries;
- (e) Museums which are noncommercial;
- (f) Schools and colleges of a nonprofit nature;
- (g) Stadiums;
- (h) Utility service facilities to the extent necessary to serve the surrounding areas;
- (i) Clubs, lodges and social or recreation centers not operated in a commercial manner;
- (j) Fraternity and sorority houses;
- (k) Homes for the aged, indigent or for orphans;
- (l) Hospitals, sanitariums, convalescent and nursing homes, but not establishments for the exclusive care of contagious disease, epileptic, drug or liquor patients, or for criminals;
- (m) Social service, charitable and philanthropic institutions, but not including transient rooming accommodations or dormitories operated by such institutions;
- (n) Tourist homes which are operated as a part of a residence;
- (o) Professional offices up to four in number;
- (p) Residential hotels, which may have a dining room and other businesses to primarily serve the residents of the building and the only entrances to which are within the building;
- (q) Tea rooms and similar places of gathering that are used for private parties, provided that no food or drink is served to the walk-in public and that no advertising is set up on the premises except as provided for in Section 1165.04 for home occupations;
- (r) Insurance company offices, when the business conducted is confined exclusively to the insurance business and when provisions are made for off-street parking in accordance with this Zoning Code. Signs shall be in accordance with Section 1165.04.
- (s) Nonprofit financial institutions.
(Ord. 6331. Passed 6-21-73.)

CHAPTER 1143
R-2 Single-Family Residence District

- | | |
|---------------------------|------------------------------|
| 1143.01 Permitted uses. | 1143.03 Accessory buildings. |
| 1143.02 Yard regulations. | |

CROSS REFERENCES

Storage of materials and vehicles - see GEN. OFF. Ch. 543,
P. & Z. 1165.06
Prohibited uses - see P. & Z. 1163.01
Dwelling lots - see P. & Z. 1165.01
Dwelling group standards - see P. & Z. 1165.02
Signs - see P. & Z. 1165.04
Fences - see P. & Z. 1165.05
Uses not provided for - see P. & Z. 1165.10
House numbering - see BLDG. Ch. 1359

1143.01 PERMITTED USES.

The following uses are permitted in an R-2 Single-Family Residence District:

- (a) One-family residences only;
- (b) Those uses permitted in Sections 1141.01(b), (c) and 1141.02(a) through (h) and (s) for an R-1 General Residence District.

(Ord. 6332. Passed 6-21-73.)

1143.02 YARD REGULATIONS.

In an R-2 Single-Family Residence District, if a front yard line has been established by existing residences in the block, this line shall be followed.

(Ord. 4702. Passed 8-21-56.)

1143.03 ACCESSORY BUILDINGS.

Accessory buildings in an R-2 District shall observe the front yard line for main buildings and shall be located not closer than three feet to any other property line. Accessory buildings other than garages shall be located on the rear half of the lot. On all corner lots accessory buildings on the secondary street shall conform to the side yard lines for main buildings. On reverse corner lots accessory buildings shall be set back twenty-five feet from the rear property line.

(Ord. 4702. Passed 8-21-56.)

CHAPTER 1145
R-3 Single-Family Residence District

1145.01	Application.	1145.07	Rear yards.
1145.02	Use regulations.	1145.08	Accessory buildings.
1145.03	Area regulations.	1145.09	Height regulations.
1145.04	Frontage regulations.	1145.10	Special provisions for corner lots.
1145.05	Side yards.		
1145.06	Front yards.		

CROSS REFERENCES

Storage of materials and vehicles - see GEN. OFF. Ch. 543,
P. & Z. 1165.06
Prohibited uses - see P. & Z. 1163.01
Dwelling lots - see P. & Z. 1165.01
Dwelling group standards - see P. & Z. 1165.02
Signs - see P. & Z. 1165.04
Fences - see P. & Z. 1165.05
Annexed areas - see P. & Z. 1165.07
House numbering - see BLDG. Ch. 1359

1145.01 APPLICATION.

The R-3 Single-Family Residence District zone shall not be applied to any area within the City or annexed to the City in which more than twenty percent of the property so zoned is occupied by dwellings or buildings. It is intended for application to areas that are undeveloped for the most part on August 21, 1956.
(Ord. 4702. Passed 8-21-56.)

1145.02 USE REGULATIONS.

In an R-3 District, no building or land shall be used and no building shall be erected which is arranged, intended or designed to be used for other than one or more of the uses as provided in this chapter.
(Ord. 4702. Passed 8-21-56.)

1145.03 AREA REGULATIONS.

The minimum lot area in an R-3 District shall not be less than 6,000 square feet for any main building. (Ord. 4702. Passed 8-21-56.)

1145.04 FRONTAGE REGULATIONS.

The minimum width for any lot in an R-3 District shall be sixty feet at a distance twenty-five feet back from the front lot line; this is subject to change where the contour of the land so demands.
(Ord. 4702. Passed 8-21-56.)

1145.05 SIDE YARDS.

The minimum side yard for any dwelling in an R-3 District shall be six feet and the total width of the two required side yards shall be not less than fourteen feet. Other main buildings shall have minimum side yards of fourteen feet and the total width of the two side yards shall be not less than thirty feet. Except as provided in the definition of a private garage in Section 1111.17, accessory buildings shall have a side yard of not less than six feet, and shall be located not closer than twenty-five feet to a dwelling on adjacent property. On corner lots, the side yard which faces on a street shall not be less than twenty feet for both main and accessory buildings.

(Ord. 4702. Passed 8-21-56.)

1145.06 FRONT YARDS.

Each main building in an R-3 District shall have a minimum front yard of twenty-five feet. However, if a front yard line has been established by existing residences in the block, this line shall be followed provided that in no case shall the building be less than fifteen feet, nor need to be more than thirty-five feet from the front property line.

(Ord. 4702. Passed 8-21-56.)

1145.07 REAR YARDS.

Each main building in an R-3 District shall have a minimum rear yard of twenty-five feet. (Ord. 4702. Passed 8-21-56.)

1145.08 ACCESSORY BUILDINGS.

Accessory buildings in an R-3 District shall observe the front yard line for main buildings and shall be located not closer than three feet to any other property line. Accessory buildings other than garages shall be located on the rear half of the lot. On all corner lots accessory buildings on the secondary street shall conform to the side yard lines for main buildings. On reverse corner lots accessory buildings shall be set back twenty-five feet from the rear property line.

(Ord. 4702. Passed 8-21-56.)

1145.09 HEIGHT REGULATIONS.

Main buildings in an R-3 District may contain up to three stories and shall have a maximum height of not more than thirty-five feet; accessory buildings shall not exceed a height of one story of fifteen feet.

(Ord. 4702. Passed 8-21-56.)

1145.10 SPECIAL PROVISIONS FOR CORNER LOTS.

On all corner lots in an R-3 District there shall be provided additional frontage at a distance of twenty-five feet back from the front lot line of fifteen feet.

Where there is a question as to which of two sides of a corner lot is the front of the lot, the front shall be deemed to be the shortest of the two sides fronting on the streets.

(Ord. 4702. Passed 8-21-56.)

CHAPTER 1147
C-1 Retail Commercial District

1147.01	Permitted uses.	1147.04	Service stations.
1147.02	Special requirements for certain businesses.	1147.05	Automobile repair shops.
1147.03	Garages.	1147.06	Notice and protest.

CROSS REFERENCES

Bowling alley, hours regulated - see BUS. REG. 713.03
 Board of Zoning Appeals - see P. & Z. Ch. 1115
 Residential district permitted uses - see P. & Z. 1141.01, 1143.01, 1145.02
 Uses not provided for - see P. & Z. 1165.10
 Off-street parking spaces - see P. & Z. 1167.02, 1167.05
 Access roads - see P. & Z. 1169.02
 Service stations - see P. & Z. 1169.03, 1169.04

1147.01 PERMITTED USES.

The following uses are permitted in a C-1 Retail Commercial District:

- (a) Uses permitted in any residence district;
- (b) Retail sales and service including but not limited to the following:
 - (1) Auto sales, repair garages, used-car lots, service stations, but not dismantling vehicles or the storage of dismantled vehicles;
 - (2) Banks, post offices and establishments providing similar public services;
 - (3) Bowling alleys, pool rooms, skating rinks;
 - (4) Bus terminals and garages;
 - (5) Cleaning and pressing establishments, but not wholesale cleaning and dyeing plants;
 - (6) Drug stores, pharmacies;
 - (7) Hotels including dormitories for transients;
 - (8) Offices, theatres, personal service shops;
 - (9) Passenger terminals;
 - (10) Plumbing and heating, sign, furniture repair and upholstery, cabinet making and pattern shops;
 - (11) Restaurants, saloons, taverns;
 - (12) Signs and billboards;
 - (13) Stores and shops for retail sales;
 - (14) Any wholesale or retail business establishment including distributing establishments;
 - (15) Animal pound and boarding kennels;

- (16) Commercial storage establishments, including building material storage;
 - (17) Contractors equipment storage;
 - (18) Paint, body repair, vulcanizing and welding shops;
 - (19) Rail and truck terminals;
 - (20) Storage warehouses;
 - (21) Newspaper plants, printing and engraving shops;
 - (22) Flour, feed, grain and millage storage;
 - (23) Trailer courts.
- (Ord. 4702. Passed 8-21-56.)

1147.02 SPECIAL REQUIREMENTS FOR CERTAIN BUSINESSES.

In a C-1 District special requirements for certain businesses shall be as set forth in Sections 1147.03 through 1147.06.
(Ord. 4702. Passed 8-21-56.)

1147.03 GARAGES.

In a C-1 District a garage may be established, erected or enlarged, provided that:

- (a) No repair facilities are maintained on the front portion of the lot or in the front portion of the first story of the building within thirty feet of the street;
 - (b) The vehicular entrance door shall set back a distance of fifteen feet from the street line and an open, unoccupied space shall be maintained, for the height of the first or entrance story, which in any case shall not be less than twelve feet above the curb elevation, having a width of six feet, each side of the center of such door or doors, which width shall be increased to ten feet each side of the center line of such door or doors, at the street line;
 - (c) The proposed structure is to be erected within an area bounded by two or more streets within which there is, at the time, no parochial, public or other duly organized school, playground, hospital, church or public library; and that any entrance or exit of such garage, for vehicles, shall not be within 100 feet of an entrance or exit of any such institution located on the same street or way;
 - (d) Provisions in Section 1147.06 as to "Notice and Protest" shall apply to applications for garages.
- (Ord. 4702. Passed 8-21-56.)

1147.04 SERVICE STATIONS.

In commercial districts, a station for the storage and service of fuel, lubricating oil and accessories for motor vehicles, may be erected or extended, provided that no portion of the service station or any of its equipment shall be placed closer to the street line than ten feet nor closer thereto than the line, fixed by this Zoning Code for building upon the adjoining lots, and provided further that the requirements for "Notice and Protest" in Section 1147.06 shall be complied with.
(Ord. 4702. Passed 8-21-56.)

1147.05 AUTOMOBILE REPAIR SHOPS.

In commercial districts an automobile repair shop or repair facilities shall be permitted provided that:

- (a) The shop or facilities are accessory or supplemental to the principal use of the premises, which principal use is concerned with the automobile business.
- (b) The shop or facilities do not occupy the front portion of the lot or front portion of the first story of the building within thirty feet of the street.

- (c) The shop or facilities are located not less than sixty feet from any residential district.
- (d) Access to the shop or facilities is not provided from the principal frontage of the lot or buildings, where access from rear is possible.
(Ord. 4702. Passed 8-21-56.)

1147.06 NOTICE AND PROTEST.

No permit shall be granted under the provisions of Sections 1147.03 and 1147.04 until notice has been given to adjacent property owners, within 200 feet, by the Board of Zoning Appeals who may hold a hearing on the permit. Such notice may be in the form of printed handbills, or their equivalent, not less than ten in number, posted in conspicuous places in the immediate area affected. The notice shall state the nature of the application, quote the section of the ordinance governing the application, state the manner in which protest may be made, and designate the time and place the application will be heard.

The Board of Zoning Appeals shall hold a public hearing if a written protest signed by a majority of the property owners within 200 feet of the boundary line of the property is filed with the Clerk of Council within five days after the posting of the notice. The Board of Zoning Appeals shall, within ten days after the posting of the notice, hold a public hearing on the application and the protest; if no such protest is filed with the Clerk of Council within five days after the posting of the notice, the Planning Commission may, in its sound discretion, direct the issuance of the permit.
(Ord. 4702. Passed 8-21-56.)

CHAPTER 1149
C-2 Neighborhood Shopping District

1149.01	Application of C-2 Zone.	1149.04	Frontage, yard standards, use,
1149.02	Permitted uses.		height regulations.
1149.03	Area regulations.	1149.05	Special provisions.

CROSS REFERENCES

Garages and service stations - see P. & Z. 1147.03 et seq., 1169.03, 1169.04
 Several types of use on one property - see P. & Z. 1165.03
 Uses not provided for - see P. & Z. 1165.10
 Off-street parking spaces - see P. & Z. 1167.02
 Access roads - see P. & Z. 1169.02

1149.01 APPLICATION OF C-2 ZONE.

The C-2 Neighborhood Shopping District zone is designed to be located in newly established subdivision areas or in residential areas in which a sufficiently large parcel of land can be set aside to provide for not less than six of the uses permitted in Section 1149.02. (Ord. 4702. Passed 8-21-56.)

1149.02 PERMITTED USES.

The following uses are permitted in a C-2 District:

- (a) Bakery, provided that all goods produced are sold at retail on the premises; book or stationery store, beauty parlor;
- (b) Cafe, confectionery shop;
- (c) Drug store, delicatessen;
- (d) Florist;
- (e) Gift shop;
- (f) Grocery store, meat market;
- (g) Ice cream parlor or creamery provided that all goods produced are sold at retail on the premises;
- (h) Jewelry store;
- (i) Professional, insurance, real estate offices;
- (j) Paint and wallpaper stores for retail sales only, public parking area, public buildings;
- (k) Service stations, not including public garages or automobile repairing, automobile painting or welding, shoe repair and shoe shine shops;
- (l) Tailor shop;
- (m) Accessory uses and buildings customarily incidental to the uses listed in this section. (Ord. 4702. Passed 8-21-56.)

1149.03 AREA REGULATIONS.

No area shall be zoned C-2 unless it contains sufficient area to occupy a space not less than 16,000 square feet to take care of at least six of the uses permitted in Section 1149.02 and to provide for required off-street parking.

(Ord. 4702. Passed 8-21-56.)

1149.04 FRONTAGE, YARD STANDARDS, USE, HEIGHT REGULATIONS.

The regulations for frontage, yard standards, use and height shall be the same as for a C-1 District.

(Ord. 4702. Passed 8-21-56.)

1149.05 SPECIAL PROVISIONS.

The stores, shops or businesses specified in Section 1149.02 shall be retail establishments and shall be permitted only under the following conditions:

- (a) Businesses. Such businesses shall be conducted wholly within an enclosed building, or on a lot which is enclosed by a solid wall, board fence or evergreen hedge not less than six feet in height, except for the sale of gasoline and oil by service stations, the parking of automobiles and service to persons in automobiles. All products produced, whether primary or incidental, shall be sold at retail on the premises.
- (b) Exterior Signs. Any exterior sign displayed shall pertain only to a use conducted within the building or lot or shall pertain to the lease or sale of the property; the sign shall be attached flat against a wall of the building or the enclosing wall, fence or hedge and parallel to its horizontal dimension, and shall not exceed thirty-six square feet in area, except that service stations may have signs not exceeding 100 square feet. One sign only is permitted, or its equivalent in square footage in not more than three signs, excepting service stations which may have not more than five signs.
- (c) Signs. Signs which may be included in the total square footage of signs; permanent signs shall be permitted on each wall, fence or hedge facing a street or parking lot. In no case shall a sign project above the height of the building.
- (d) Residences. Residences are forbidden in this zone.

(Ord. 4702. Passed 8-21-56.)

CHAPTER 1151
I-1 Light Industry District

1151.01	Permitted uses.	1151.04	Off-street parking regulations.
1151.02	Height regulations.		
1151.03	Area, frontage and yard regulations.		

CROSS REFERENCES

Permitted uses - see P. & Z. 1147.02
 Garages and service stations - see P. & Z. 1147.03 et seq.,
 1169.03, 1169.04
 Prohibited uses - see P. & Z. 1163.01
 Several types of use on one property - see P. & Z. 1165.03
 Uses not provided for - see P. & Z. 1165.10
 Off-street parking spaces - see P. & Z. 1167.02, 1167.05

1151.01 PERMITTED USES.

The following uses are permitted in an I-1 District:

- (a) Any uses permitted in a C-1 District;
- (b) All manufacture, processing, assembly, mixing and fabrication of materials, except for those operations specifically permitted only in an I-2 Heavy Industry District, including, but not limited, to the following:

Coal yards, tipples and operations for the processing of coal, when such yards, tipples or operations are surrounded by a six foot high, solid, painted board fence, evergreen hedge or masonry wall, and when off-street parking is provided for all vehicles of the business behind the fence, hedge or wall, and when all deliveries to trucks or vehicles are made behind the fence, hedge or wall.

(Ord. 4702. Passed 8-21-56.)

1151.02 HEIGHT REGULATIONS.

There are no height limitations in an I-1 District.

(Ord. 4702. Passed 8-21-56.)

1151.03 AREA, FRONTAGE AND YARD REGULATIONS.

There are no area, frontage or yard regulations for any new industrial use in an I-1 District. (Ord. 4702. Passed 8-21-56.)

1151.04 OFF-STREET PARKING REGULATIONS.

Any new industry constructed in an I-1 District after August 21, 1956, shall provide off-street parking facilities as set forth in Chapter 1167.

(Ord. 4702. Passed 8-21-56.)

CHAPTER 1153
I-2 Heavy Industry District

1153.01	Permitted uses.	1153.04	Main buildings other than dwellings.
1153.02	Height regulations.	1153.05	Residences.
1153.03	Area, frontage, yard regulations.	1153.06	Off-street parking.

CROSS REFERENCES

Garages and service stations - see P. & Z. 1147.03 et seq., 1169.03, 1169.04
 Uses permitted in I-1 District - see P. & Z. 1151.01
 Prohibited uses - see P. & Z. 1163.01
 Several types of uses on one property - see P. & Z. 1165.03
 Uses not provided for - see P. & Z. 1165.10
 Off-street parking spaces - see P. & Z. 1167.02, 1167.05

1153.01 PERMITTED USES.

The following uses are permitted in an I-2 Heavy Industry District:

- (a) Uses permitted in an I-1 District, with the exception of residence uses which are not permitted in an I-2 District;
 - (b) Chemical manufacture;
 - (c) Clay products manufacture, other than coal fired;
 - (d) Concrete mixing plant;
 - (e) Distillers and breweries;
 - (f) Excelsior manufacture;
 - (g) Galvanizing plant, hot dip;
 - (h) Hair, hides and raw fur curing, tanning, dressing, dyeing and storage;
 - (i) Iron and steel manufacture;
 - (j) Linoleum and other hard-surfaced floor covering manufacture;
 - (k) Paint and varnish manufacture, except aluminum paint;
 - (l) Roofing materials, building, paper and felt manufacture;
 - (m) Railroad repair and overhaul shops;
 - (n) Rubber tire and tube manufacture;
 - (o) Sawmill, including cooperage stock mill;
 - (p) Scrap metal and metal ore reduction, refining, smelting and alloying;
 - (q) Soap and glycerine manufacture;
 - (r) Wood preserving treatment;
 - (s) The commercial slaughtering of animals;
 - (t) Junk yards;
 - (u) Rendering of animals, garbage or waste.
- (Ord. 4702. Passed 8-21-56.)

1153.02 HEIGHT REGULATIONS.

There are no height regulations or limits in an I-2 District.
(Ord. 4702. Passed 8-21-56.)

1153.03 AREA, FRONTAGE, YARD REGULATIONS.

There are no area, frontage or yard regulations in an I-2 District.
(Ord. 4702. Passed 8-21-56.)

1153.04 MAIN BUILDINGS OTHER THAN DWELLINGS .

None. (Ord. 4702. Passed 8-21-56.)

1153.05 RESIDENCES.

Although new residences are not permitted in an I-2 District, nothing in this Zoning Code shall prevent the remodeling of an existing residence.
(Ord. 4702. Passed 8-21-56.)

1153.06 OFF-STREET PARKING.

Off-street parking in an I-2 District shall be provided in accordance with Chapter 1167.
(Ord. 4702. Passed 8-21-56.)

CHAPTER 1155
Source Water Protection Area

1155.01	Definitions.	1155.03	Liability.
1155.02	Zones within the Source Water Protection Area.	1155.04	Area boundary disputes.
		1155.05	Enforcement.

1155.01 DEFINITIONS.

(a) “Aquifer” means a geological formation, group of formations or part of a formation composed of rock, sand or gravel capable of storing and yielding groundwater to wells and springs.

(b) “Contamination” means an impairment of water quality by chemicals, radio nuclides, biological organisms, or other extraneous matter whether or not it affects the potential or intended beneficial use of water.

(c) “Development” means the carrying out of any construction, reconstruction, alterations of surface or structure or change of land use or intensity of use.

(d) “Facility” means something that is built, installed, or established for a particular purpose.

(e) “Grey water” means all domestic wastewater except toilet discharge water.

(f) “Source Water Protection Area” means the zoning district defined to overlay other zoning districts in the City of Martins Ferry. This district may include specifically designated recharge areas that collect precipitation or surface water and carry it to aquifers.

(g) “Hazardous material” means a material which is defined in one or more of the following categories:

- (1) Ignitable: A gas, liquid or solid which may cause fires through friction, absorption of moisture, or which has low flash points. Examples: white phosphorous and gasoline.
Carcinogenic: A gas, liquid, or solid which is normally considered to be cancer causing or mutagenic. Examples: PCB’s in some waste oils.
Explosives: A reactive gas, liquid or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate.
- (2) Highly toxic: A gas, liquid, or solid so dangerous to man as to afford an unusual hazard to life. Example: Chlorine gas.
- (3) Moderate toxic: A gas, liquid or solid which through repeated exposure or in a single large dose can be hazardous to man.
- (4) Corrosive: Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.

(h) “Primary containment facility” means a tank, pit, container, pipe or vessel of first containment of a liquid or chemical.

(i) “Release” means any unplanned or improper discharge, leak, or spill of a potential contaminant including a hazardous material.

(j) “Secondary containment facility” means a second tank, catchment pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery are required.

(k) “Shallow/surficial aquifer” means an aquifer in which the permeable medial (sand and gravel) starts at the land surface or immediately below the soil profile.

(l) “Spill response plans” means detailed plans for control, recontainment, recovery, and clean up of hazardous material releases, such as during fires or equipment failures.

(m) “Stormwater treatment practices (STPs)” means measures, either structural or non structural, that are determined to be the most effective, practical means of preventing or reducing point of nonpoint source pollution inputs to storm water runoff and water bodies.

(n) “Time-of-travel distance” means the distance that groundwater will travel in a specified time. This distance is generally a function of the permeability and slope of the aquifer.

(Ord. 2007-03. Passed 1-18-07.)

1155.02 ZONES WITHIN THE SOURCE WATER PROTECTION AREA.

(a) Zone 1 - Drinking Water Critical Impact Zone. Zone 1 is defined as the area within the 1- year time-of-travel distance mapped around all the public water supply well(s). (NOTE: This zone typically constitutes the area within about 1000 feet of a public water supply well).

- (1) Encouraged uses - The following uses are encouraged within Zone 1 provided they meet the appropriate performance standards outlined in subsection (b)(3) below and are designed so as to prevent any groundwater contamination.
 - A. Parks, greenways, or publicly-owned recreational areas such as foot, bicycle and/or horse paths, and bridges.
 - B. Necessary public utilities/facilities including the construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to wells, pipelines, aqueducts, and tunnels.
 - C. Conservation efforts for soil, water, plants, and wildlife.
- (2) Special exception - The following uses are permitted only under the terms of a special exception and must conform to provisions of the underlying zoning district and meet the performance standards outlined in subsection (b)(3) below.

Expansion of existing nonconforming uses to the extent allowed by the underlying area. The applicant should consult the local zoning plan to confirm nonconforming uses. The (zoning authority) reserves the right to review all applications and shall not grant approval unless it finds such expansion does not pose greater potential contamination of groundwater than the existing use.
- (3) Prohibited uses - The following uses, unless granted a special exception, are prohibited within Zone 1, the 1-year time-of-travel zone. (NOTE: This is typically within about 1000 feet of the public water supply well).
 - A. Automobile body/repair shop.
 - B. Gas Station.
 - C. Fleet/trucking/bus terminal.
 - D. Dry cleaner.
 - E. Electrical/electronic manufacturing facility.
 - F. Machine shop.
 - G. Metal plating/finishing/fabricating facility.
 - H. Chemical processing/storage facility.
 - I. Wood preserving/treating facility.
 - J. Junk/scrap/salvage yard.
 - K. Mines/gravel pit.
 - L. Irrigated nursery/greenhouse stock.
 - M. Confined animal feeding operations.
 - N. Land divisions resulting in high density (> 1 unit/acre systems).
 - O. Equipment maintenance/fueling areas.
 - P. Injection wells/dry well/sumps, except for single family residences directing gutter downspouts to a drywell.

- Q. Underground storage tanks, (except those with spill, overflow, corrosion protection requirements in place).
- R. All other facilities involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having potentially harmful impact on groundwater quality.
- S. All uses not permitted in the underlying zone district.

(b) Zone 2 - Drinking Water Potential Impact Zone. Zone 2 (otherwise known as the 5-year time-of-travel) is established as the remainder of the Source Water Protection Area not in Zone 1, but deemed necessary to ensure adequate protection of public drinking water supplies.

- (1) Permitted uses - All uses permitted in the underlying zoning areas provided that they can meet the Performance Standards as outlined for the Source Water Protection Area.
- (2) Special exceptions - All special exceptions allowed in the underlying areas may be approved by the Martins Ferry (zoning authority) provided they can meet performance standards for the Source Water Protection Area.
- (3) Performance standards - The following standards shall apply to uses in Zones 1 and 2 of the Source Water Protection Area:
 - A. Any facility involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or wastes, unless granted a special exception either through permit or another ordinance, must have a secondary containment system which is easily inspected and whose purpose is to intercept any leak or release from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and inspectable sumps.
 - B. Open liquid waste ponds containing materials referred to in subsection (b)(3)A. above will not be permitted without a secondary containment system.
 - C. Storage of petroleum products in quantities exceeding 100 gallons at one locality in one tank or series of tanks must be in elevated tanks; such tanks must have a secondary containment system noted in subsection (b)(3)A. above where it is deemed necessary by the Martins Ferry Zoning Board.
 - D. All permitted facilities must adhere to appropriate federal and state standards for storage, handling and disposal of any hazardous waste materials.
 - E. An acceptable contingency plan for all permitted facilities must be prepared for preventing hazardous materials from contaminating the shallow/surficial aquifer should floods, fire, or other natural catastrophes, equipment failure, or releases occur.

1. For flood control, all underground facilities shall include but not be limited to a monitoring system and secondary standpipe above the 100 year flood control level, for monitoring and recovery. For above ground facilities, an impervious dike, above the 100 year flood level and capable of containing 100 percent of the largest volume of storage, will be provided with an overflow recovery catchment area (sump).
2. For fire control, plans shall include but not be limited to a safe fire fighting procedure, a fire retarding system effective containment of any liquid runoff, and provide for dealing safely with any other health and technical hazards that may be encountered by disaster control personnel in combating fire. Hazards to bare pipes, liquids, chemicals, or open flames in the immediate vicinity.
3. For equipment failures, plans shall include but not be limited to:
 - a. Below ground level, removal and replacement of leaking parts, a leak detection system with monitoring, and an overfill protection system.
 - b. Above ground level, liquid and leaching monitoring of primary containment systems, the replacement or repair and cleanup and/or repair of the impervious surface.
4. For any other release occurring, the owner and/or operator shall report all incidents involving liquid or chemical material to the source water protection coordinator designated by the City of Martins Ferry.

Since it is known that improperly abandoned wells can become a direct conduit for contamination of groundwater by surface water, all abandoned wells should be properly plugged to local and state regulations.

(Ord. 2007-03. Passed 1-18-07.)

1155.03 LIABILITY.

Nothing in this chapter shall be construed to imply that the City of Martins Ferry has accepted any of an owner/developer's liability if a permitted facility or use contaminates groundwater in any aquifer.

(Ord. 2007-03. Passed 1-18-07.)

1155.04 AREA BOUNDARY DISPUTES.

If the location of the Source Water Protection Area boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application. The burden of proof shall be upon the owner(s) of the land to demonstrate where the boundaries of the area with respect to their individual parcel(s) of land should be located. If the owner(s) request that local government agency determine more accurately the boundaries of the area with respect to individual parcels of land, the agency may engage a professional engineer, hydrologist, geologist, or soil scientist and charge the owner(s) for the cost of the investigation.

(Ord. 2007-03. Passed 1-18-07.)

1155.05 ENFORCEMENT.**(a) Civil Enforcement.**

- (1) Any person may submit a verbal or written complaint alleging a violation of this chapter.
- (2) Upon receipt of a complaint, the jurisdiction shall conduct a brief investigation of the substance of the complaint, including a meeting with the landowner involved.
- (3) Based upon the determination that there is a violation of this chapter, the jurisdiction shall conduct an informal reconciliation with the violator. As part of such informal reconciliation, the jurisdiction shall:
 - A. Notify the violator by mail of the violation of this chapter and a desire of the jurisdiction to correct the violation through informal reconciliation. The statement shall also indicate that should the violator refuse to allow the recommended corrective actions within the time set forth by the jurisdiction, action may be taken to correct the violation and the violator will be billed for the cost of taking the corrective action.
 - B. Make a good faith effort to meet the violator and resolve/correct the violation.

If after taking the steps above and after a period of fifteen days following the mailing of the notice of the violation, the jurisdiction in good faith determines that the violator is unwilling to participate in informal reconciliation and take the corrective actions prescribed, the jurisdiction shall notify the violator by mail of the termination of the informal reconciliation.

The jurisdiction may take corrective actions deemed necessary following seven days after notifying violator by mail of the notice of termination of the informal reconciliation, and bill the violator for the reasonable cost of such action.

(b) **Criminal Enforcement.** In addition to civil enforcement proceeding, a person who is alleged to have violated this chapter may be prosecuted for the commission of a crime. Violation of this chapter is a misdemeanor of the first degree, and shall be punishable as provided by law. Further, each day the violation continues shall be a separate and distinct offense. (Ord. 2007-03. Passed 1-18-07.)

TITLE NINE - Additional Zoning Standards

Chap. 1161. Nonconforming Uses; Subdivision Variances.
 Chap. 1163. Prohibited Uses.
 Chap. 1165. General Provisions.
 Chap. 1167. Off-Street Parking Regulations.
 Chap. 1169. Access Roads; Service Stations.
 Appendix - Access Roadways

CHAPTER 1161
 Nonconforming Uses; Subdivision Variances

1161.01	Enlargement of nonconforming uses.	1161.04	Effect of changes in zone districts.
1161.02	Reversion to a conforming use.	1161.05	Variances for front yard setback lines in subdivisions.
1161.03	Permits previously issued.		

CROSS REFERENCES

Guidelines for granting variances - see P. & Z. 1115.05
 Amendment procedure - see P. & Z. 1133.01
 Off-street parking variances in C-1, I-1 and I-2 Districts - see
 P. & Z. 1167.05
 Building permits - see BLDG. 1309.01

1161.01 ENLARGEMENT OF NONCONFORMING USES.

Any use of land or building existing on the effective date of this section (Ordinance 4702, passed August 21, 1956) may be continued even though such use does not conform to the regulations of this Zoning Code for the district zone in which it is located. No enlargement, alteration including the addition of signs, expansion of a nonconforming use or reoccupancy for another type of a nonconforming use shall be permitted except that businesses permitted in a C-1 District when existing as nonconforming uses in any residence zone, may expand their off-street parking facilities immediately adjacent to the lot or lots on which the nonconforming use is in existence. Such expansion of off-street parking facilities must be made in accordance with plans approved by the Planning Commission and must provide for the construction of a six foot fence or solid evergreen hedge on any and all sides adjoining dwellings or dwelling units. (Ord. 4702. Passed 8-21-56.)

1161.02 REVERSION TO A CONFORMING USE.

Whenever a nonconforming use of a building has been intentionally abandoned or when such a use has been discontinued, any re-use of the building shall conform to this Zoning Code. Whenever a nonconforming use of an open area or tract has been discontinued, any re-use of the property shall conform to this Zoning Code. However, this shall not be interpreted to interfere with temporary seasonal nonconforming uses that have been in continual operation for a period of two or more years prior to the effective date of this section (Ordinance 4702, passed August 21, 1956).

Any building damaged by fire or other causes to the extent of ninety percent or more if its assessed valuation may be rebuilt only in accordance with this Zoning Code. If any building which has contained a nonconforming use is moved or removed, the subsequent use of the property shall conform to this Zoning Code.
(Ord. 4702. Passed 8-21-56.)

1161.03 PERMITS PREVIOUSLY ISSUED.

The use of a nonconforming building or land area for which a permit was issued legally prior to the adoption of this section (Ordinance 4702, passed August 21, 1956) may proceed provided such building is completed within one year, or such use of land established within thirty days after the effective date of this section (Ordinance 4702, passed August 21, 1956).
(Ord. 4702. Passed 8-21-56.)

1161.04 EFFECT OF CHANGES IN ZONE DISTRICTS.

Whenever the boundaries of a zone district are changed, any uses of land or buildings which become nonconforming as a result of the change shall become subject to the provisions of this Zoning Code.
(Ord. 4702. Passed 8-21-56.)

1161.05 VARIANCES FOR FRONT YARD SETBACK LINES IN SUBDIVISIONS.

(a) In approving subdivisions, the Planning Commission may approve front yard setback lines not in conformity with the required front yard setback lines of the zone in which the subdivision is located under the following conditions:

- (1) If the terrain is such that adherence to the required normal setback line would make building more than normally difficult, or
- (2) If it would make attachment to a sewer connection impossible except by the use of booster pumps.

(b) The Director of Public Safety may grant variances for front yard setbacks less than the normal front yard setback for lots in established subdivisions under the following conditions:

- (1) If a front yard setback line has been established within the block in which the lot is located of less than the required front yard setback line by more than fifty percent of the buildings within the block;
- (2) If it would be impossible due to terrain to make a sewer connection without the use of booster pumps; or
- (3) If the terrain of the lot is of such a nature as to cause undue hardship to the owner in construction of a building on the premises through adhering to the normal front yard setback line.

(c) In the event that adjacent property owners protest the granting of a building permit with variances as provided for in this section, by the Planning Commission or Director of Public Safety the permit shall be denied. The owner may then appeal to the Board of Zoning Appeals, which shall have the right to hear evidence by the property owner requesting the variance and may grant the variance if the Board feels the variance is justified.
(Ord. 4702. Passed 8-21-56.)

CHAPTER 1163 Prohibited Uses

1163.01 Prohibited uses.

CROSS REFERENCES

Permitted uses in residential districts - see P. & Z. 1141.01, 1141.02, 1143.01, 1145.02
 Permitted uses in a C-1 District - see P. & Z. 1147.01
 Permitted uses in a C-2 District - see P. & Z. 1149.02
 Permitted uses in an I-1 District - see P. & Z. 1151.01
 Permitted uses in an I-2 District - see P. & Z. 1153.01, 1153.05
 Nonconforming uses - see P. & Z. 1161.01
 Reverting to a conforming use - see P. & Z. 1161.02

1163.01 PROHIBITED USES.

The following uses are not permitted in any zone district in the City:

- (a) Aluminum powder or paint manufacture;
- (b) Bee keeping;
- (c) Clay products manufacture, using coal-fired kilns;
- (d) Cement, lime, gypsum or plaster-of-Paris manufacture;
- (e) Commercial feeding establishments for cattle, fowl or hogs;
- (f) Fertilizer manufacture, either organic or nonorganic, but not limiting the treatment of sewage by the Municipality;
- (g) Explosives, including ammunition and fireworks, manufacture or wholesale storage;
- (h) Pulp reduction or processing;
- (i) Trailers for human habitation except in established trailer courts;
- (j) Stockyards.

(Ord. 4702. Passed 8-21-56.)

CHAPTER 1165 General Provisions

1165.01	Dwellings to abut streets; garage apartments excepted.	1165.07	Classification of annexed areas.
1165.02	Dwelling group standards.	1165.08	Special provisions for multiple zones under one ownership.
1165.03	Multiple uses on one property.	1165.09	Zone boundary lines.
1165.04	Signs in residence districts.	1165.10	Uses not provided for.
1165.05	Fences in residential districts.	1165.11	Special provisions for street or highway widening.
1165.06	Storage in front or side yards forbidden.		

CROSS REFERENCES

Interpretation of types of uses - see P. & Z. 1113.03
 Classifying annexed area to R-3 - see P. & Z. 1145.01
 Regulations for garages and service stations - see P. & Z. 1147.03 et seq.
 Nonconforming uses - see P. & Z. 1161.01, 1161.02
 Provisions for parking areas - see P. & Z. Ch. 1167

1165.01 DWELLINGS TO ABUT STREETS; GARAGE APARTMENTS EXCEPTED.

Every dwelling hereafter erected, moved or remodeled into a greater number of dwelling units shall be on a lot which abuts onto a public street or way, except garage apartments, if they fulfill all other requirements for garage apartments.
(Ord. 4702. Passed 8-21-56.)

1165.02 DWELLING GROUP STANDARDS.

When several dwellings are to be erected under one ownership on a tract containing one acre or more, there shall be similar provision for adequate light, air and circulation between all dwellings. Plans for such development must be approved by the Planning Commission and no reduction of open spaces on an approved plan for a group of dwellings may be made without similar approval of a revised plan.
(Ord. 4702. Passed 8-21-56.)

1165.03 MULTIPLE USES ON ONE PROPERTY.

Certain manufacturing establishments may come under the category of several use districts as set up in this Zoning Code because of the fact that different types of activities are carried on in different buildings or areas. In such cases, conformity with this Zoning Code shall be determined by the particular use which takes place in any given building or area.
(Ord. 4702. Passed 8-21-56.)

1165.04 SIGNS IN RESIDENCE DISTRICTS.

Signs for home occupations and professional offices shall be of an area not greater than two square feet. Signs advertising a property for rent or for sale shall not be larger than six square feet. Signs identifying a church, school, hospital or similar institution shall be not larger than twelve square feet. Lighting of all signs in residence districts shall be indirect. (Ord. 4702. Passed 8-21-56.)

1165.05 FENCES IN RESIDENTIAL DISTRICTS.

No fence, hedge or screening wall shall exceed a height of six feet in any residence district zone whether on or off the property line. (Ord. 4702. Passed 8-21-56.)

1165.06 STORAGE IN FRONT OR SIDE YARDS FORBIDDEN.

There shall be no storage of building materials, furniture, household equipment, fixtures or any other unsightly or unsanitary material in any required front or side yard. (Ord. 4702. Passed 8-21-56.)

1165.07 CLASSIFICATION OF ANNEXED AREAS.

(a) Areas which become annexed to the City subsequent to the adoption of this section (Ord. 4702, passed August 21, 1956) shall be classified automatically to conform to the zoning district to which they are contiguous, unless the Planning Commission feels that a more restrictive zone application is in the best interests of the City; such would be the case particularly in zoning newly annexed properties to an R-3 District which is established primarily for application to undeveloped and annexed areas to provide more desirable residential sites.

(b) If annexed areas are contiguous to more than one zone the Planning Commission shall have the authority to classify them in accordance with the land uses therein and appropriately to the land uses in the adjacent contiguous zoned districts.

(c) Nonconforming uses in annexed areas shall be subject to the nonconforming use provisions of this Zoning Code.

(d) Areas shown as public and semipublic uses on the Zoning Map shall become classified automatically to conform to the zoning district to which they are contiguous, if and when these areas are made available for private development or use. If they are contiguous to more than one district, the Planning Commission shall have the authority to classify them in accordance with the land uses in the adjacent contiguous districts.

(e) Public rights of way which become legally closed shall become classified automatically with the zone district of the adjoining property. Private easements and railroad rights of way shall only be used for the purposes for which the easements or rights of way were established. (Ord. 4702. Passed 8-21-56.)

1165.08 SPECIAL PROVISIONS FOR MULTIPLE ZONES UNDER ONE OWNERSHIP.

Wherever any lot, which was in separate ownership prior to the adoption of this section (Ordinance 4702, passed August 21, 1956), is divided by a district zone boundary, the Planning Commission may recommend to the Board of Zoning Appeals, upon request by the owner of the lot, that up to fifty feet on either side of the zone district boundary be rezoned to one of the zone districts into which it is divided and the Board of Zoning Appeals may order, on the basis of hardship, such a zoning classification to be made effective.
(Ord. 4702. Passed 8-21-56.)

1165.09 ZONE BOUNDARY LINES .

Insofar as is possible, when preparing zoning district boundaries, the Planning Commission shall draw such boundaries to coincide with existing property lines. If such zone boundary lines therefore become irregular in shape, the Planning Commission shall add special detail inserts in larger scale, where necessary, to the Zoning Map in order to clearly define the zoning district boundaries.
(Ord. 4702. Passed 8-21-56.)

1165.10 USES NOT PROVIDED FOR.

Whenever, in any zoning district established under this Zoning Code, a use is neither specifically permitted nor denied and an application is made by a property owner to the Planning Commission or Director of Public Safety for such use, the Planning Commission shall have the authority to permit or deny the use. The use may be permitted if it tends to conform with permitted uses in the zone. The use shall be denied if it is not in conformity with permitted uses in the zone.
(Ord. 4702. Passed 8-21-56.)

1165.11 SPECIAL PROVISIONS FOR STREET OR HIGHWAY WIDENING.

Whenever there are plans in existence for the widening of any street or highway within the City, the Planning Commission may require additional front yard setbacks for any new construction or for any structures altered or remodeled in order to preserve and protect rights of way for such proposed street or highway widening.
(Ord. 4702. Passed 8-21-56.)

CHAPTER 1167 Off-Street Parking Regulations

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| 1167.01 Automobile parking space. | 1167.05 Variances in C-1, I-1 and I-2 Districts. |
| 1167.02 Number of spaces required. | |
| 1167.03 Location. | |
| 1167.04 Surface; bumper guards; lighting. | |

CROSS REFERENCES

Off-street parking facilities - see Ohio R.C. 715.05 et seq.
 Parking regulations - see TRAF. Ch. 351
 Use of parking meters - see TRAF. Ch. 353
 Special regulations in an I-1 District - see P. & Z. 1151.01(b)
 Access roads - see P. & Z. 1167.01, 1167.02

1167.01 AUTOMOBILE PARKING SPACE .

There shall be provided at the time of erection of any main building or at the time any main building is enlarged or increased in capacity, minimum off-street parking space with adequate provision for ingress and egress by standard sized automobiles, as provided in this chapter. (Ord. 4702. Passed 8-21-56.)

1167.02 NUMBER OF SPACES REQUIRED.

For a new building or for any enlargement or increase in seating capacity, floor area or guest rooms of any existing main building there shall be at least one permanently maintained parking space of not less than 200 square feet new area, as follows:

- (a) For church, school, university auditoriums and theatres, general auditoriums, stadiums and other similar places of assembly, at least one parking space for every four fixed seats provided in such buildings;
- (b) For hospitals, at least one parking space for each two beds capacity, including infants' cribs and children's beds. For medical and dental clinics, at least ten parking spaces provided for each doctor or dentist having offices in the clinic in excess of three doctors or dentists;
- (c) For tourist courts and apartment motels, at least one parking space for each individual sleeping or living unit; for hotels and apartment hotels at least one parking space for each two sleeping rooms up to and including the first twenty sleeping rooms, and one parking space for each three sleeping rooms over twenty rooms;
- (d) For restaurants or establishments serving meals, lunches or drinks to patrons either in their cars or in the building, and for dance halls and recreational places of assembly, at least one space for each serving unit, a serving unit to be one stool, booth or table;
- (e) For dance halls and recreational places of assembly, one space for each 100 square feet of floor space of the building;

- (f) For mortuaries, at least thirty parking spaces; for taverns or saloons, at least twenty parking spaces;
- (g) For retail stores selling direct to the public, one parking space for each 100 square feet of floor space in the building;
- (h) For office buildings of more than two stories, at least two parking spaces for each suite of offices; for smaller clinic-type or district or regional offices outside the major business areas, one parking space for each employee plus additional customer parking space at the same ratio as retail stores.
(Ord. 4702. Passed 8-21-56.)

1167.03 LOCATION.

Parking space as required in Section 1167.02 shall be on the same lot with the main building, or in the case of buildings other than dwellings, parking space may be located not further than 300 feet from the building and within the same block whenever possible.
(Ord. 4702. Passed 8-21-56.)

1167.04 SURFACE; BUMPER GUARDS; LIGHTING.

Every parcel of land hereafter used as a public parking area shall be paved with an asphaltic or concrete surfacing and shall have appropriate bumper guards where needed as determined by the Director of Public Service. Any lights used to illuminate such parking areas shall be so arranged as to reflect the light away from adjoining premises in any residential zone. (Ord. 4702. Passed 8-21-56.)

1167.05 VARIANCES IN C-1, I-1 AND I-2 DISTRICTS.

In order that application of this chapter may not cause undue hardship in the established, built-up downtown section of the City, the Planning Commission may decrease, modify or waive any and all of the off-street parking regulations in this chapter for any properties lying in C-1, I-1 and I-2 Districts. The Planning Commission shall not so act, however, unless the property owner concerned can show that special circumstances including unreasonable expense, great hardship or unfairness will result to him by strict adherence to these provisions.
(Ord. 4702. Passed 8-21-56.)

CHAPTER 1169
Access Roads; Service Stations

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| 1169.01 General provision. | 1169.04 Location of gasoline pumps. |
| 1169.02 Roadway and curbs. | |
| 1169.03 Special provisions for service stations. | |

CROSS REFERENCES

- Curb construction and repair - see S.U. & P.S. 909.01 et seq.
 Garages in a C-1 District - see P. & Z. 1147.03
 Service stations in commercial districts - see P. & Z. 1147.04, 1149.02(k)
 Access and other conditions for auto repair shops - see P. & Z. 1147.05
 Other requirements for public parking are as - see P. & Z. 1167.04

1169.01 GENERAL PROVISION.

Service stations, roadside stands, public parking lots and all other businesses requiring motor vehicle access shall meet the requirements specified in this chapter.
 (Ord. 4702. Passed 8-21-56.)

1169.02 ROADWAY AND CURBS.

Access to a service station or other structure or parking lot shall be controlled as follows:

- (a) Access shall be by not more than two roadways for each 100 feet or fraction thereof of frontage on any street;
- (b) No two such roadways shall be closer to each other than twelve feet, and no roadway shall be closer to a side property line than three feet;
- (c) Each roadway shall be not more than thirty-five feet in width, measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. The entire flare of any return radius shall fall within the right of way.
- (d) No roadway shall be closer than ten feet to the point of intersection of two property lines at any corner as measured along the property line, and no roadway shall extend across such extended property line.
- (e) In all cases where there is an existing curb and gutter or sidewalk on the street, the applicant for a permit shall provide a safety island along the entire frontage of the property, except for the permitted roadways. On the two ends and street side of each island shall be constructed a concrete curb, the height, location and structural specifications of which shall be approved by the City Engineer. Maximum and minimum curb return radii permitted and minimum roadway approach angles to the center line of the street are required as shown on Figure 1 of the Appendix, attached to this Zoning Code.

- (f) Where there is no existing curb and gutter or sidewalk, the applicant may, at his option, install a safety island and curb, or, in place thereof shall construct along the entire length of the property line, except in front of the permitted roadways, a curb, fence or pipe rail not exceeding two feet or less than eight inches in height, as shown in Figure 2 of the Appendix, attached to this Zoning Code. (Ord. 4702. Passed 8-21-56.)

1169.03 SPECIAL PROVISIONS FOR SERVICE STATIONS.

(a) Location. No new service station shall be built in the City without approval in writing of its location by the Fire Chief, the Director of Public Safety and Planning Commission in the order listed, and no building permit or occupancy permit shall be issued until the approvals have been obtained in writing.

- (b) Approvals. In granting approvals, the following conditions must be met:
- (1) The facility must not create traffic hazards, particularly for fire trucks and ambulances, as well as for the general public.
 - (2) Sufficient frontage and area must be provided for safety and off-street parking.
- (Ord. 4702. Passed 8-21-56.)

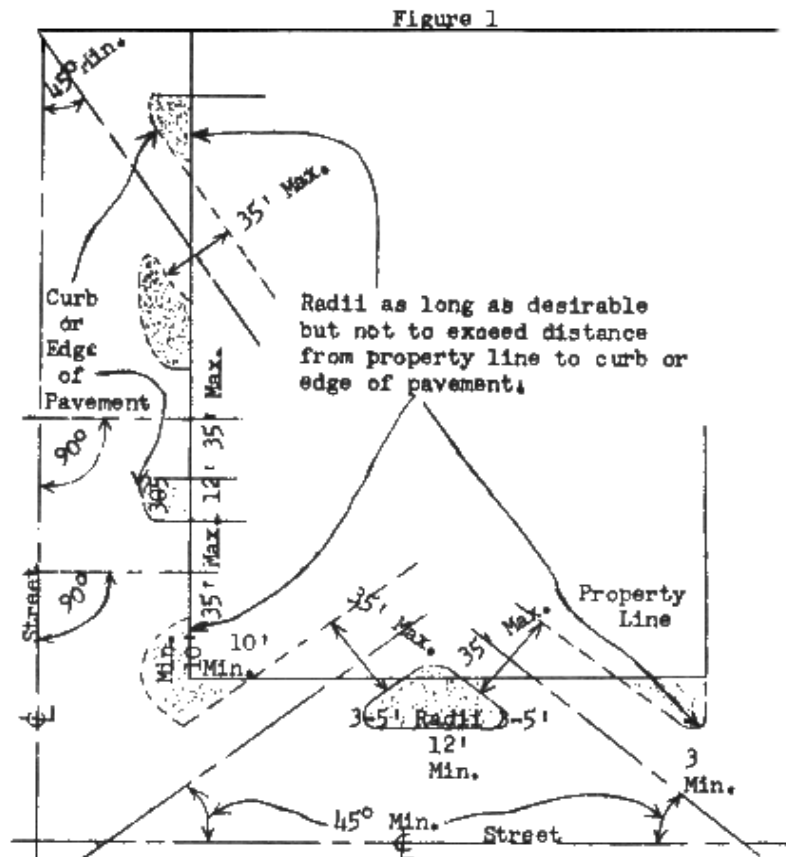
1169.04 LOCATION OF GASOLINE PUMPS.

Gasoline pumps shall be set back not less than eighteen feet from any street line to which the pump island is vertical and twelve feet from any street line to which the pump island is parallel, and not less than ten feet from any residential zone boundary line. If the pump island is set at an angle on the property it shall be so located that automobiles stopped for service will not extend over the property line. (Ord. 4702. Passed 8-21-56.)

APPENDIX - ACCESS ROADWAYS

MOTOR VEHICLE ACCESS REQUIREMENTS WITH CURB

See Section 1169.02(e)



MOTOR VEHICLE ACCESS REQUIREMENTS WITHOUT CURB

See Section 1169.02(f)

CODIFIED ORDINANCES OF MARTINS FERRY

PART THIRTEEN - BUILDING CODE

TITLE ONE - Administration

- Chap. 1305. Enforcement; Penalty.
- Chap. 1309. Permits and Fees.
- Chap. 1313. Flood Damage Prevention.
- Chap. 1315. Contractor Registration.

TITLE THREE - Model Codes Adopted

- Chap. 1325. National Building Code
- Chap. 1329. National Electrical Code.
- Chap. 1333. Ohio Plumbing Code.
- Chap. 1337. International Property Maintenance Code.

TITLE FIVE - Local Provisions

- Chap. 1355. Unsafe Structures.
- Chap. 1359. Building Numbering.
- Chap. 1363. Signs and Billboards.
- Chap. 1365. Swimming Pools.
- Chap. 1366. Garages and Other Structures.
- Chap. 1367. Erosion and Sediment Control Regulations.
- Chap. 1369. Source Water Protection Area.
- Chap. 1370. Vacant Property.
- Chap. 1371. Recreational Vehicle Park.
- Chap. 1372. False Alarms.

TITLE SEVEN - Housing

- Chap. 1375. BOCA Basic/National Existing Structures Code.
- Chap. 1379. Rat Control.

CODIFIED ORDINANCES OF MARTINS FERRY
PART THIRTEEN - BUILDING CODE

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Chap. 1313. Flood Control.
Chap. 1315. Contractor Registration.

CHAPTER 1305
Enforcement; Penalty

1305.01	Definition.	1305.03	Right of entry.
1305.02	Enforcement.	1305.99	Penalty.

CROSS REFERENCES
Power to regulate building erection - see Ohio R.C. 715.26, 715.29, 737.28
Department of Public Service - see ADM. Ch. 135
Storage of building materials - see GEN. OFF. 543.04

1305.01 DEFINITION.
For purposes of this chapter, "Building Code" means Titles One through Seven of this Part Thirteen of the Codified Ordinances.

1305.02 ENFORCEMENT.
The Director of Public Safety, or his authorized agent, is hereby authorized to enforce all of the provisions of this Building Code.
(Ord. 5000. Passed 7-9-60.)

1305.03 RIGHT OF ENTRY.

(a) The Safety Director, Chief of Police, Fire Chief, Code Administrator, Code Specialist, or any designee thereof, may, at any reasonable hour, enter any dwelling, multifamily dwelling, building, structure or premises within the City to perform any duty imposed on them by the ICC, this Building Code, or any applicable City Housing or Fire Prevention Code, provided that permission to enter is obtained from the occupant or, in the case of unoccupied property, from the owner or his or her agent. If such permission is refused or is otherwise unobtainable, a search warrant shall be obtained before such entry or inspection is made, except in the case of an existing emergency in which case entry may be made at any time and no search warrant is necessary.

(b) No person shall refuse to permit such emergency entry or inspection, nor shall any person hinder, obstruct, resist or abuse any person making or attempting to make such entry or inspection.

(Ord. 2012-28. Passed 10-3-12.)

1305.99 PENALTY.

Whoever violates any provision of the Building Code or whoever builds in violation of any plan or specification submitted and approved, or in violation of any permit issued thereunder, for each violation, if no other penalty is provided, shall be fined not more than two hundred dollars (\$200.00). Each ten days that the violation continues shall constitute a separate offense. (Ord. 2012-32. Passed 11-7-12.)

CHAPTER 1309
Permits and Fees

1309.01 Permit; application and fees. 1309.99 Penalty.

CROSS REFERENCES

Power to regulate building erection - see Ohio R.C. 715.26, 715.29, 737.28

Fees for plan approval - see Ohio R.C. 3791.07

Urban renewal restrictions - see ADM. 181.13

Certificate of occupancy defined - see P. & Z. 1111.01

Appeals - see P. & Z. 1115.05

1309.01 PERMIT; APPLICATION AND FEES.

(a) Provided the estimated valuation equals five hundred dollars (\$500.00) or more, before the erection, construction or alteration of any building or other structure or part thereof, and before the installation or alteration of the drainage or electric wiring of any building or other structure is begun, there shall be submitted to the Director of Public Safety, by the contractor, an application for a permit in duplicate, on appropriate blanks to be furnished by the Director, containing a detailed statement of the specifications, cost, location and kind of building or other structure, and the name and address of the owner(s) of the property where the work is to be performed. The plans and specifications are to be in accordance with the provisions of the National Building Code adopted under Section 1325.01. The plans and specifications are to be approved by the Director and a permit issued before the beginning of work. The Director shall approve or reject any plans filed with him pursuant to this section within a reasonable time after they are submitted to him. A copy of the permit application and plans, as approved by the Director, shall be retained by him, and a copy, as approved by him, shall be kept at the building or other structure during the progress of work. The work shall be open to inspection by the Director or his authorized agent.

(b) A fee shall be paid to the Safety/Service Fund for issuing a permit for the erection, alteration or repair of a building or other structure, in accordance with the following estimated valuation schedule:

<u>ESTIMATED VALUATION</u>	<u>FEE</u>
\$1,000.00 or less	No permit or fee required
\$1,001.00 - \$1,500.00	\$20.00
\$1,501.00 - \$2,500.00	\$25.00
\$2,501.00 - \$5,000.00	\$30.00
\$5,001.00 - \$7,500.00	\$35.00
\$7,501.00 - \$10,000.00	\$40.00
\$10,001.00 - \$15,000.00	\$45.00
\$15,001.00 or more	\$50.00 plus \$1.00 per thousand in excess of \$15,001.00

Building cost estimates may be re-evaluated by the Director if it is apparent that such costs are underestimated for permit purposes.
(Ord. 2008-17. Passed 9-4-08.)

(c) Whoever violates this section shall be fined not more than five hundred dollars (\$500.00). (Ord. 98-51. Passed 9-3-98.)

1309.99 PENALTY.

(EDITOR'S NOTE: See Section 1305.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 1313
Flood Damage Prevention

1313.01	General provisions.	1313.04	Use and development standards for flood hazard reduction.
1313.02	Definitions.	1313.05	Appeals and variances.
1313.03	Administration.	1313.06	Enforcement.

CROSS REFERENCES

Flood control bonds; public capital improvement - see Ohio Const.
Art. VIII, Sec. 21; Ohio R.C. 129.70 et seq.

County Commission flood control aid to governmental units - see Ohio
R.C. 307.77

Marking flood areas - see Ohio R.C. 1521.14

1313.01 GENERAL PROVISIONS.

(a) 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 Council of City of Martins Ferry, State of Ohio, does ordain as follows:

(b) Findings of Fact. The City of Martins Ferry has special flood hazard areas that 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. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(c) Statement of Purpose. It is the purpose of these regulations to promote the public health, safety and general welfare, and 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 protect property and minimize future flood blight areas;
- (7) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions,
- (8) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (9) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (10) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (11) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (12) Meet community participation requirements of the National Flood Insurance Program.

(d) Methods of Reducing Flood Loss. In order to accomplish its purposes, these regulations include 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, excavating, 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.

(e) Lands to Which These Regulations Apply. These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Martins Ferry as identified in subsection (f) hereof, including any additional areas of special flood hazard annexed by the City of Martins Ferry.

(f) Basis for Establishing the Areas of Special Flood Hazard. For the purposes of these regulations, the following studies and/or maps are adopted:

- (1) Flood Insurance Study for Belmont County, Ohio and incorporated areas, effective date April 5, 2006. Flood Insurance Rate Maps for Belmont County, Ohio and incorporated areas, effective date April 5, 2006.
- (2) Other studies and/or maps which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
- (3) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the City of Martins Ferry as required by Section 1313.04(c), Subdivisions and Large Scale Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the Development Department, City of Martins Ferry, 5th and Walnut Streets, Martins Ferry, Ohio 43935.

(f) Abrogation and Greater Restrictions. These regulations are not intended to repeal any existing ordinances (resolutions) including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance (resolution), the more restrictive shall be followed. These regulations shall not impair any deed restriction, covenant or easement but the land subject to such interests shall also be governed by the regulations.

(h) Interpretation. In the interpretation and application of these regulations, 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 these relations may be in conflict with a state or Federal law, such state or Federal law shall take precedence over these regulations.

(i) Warning and Disclaimer of Liability. The degree of flood protection required by these regulations 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. These regulations do 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. These regulations shall not create liability on the part of the City of Martins Ferry, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood drainage that results from reliance on these regulations or any administrative decision lawfully made thereunder.

(j) Severability. Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. 2006-03. Passed 1-25-06.)

1313.02 DEFINITIONS.

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

- (a) Accessory Structure A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (b) Appeal A request for review of the floodplain administrator's interpretation of any provision of these regulations or a request for a variance.
- (c) Base Flood 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 1 % chance annual flood or one-hundred (100) year flood.

- (d) **Base (100-Year) Flood Elevation (BFE)** The water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).
- (e) **Basement** Any area of the building having its floor subgrade (below ground level) on all sides.
- (f) **Development** Any manmade 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) **Enclosure Below the Lowest Floor** See "Lowest Floor."
- (h) **Executive Order 11988 (Floodplain Management)** Issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.
- (i) **Federal Emergency Management Agency (FEMA)** The agency with the overall responsibility for administering the National Flood Insurance Program.
- (j) **Fill** A deposit of earth material placed by artificial means.
- (k) **Flood or Flooding** 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.
- (l) **Flood Hazard Boundary Map (FHBM)** Usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.
- (m) **Flood Insurance Rate Map (FIRM)** An official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazard.
- (n) **Flood Insurance Risk Zones** Zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:
 - Zone A:**
Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.
 - Zones A1-30 and Zone AE:**
Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.
 - Zone AO:**
Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.
 - Zone AH:**
Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.

Zone A99:

Special flood hazard areas inundated by the 100-year flood to be protected from the 100 year flood by a Federal flood protection system under construction; no base flood elevations are determined.

Zone B and Zone X (shaded):

Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.

Zone C and Zone X (unshaded):

Areas determined to be outside the 500-year floodplain.

- (o) **Flood Insurance Study (FIS)** The official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.
- (p) **Flood Protection Elevation** The Flood Protection Elevation, or FPE, is the base flood elevation plus zero [0] feet of freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the floodplain administrator.
- (q) **Floodway** A floodway is the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.
The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.
- (r) **Freeboard** A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.
- (s) **Historic structure** 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 historic district; or
 - (3) Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation office.
 - (4) Individually listed on the inventory of historic places maintained by the City of Martins Ferry whose historic preservation program has been certified by the Ohio Historic Preservation Office.

- (t) **Hydrologic and hydraulic engineering analysis** An analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.
- (u) **Letter of Map Change (LOMC)** A Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's are broken down into the following categories:
 - Letter of Map Amendment (LOMA)** A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.
 - Letter of Map Revision (LOMR)** A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.
 - Conditional Letter of Map Revision (CLOMR)** A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.
- (v) **Lowest floor** The lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floors" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in these regulations for enclosures below the lowest floor.
- (w) **Manufactured home** 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". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Chapter 3733 of the Ohio Revised Code.
- (x) **Manufactured home park** As specified in the Ohio Administrative Code 3701-27-01, a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park, A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.

- (y) **National Flood Insurance Program (NFIP)** The NFIP is a Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.
- (z) **New construction** Structures for which the "start of construction" commenced on or after the initial effective date of the City of Martins Ferry Flood Insurance Rate Map, July 5, 1983, and includes any subsequent improvements to such structures.
- (aa) **Person** Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio Revised Code Section 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.
- (bb) **Recreational vehicle** 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.
- (cc) **Registered Professional Architect** A person registered to engage in the practice of architecture under the provisions of sections 4703.01 to 4703.19 of the Revised Code.
- (dd) **Registered Professional Engineer** A person registered as a professional engineer under Chapter 4733 of the Revised Code.
- (ee) **Registered Professional Surveyor** A person registered as a professional surveyor under Chapter 4733 of the Revised Code.
- (ff) **Special Flood Hazard Area** Also known as "Areas of Special Flood Hazard", it is the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.

- (gg) **Start of construction** 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.
- (hh) **Structure** A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.
- (ii) **Substantial Damage** 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.
- (jj) **Substantial Improvement** 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 improvement to a structure which is considered "new construction,"
 - (2) 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 prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - (3) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".
- (kk) **Variance** A grant of relief from the standards of these regulations consistent with the variance conditions herein.
- (ll) **Violation** The failure of a structure or other development to be fully compliant with these regulations.
(Ord. 2006-03. Passed 1-25-06.)

1313.03 ADMINISTRATION.

- (a) **Designation of the Floodplain Administrator.** The Safety/Service Director or his designee is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.

(b) Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (1) Evaluate applications for permits to develop in special flood hazard areas.
- (2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (3) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met or refuse to issue the same in the event of noncompliance.
- (4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.
- (5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.
- (6) Enforce the provisions of these regulations.
- (7) Provide information, testimony, or other evidence as needed during variance hearings.
- (8) Coordinate map maintenance activities and FEMA follow-up.
- (9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

(c) Floodplain Development Permits. It shall be unlawful for any person to begin construction or other development activity including but not limited to filling, grading, construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1313.01(f), until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

(d) Application Required. An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

- (1) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

- (2) Elevation of the existing, natural ground where structures are proposed.
 - (3) Elevation of the lowest floor, including basement, of all proposed structures.
 - (4) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
 - (5) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
 - A. Floodproofing certification for non-residential floodproofed structure as required in Section 1313.04(e).
 - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1313.04(d)(5) are designed to automatically equalize hydrostatic flood forces.
 - C. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1313.04(i)(3).
 - D. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 1313.04(i)(2).
 - E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood height as in an identified floodway as required by Section 1313.04(i)(1).
 - F. Generation of base flood elevation(s) for subdivision and large scale developments as required by Section 1313.04(c).
 - (6) A Floodplain Development Permit Application Fee set by the schedules of fees adopted by the City of Martins Ferry is based upon the fee schedule established and structured by the City of Martins Ferry Code Enforcement Department.
- (e) Review and Approval of a Floodplain Development Permit Application.
- (1) Review.
 - A. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in subsection (d) hereof has been received by the Floodplain Administrator.

B. The Floodplain Administrator shall review all floodplain development permit applications 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 U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

- (2) Approval. Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

(f) Inspections. The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

(g) Post-Construction Certifications Required. The following as-built certifications are required after a floodplain development permit has been issued:

- (1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.
- (2) For all development activities subject to the standard of subsection (j)(1) hereof, a Letter of Map Revision.

(h) Revoking a Floodplain Development Permit. A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board (Variance Board for Counties) in accordance with Section 1313.05.

(i) Exemption from Filing a Development Permit. An application for a floodplain development permit shall not be required for:

- (1) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.
- (2) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.

- (3) Major utility facilities permitted by the Ohio Power Sitting Board under Section 4906 of the Ohio Revised Code.
- (4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
- (5) Development activities undertaken by a federal agency and which are subject to Federal Executive order 11988 - Floodplain Management.

Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.

(j) Map Maintenance Activities. To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure at the City of Martins Ferry flood maps, studies and other data identified in Section 1313.01(f) accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

- (1) Requirement to submit new technical data.
 - A. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:
 - 1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - 2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
 - 3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 - 4. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 1313.04(c).
 - B. It is the responsibility of the applicant to have technical data, required in accordance with subsection (j)(1) hereof prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.
 - C. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - 1. Proposed floodway encroachments that increase the base flood elevation; and
 - 2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.
 - D. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to subsection (j)(1)A. hereof.

- (2) Right to submit new technical data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of the City of Martins Ferry, and may be submitted at any time.
 - (3) Annexation/detachment. Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Martins Ferry have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Martins Ferry Flood Insurance Rate Map accurately represent the Martins Ferry, Ohio boundaries, include within such notification a copy of a map of the City of Martins Ferry suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Martins Ferry has assumed or relinquished floodplain management regulatory authority.
- (k) Data Use and Flood Map Interpretation. The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:
- (1) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.
 - (2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.
 - (3) When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:
 - A. Upon the issuance of a Letter of Final Determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.
 - B. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and/or appeal to FEMA.

- (4) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1313.05, Appeals and Variances.
- (5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.

(1) Substantial Damage Determinations. Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Floodplain Administrator shall:

- (1) Determine whether damaged structures are located in special flood hazard areas;
- (2) Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
- (3) Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.

Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims. (Ord. 2006-03. Passed 1-25-06.)

1313.04 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1313.01(f) or 1313.03(k)(1):

- (a) Use Regulations.
 - (1) Permitted uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the City of Martins Ferry are allowed provided they meet the provisions of these regulations.
 - (2) Prohibited uses.
 - A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Section 3701 of the Ohio Revised Code.
 - B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Section 3734 of the Ohio Revised Code.
- (b) Water and Wastewater Systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
 - (2) 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,
 - (3) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.
- (c) Subdivisions and Large Developments.
- (1) All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
 - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - (4) In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
 - (5) The applicant shall meet the requirements to submit technical data to FEMA in Section 1313.03(j)(1)A.4. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1313.04(c)(4).
- (d) Residential Structures.
- (1) 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. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring and construction materials resistant to flood damage are satisfied.
 - (2) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
 - (3) 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 elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation.
 - (5) New construction and substantial improvements, including manufactured homes, that do not have basements and that are elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:

- A. Be used only for the parking of vehicles, building access, or storage, and
 - B. Be designed and certified by a registered professional engineer or architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
 - C. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (6) Manufactured homes shall be affixed to a permanent foundation and 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.
- (7) 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 is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of subsection (d) hereof.
- (e) Nonresidential Structures.
- (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of subsection (d)(1) to (3) and (5) to (7).
 - (2) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
 - A. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection 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, through the use of a Federal Emergency Management Floodproofing Certificate, that the design and methods of construction are in accordance with subsections (e)(2) A. and B. hereof.
- (f) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:
- (1) They shall not be used for human habitation;
 - (2) They shall be constructed of flood resistant materials;
 - (3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of flood waters;

- (4) They shall be firmly anchored to prevent flotation;
- (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
- (6) They shall meet the opening requirements of subsection (d)(5)C. hereof.
- (g) Recreational Vehicles. Recreational vehicles must meet at least one of the following standards:
 - (1) They shall not be located on sites in special flood hazard areas for more than 180 days, or
 - (2) They must be fully licensed and ready for highway use, or
 - (3) They must meet all standards of subsection (d) hereof.
- (h) Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (i) Assurance of Flood Carrying Capacity. Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:
 - (1) Development in floodways.
 - A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
 - B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - 1. Meet the requirements to submit technical data in Section 1313.03(j)(1);
 - 2. An evaluation of alternatives which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 - 3. Certification that no structures are located in areas which would be impacted by the increased base flood elevation;
 - 4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
 - 5. Concurrence of the Mayor of the City of Martins Ferry and the Chief Executive officer of any other communities impacted by the proposed actions.
 - (2) Development in riverine areas with base flood elevations but no floodways.

- A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,
 - B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - 1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 - 2. Subsection (i)(1)B., items 1. and 3. to 5.
- (3) Alterations of a watercourse. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the "USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique" or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:
- A. The bankfill flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a 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 bankfill flood carrying capacity of the watercourse will not be diminished.
 - B. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
 - C. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with City of Martins Ferry specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.

- D. The applicant shall meet the requirements to submit technical data in Section 1313.03(j)(1)A.3. when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.
(Ord. 2006-03. Passed 1-25-06.)

1313.05 APPEALS AND VARIANCES.

(a) Appeals Board Established.

- (1) The Council of the City of Martins Ferry shall appoint an Appeals Board consisting of five members known as the Appeal and Review Board. Three members shall serve four years and two member two years after which time they shall be reappointed or replaced by the Council of the City of Martins Ferry. Each member shall serve until his/her successor is appointed.
- (2) A chairperson shall be elected by the members of the Appeals Board. Meetings of the Appeals Board shall be held as needed and shall be held at the call of the Chairperson, or in his absence, the Acting Chairperson. All meetings of the Appeals Board shall be open to the public except that the Board may deliberate in executive sessions as part of quasijudicial hearings in accordance with law. The Appeals Board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of all official actions. Records of the Appeals Board shall be kept and filed in the City Council Chambers.

(b) Powers and Duties.

- (1) The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of these regulations.
- (2) Authorize variances in accordance with subsection (d) hereof.

(c) Appeals.

- (1) Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within ten [10] days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.
- (2) Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.

(d) Variances. Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.

(1) Application for a variance.

- A. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
- B. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.
- C. All applications for a variance shall be accompanied by a Variance Application Fee set in the schedule of fees adopted by the City of Martins Ferry is based upon the fee schedule established and structured by the City of Martins Ferry Code Enforcement Department.

(2) Notice for public hearing. The Appeals Board shall schedule and hold a public hearing within thirty (30) days after the receipt of an application for a variance from the Floodplain Administrator. Prior to the hearing, a notice of such hearing shall be given in one (1) or more newspapers of general circulation in the community at least ten (10) days before the date of the hearing.

(3) Public hearing.

- A. At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:
 - 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.
 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.
- B. 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 due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
 3. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
 4. A determination that the structure or other development is protected by methods to minimize flood damages.
 5. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of these regulations.
- (4) Other 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. 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 in subsection (d)(3)A.1. to 11. have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- C. 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.

(e) Procedure at Hearings.

- (1) All testimony shall be given under oath.
- (2) A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.
- (3) The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
- (4) The administrator may present evidence or testimony in opposition to the appeal or variance.
- (5) All witnesses shall be subject to cross-examination by the adverse party or their counsel.
- (6) Evidence that is not admitted may be preferred and shall become part of the record for appeal.
- (7) The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
- (8) The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

(f) Appeal to the Court. Those aggrieved by the decision of the Appeals Board may appeal such decision to the Belmont County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.
(Ord. 2006-03. Passed 1-25-06.)

1313.06 ENFORCEMENT.

(a) Compliance Required.

- (1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1313.03(i).
- (2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with subsection (e) hereof.
- (3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with subsection (e) hereof.

(b) Notice of Violation. Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefor and order compliance with these regulations as hereinafter provided. Such notice and order shall:

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action which, if taken, will effect compliance with the provisions of these regulations;
- (3) Specify a reasonable time for performance;
- (4) Advise the owner, operator, or occupant of the right to appeal;
- (5) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected.

(c) Violations and Penalties. Violation of the provisions of these regulations or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a fourth degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Martins Ferry. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Martins Ferry from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Martins Ferry shall prosecute any violation of these regulations in accordance with the penalties stated herein.
(Ord. 2006-03. Passed 1-25-06.)

CHAPTER 1315 Contractor Registration

1315.01	Registration required.	1315.05	Appeals.
1315.02	Definitions.	1315.06	Exemptions
1315.03	Application; qualification; fees.	1315.99	Penalty.
1315.04	Suspension of registration.		

CROSS REFERENCES

Power to license - see Ohio R.C. 715.27

Application permit - see BLDG. 1309.01

1315.01 REGISTRATION REQUIRED.

All persons, firms, corporations, partnerships or any combination thereof, engaged as a contractor as hereinafter defined shall be required to register for all trades engaged within the City before performing any work within such City and shall be subject to all the provisions of this chapter.

(Ord. 85-50. Passed 11-7-85.)

1315.02 DEFINITIONS.

For purposes of this chapter the following definitions shall apply:

- (a) "Contractor" means a person, firm, corporation, partnership or any combination thereof, who engages for hire in construction or improvements within the City in one or more trade categories, whether acting for themselves or others and whether such trade is being performed by themselves, their employees or under subcontract. In the event that the one trade category is under subcontract, no work shall be performed until the subcontractor is registered by the City.
- (b) "Trade" means the field of work requiring special skill or involving the use of specialized building crafts, and includes the following:
 - (1) Masonry, which includes, but is not limited to, bricklaying, block laying, concrete and cement, asphalt work and paving.
 - (2) Carpentry, which includes, but is not limited to, woodworking, siding, roofing and windows.
 - (3) Heating, tinning, central air conditioning and sheet metal work.
 - (4) Wall covering, which includes, but is not limited to, plastering, drywall, taping, insulating and lath work.
 - (5) Excavation, which includes, but is not limited to, sanitary sewer work, storm sewer work and general excavating, earth moving and grading.
 - (6) Structural iron work for new construction.
 - (7) Sign erection.

- (8) Swimming pool installation for all pools installed below grade.
(Ord. 85-50. Passed 11-7-85.)

1315.03 APPLICATION; QUALIFICATIONS; FEES.

(a) Application for registration shall be made to the Code Administrator on forms provided therefor.

(b) The following qualifications for registration shall apply:

- (1) The applicant shall provide satisfactory written evidence of current Ohio Workers' Compensation insurance coverage.
- (2) The applicant shall provide satisfactory written evidence of a minimum of three hundred thousand dollars (\$300,000) liability insurance coverage.
- (3) The applicant shall provide any and all references as may be requested on the application form in the manner provided.
- (4) All registrations shall expire on December 31 of the year in which they are in force. Renewal of registration may be commenced thirty days prior to the expiration date. For renewal of registration, the final date shall be January 31 within the year that the registration is to be renewed.

(c) Upon the approval of the application for registration and before a certificate is issued the following fees shall apply:

Initial fee	\$25.00
Annual renewal fee	\$25.00

(d) The Code Administrator, with the concurrence of the Director of Public Safety, may waive any or all of the above requirements in cases of hardship.
(Ord. 92-102. Passed 12-17-92.)

1315.04 SUSPENSION OF REGISTRATION.

Registration may be suspended by the Code Administrator upon giving written notice to that effect to the contractor for any of the following reasons:

- (a) Violation of any provision of this chapter or any part of the Building Code.
- (b) Misrepresentation of material fact in order to become registered, or in the renewal of registration.
- (c) Failure to secure permits, inspections and approvals required by the Building Code.
- (d) Use of registration to obtain a permit for another.
- (e) Failure or refusal to correct a violation of the Building Code within a prescribed period of time or to correct incompetent work as ordered by the Code Administrator.

For any other reason that is determined to be adverse to the health, safety and welfare of the residents of the City.
(Ord. 85-50. Passed 11-7-85.)

1315.05 APPEALS.

The Director of Public Safety shall hear all appeals of a decision to suspend registration by the Code Administrator.

Persons, firms or corporations aggrieved by the decision of the Code Administrator may, within five working days of the date of receipt of the notice of suspension, appeal to the Director of Public Safety by filing with the Code Administrator a written notice of appeal, specifying the reasons therefor.

The Director, within three working days of the date of receipt of the appeal by the Code Administrator, shall afford a public meeting upon such appeal. The Director shall at that meeting affirm or reverse the decision of the Code Administrator.

The Director shall affirm the decision of the Code Administrator unless he finds that:

- (a) The Code Administrator erred as a matter of law; or
- (b) The decision is not supported by reliable or probative evidence.

Any party aggrieved by the decision of the Director may appeal to Council for final judgment by filing written notice thereof to the Council Clerk within thirty days of the date of the decision by the Director. Council shall make a decision within thirty days.

No person shall do any work authorized by a certificate of registration when the same is suspended or revoked.

(Ord. 85-50. Passed 11-7-85.)

1315.06 EXEMPTIONS.

Persons exempt from registration shall be as follows.

- (a) Home Owners. No provision of this chapter shall be construed to require that a bona fide owner of a one-, two- or three-family dwelling be registered, who personally will perform work upon his premises. Home owners, shall be required to obtain all necessary permits. Such work shall be performed in accordance with the Building Code and according to plans and specifications filed with the application for a permit.
- (b) Government Agencies; Public Utilities; Private Organizations. Provisions of registration shall not apply to Federal, State, County or Municipal governmental agencies, public utilities furnishing services to the City under Municipal-utility franchise agreements or to industrial, commercial or institutional organizations. A maintenance department, doing work within the provisions of the Building Code, is provided for except that should work covered by the Building Code be contracted to outside concerns, then such contractors shall be registered with the City as provided herein.

(Ord. 85-50. Passed 11-7-85.)

1315.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00). Each day such violation continues shall constitute a separate offense. (Ord. 85-50. Passed 11-7-85.)

TITLE THREE - Model Codes Adopted

Chap. 1325. National Building Code.
 Chap. 1329. National Electrical Code.
 Chap. 1333. Ohio Plumbing Code.
 Chap. 1337. International Property Maintenance Code.

CHAPTER 1325 National Building Code

1325.01	Adoption.	1325.04	Amendments.
1325.02	File and distribution copies.	1325.05	Fire limits.
1325.03	Definitions.	1325.99	Penalty.

CROSS REFERENCES

Adoption of technical codes - see Ohio R.C. 731.231
 Ohio Building Code - see Ohio R.C. 3781.10
 Enforcement, penalty- see BLDG. Ch. 1305
 Permits; fees - see BLDG. Ch. 1309

1325.01 ADOPTION.

There is hereby adopted, and incorporated by reference as if fully set out at length herein, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance, of one, two and three-family dwellings and appurtenant structures, that certain code known as the National Building Code, 1976 edition, recommended by the American Insurance Association, subject to the modifications provided under Section 1325.04.

1325.02 FILE AND DISTRIBUTION COPIES.

Copies of the National Building Code adopted herein are on file with the Clerk of Council for inspection by the public and in the County Law Library. The Clerk of Council also has copies available for distribution to the public at cost.

1325.03 DEFINITIONS.

Whenever the following terms are used in the National Building Code adopted herein, they shall have the meanings respectively indicated:

- (a) "Municipality" means the City of Martins Ferry, Ohio.
- (b) "Corporation Counsel" means the City Director of Law.
- (c) "Building Official" means the Director of Public Safety or his authorized representative.

1325.04 AMENDMENTS.

The National Building Code adopted herein is revised by the amendment, enactment or deletion of the following provisions as respectively indicated, which changes are hereby adopted as set forth herein:

NBC ARTICLE I. ADMINISTRATION (Deleted).**1325.05 FIRE LIMITS.**

The fire limits referred to in Section 570 of the National Building Code adopted herein comprise all areas of the City which are now or hereafter zoned for business, commercial or industrial uses.

1325.99 PENALTY.

(EDITOR'S NOTE: See Section 1305.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 1337
International Property Maintenance Code

1337.01	Adoption.	1337.04	Validity.
1337.02	Revisions.	1337.05	Pending litigation,
1337.03	Conflict.		

CROSS REFERENCES
Adoption of technical codes - see Ohio R.C. 731.231

1337.01 ADOPTION.

A certain document, on file in the office of the Director of Public Safety, being marked and designated as the International Property Maintenance Code, 2012 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the City of Martins Ferry, Ohio, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Director of Public Safety are hereby referred to, adopted, and made a part hereof, as if fully set out in this legislation, with the additions, insertions, deletions and changes, if any, prescribed in Section 1337.02.
(Ord. 2013-06. Passed 5-1-13.)

1337.02 REVISIONS.

The following sections are hereby revised:

Section 101.1.	City of Martins Ferry, OH shall be inserted as the name of jurisdiction.
Section 103.5.	This section is deleted. Any applicable fees shall be as established by the Director of Public Safety.
Section 112.4.	Failure to Comply fine shall be not less than \$50.00 or more than \$200.00.

Section 302.4. In excess of twelve inches (12") shall be inserted as the prohibited weeds or plant growth height.

Section 304.14. April 30th to September 1st shall be inserted as the applicable dates.

Section 602.3. The minimum temperature referenced of 68 degrees Fahrenheit (20 degrees Celsius) shall be maintained at all times in all habitable rooms, bathrooms and toilet rooms.

Section 602.4. The minimum temperature referenced of 65 degrees Fahrenheit (18 degrees Celsius) shall be maintained at all times when the referenced work spaces are occupied.

(Ord. 2013-06. Passed 5-1-13.)

1337.03 CONFLICT.

All other ordinances or resolutions, or portions thereof, which are in conflict with this chapter, are hereby repealed.

(Ord. 2013-06. Passed 5-1-13.)

1337.04 VALIDITY.

If any section, subsection, sentence, clause or phrase of this legislation is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. Council hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

(Ord. 2013-06. Passed 5-1-13.)

1337.05 PENDING LITIGATION.

Nothing in this legislation or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 1337.03; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

(Ord. 2013-06. Passed 5-1-13.)

CHAPTER 1329
National Electrical Code

1329.01	Adoption.	1329.99	Penalty.
1329.02	File and distribution copies.		

CROSS REFERENCES

Power to license electricians - see Ohio R.C. 715.27
 Adoption of technical codes - see Ohio R.C. 731.231
 Enforcement; penalty - see BLDG. Ch. 1305
 Permits; fees - see BLDG. Ch. 1309

1329.01 ADOPTION.

There is hereby adopted, and incorporated by reference as if fully set out at length herein, for the purpose of establishing standards for electrical materials and installations in one, two and three-family dwellings and appurtenant structures, that certain code known as the National Electrical Code, 1984 edition, recommended by the National Fire Protection Association.

1329.02 FILE AND DISTRIBUTION COPIES.

Copies of the National Electrical Code adopted herein are on file with the Clerk of Council for inspection by the public and in the County Law Library. The Clerk of Council also has copies available for distribution to the public at cost.

1329.99 PENALTY.

(EDITOR'S NOTE: See Section 1305.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 1333
Ohio Plumbing Code

- | | |
|---------------------------------------|------------------|
| 1333.01 Adoption. | 1333.99 Penalty. |
| 1333.02 File and distribution copies. | |

CROSS REFERENCES

Adoption of technical codes - see Ohio R.C. 731.231
 Power to license plumbers - see Ohio R.C. 715.27
 Ohio Building Code - see Ohio R.C. 3781.10
 Sewers - see S.U. & P.S. Ch. 925
 Enforcement; penalty - see BLDG. Ch. 1305
 Permits; fees - see BLDG. Ch. 1309

1333.01 ADOPTION.

There is hereby adopted and incorporated by reference as if fully set out at length herein, for the purpose of establishing basic minimum standards for plumbing, sewer building and water service installation in one, two and three-family dwellings and appurtenant structures, that certain code known as the Ohio Plumbing Code, being Chapter 4101:2-51 of the Ohio Administrative Code, 1985 edition.

1333.02 FILE AND DISTRIBUTION COPIES.

Copies of the Ohio Plumbing Code, adopted in Section 1333.01, are on file with the Clerk of Council for inspection by the public and in the County Law Library. The Clerk of Council also has copies available for distribution to the public at cost.

1333.99 PENALTY.

(EDITOR'S NOTE: See Section 1305.99 for general Code penalty if no specific penalty is provided.)

TITLE FIVE - Local Provisions

- Chap. 1355. Unsafe Structures.
- Chap. 1359. Building Numbering.
- Chap. 1363. Signs and Billboards.
- Chap. 1365. Swimming Pools.
- Chap. 1366. Garages and Other Structures.
- Chap. 1367. Erosion and Sediment Control Regulations.
- Chap. 1369. Source Water Protection Area.
- Chap. 1370. Vacant Property.
- Chap. 1371. Recreational Vehicle Park.
- Chap. 1372. False Alarms.

CHAPTER 1355 Unsafe Structures

- | | |
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| <p>1355.01 Definitions.</p> <p>1355.02 Inspection of suspected public nuisance; written report and photographs.</p> <p>1355.03 Notice to abate nuisance.</p> <p>1355.04 Service of notice.</p> | <p>1355.05 Right and procedure of making immediate repairs.</p> <p>1355.06 Appeal; Hearing Board.</p> <p>1355.07 Abatement of nuisance by City.</p> <p>1355.08 Provisions of chapter not exclusive.</p> |
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CROSS REFERENCES

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

Inspection of buildings for fire and safety - see Ohio R.C. 737.34

Health, safety and sanitation - see GEN. OFF. Ch. 517

Enforcement; penalty - see BLDG. Ch. 1305

Permits; fees - see BLDG. Ch. 1309

Housing Ordinance - see BLDG. Ch. 1375

Fire prevention - see FIRE PREV. Ch. 1511, Ch. 1515

1355.01 DEFINITIONS.

As used in this chapter:

- (a) "Public nuisance" means any fence, wall, garage, shed, house, building, structure, tree, pole, smoke stack, or any excavation, basement, cellar, well, cistern or sidewalk subspace or part thereof which may endanger the health, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to anyone in the City because it is:
- (1) Detrimental to the general health of the community;
 - (2) A fire hazard;
 - (3) Unsafe for occupancy, or use on, in, upon, about or around the premises;
 - (4) Continually vacant which results in lack of reasonable or adequate maintenance of the structure and grounds, causing deterioration and having a blighting influence on nearby properties, thereby depreciating the enjoyment and use of property in the immediate vicinity to such an extent that it is harmful to the community in which the structure is situated.

- (b) "Owner" means the owner of record of the premises in fee or lesser estate therein, a mortgagee or vendee in possession, assignee of the rents, receiver, executor, administrator, trustee, lessee or other person, firm or corporation in control of a building, or his duly authorized agent. 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.
(Ord. 5760. Passed 12-5-68.)

1355.02 INSPECTION OF SUSPECTED PUBLIC NUISANCE; WRITTEN REPORT AND PHOTOGRAPHS.

Whenever the Code Administrator suspects the existence of a public nuisance, he shall promptly cause the premises in question to be inspected. If the Code Administrator finds that a nuisance does exist, he shall have photographs made of the nuisance and the photographs shall be filed in his office along with a written report of the inspection of the premises, the date that the photographs were taken and the date of the inspection.
(Ord. 5760. Passed 12-5-68.)

1355.03 NOTICE TO ABATE NUISANCE.

The Code Administrator shall cause a written notice to be served on the owner of premises where a public nuisance exists, stating the findings of a public nuisance and that unless the owner causes the abatement of the public nuisance, by repair or removal, it shall be abated by the City at the expense of the owner. Such abatement shall start within fifteen days after service of the notice and shall be complete within forty-five days or such additional time, verified in writing, as the Code Administrator may deem advisable.
(Ord. 5760. Passed 12-5-68.)

1355.04 SERVICE OF NOTICE.

The notice to abate a public nuisance shall be served either personally or by mailing a copy to the owner at his usual place of residence by certified mail with return receipt requested. If service of the written notice is not perfected by either of these methods, then the Code Administrator shall cause the 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, or if there is no person in possession thereof, the Code Administrator shall cause a copy of the notice to be attached to the property. (Ord. 5760. Passed 12-5-68.)

1355.05 RIGHT AND PROCEDURE OF MAKING IMMEDIATE REPAIRS.

Upon being served a notice to abate a public nuisance, the owner may make immediate application in writing or in person to the Code Administrator for a special building permit to undertake the repair or replacement of items found to constitute a public nuisance.

Adequate plans and specifications, covering the repairs or replacement shall be furnished by the owner if required by the Code Administrator within fifteen days.

The Code Administrator shall, upon approval of the plans and specifications, cause a special building permit to be issued to the owner. The special building permit shall be for a period of thirty days and within the thirty days, the owner shall effect and complete the repairs and/or replacements. The Code Administrator may grant an extension to the special building permit if the owner shows cause for the requested extension.
(Ord. 5760. Passed 12-5-68.)

1355.06 APPEAL; HEARING BOARD.

The owner of premises where a public nuisance is deemed to exist may, within ten days after completion of service of the notice to abate the public nuisance, make a demand in writing to the Code Administrator for a hearing on the question of whether in fact a public nuisance, as defined in Section 1355.01 exists. The hearing shall be held within ten 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 Director of Public Service, the Director of Public Safety and the Health Commissioner or, in the event any such officer is unable to attend, by someone from his department delegated by him to act in his behalf. All members of the Hearing Board must concur that a public nuisance, as defined in Section 1355.01, exists before enforcement of the abatement is carried out. A copy of the decision of the Hearing Board shall be promptly served upon the owner in the manner provided for in Section 1355.04.

(Ord. 5760. Passed 12-5-68.)

1355.07 ABATEMENT OF NUISANCE BY CITY.

Should a public nuisance not be abated by the expiration date stated in the notice to abate or in the special building permit issued to abate the nuisance, or in such additional time as the Hearing Board may grant, the Code Administrator is authorized, at any time thereafter, to enter upon the premises and the owner shall permit him entry to abate the nuisance by demolition and removal of the structure or by taking any other action as may be required provided the requirements of Ohio R.C. 715.26(B) have been complied with.

In abating the nuisance the Code Administrator may call upon any department, division or bureau of the City for whatever assistance may be necessary; or the Code Administrator may, by private contract, obtain the abatement, and the cost of such private contract shall be paid for from City funds specifically authorized by Council to abate the nuisance.

In abating the nuisance, the Code Administrator may go to whatever extent necessary to complete the abatement and the cost of the abatement action shall be recovered from the owner in the following procedure:

- (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 costs are not so recovered then the City shall cause the cost of the abatement to be levied as an assessment and recovered in accordance with Ohio R.C. 715.261. (Ord. 5760. Passed 12-5-68.)

1355.08 PROVISIONS OF CHAPTER NOT EXCLUSIVE.

The provisions of 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 as an enlargement of any authority existing by virtue of the Constitution or statutes of the State, or any ordinance enacted by Council prior to December 12, 1968.

(Ord. 5760. Passed 12-5-68.)

CHAPTER 1359
Building Numbering

1359.01	Numbers required.	1359.03	Numbers placed by City.
1359.02	Method of numbering.	1359.99	Penalty.

CROSS REFERENCE

Power to regulate numbering - see Ohio R.C. 715.26

1359.01 NUMBERS REQUIRED.

The owner of any residence, place of business or other building shall place or permanently fix on such building, the proper building number in the manner and according to the provisions of this chapter.

(1941 Code, Sec. 15-1.)

1359.02 METHOD OF NUMBERING.

The manner of numbering buildings shall be as follows: one whole number shall be allowed to each twenty-five feet of ground whether improved or vacant and any division of such place shall be designated by an additional fraction as the case may require. All streets running north and south from Hanover Street shall be numbered with odd numbers on the west side of street and even numbers on the east side thereof. All streets running east and west shall be numbered from their eastern termini westward with odd numbers on the north side of such streets and even numbers on the south side.

(1941 Code, Sec. 15-3.)

1359.03 NUMBERS PLACED BY CITY.

In case any owner or occupant of any building refuses or neglects to comply with the provisions of this chapter, Council shall immediately have the proper number permanently fixed to the building, and the cost of the number so fixed shall be paid for by the owner or occupant of the building, if the cost is not paid for on demand, it may be charged as an additional tax on the property and be collected with other taxes.

(1941 Code, Sec. 15-6.)

1359.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00). (Ord. 4781. Passed 11-6-58.)

CHAPTER 1363 Signs and Billboards

1363.01 Construction requirements. 1363.99 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

Posting bills without consent of owner - see GEN. OFF.
537.07

Sidewalk sign or display - see GEN. OFF. 537.21

Signs in C-2 District - see P. & Z. 1149.05(b),(c)

Signs in residential districts - see P. & Z. 1165. 04

1363.01 CONSTRUCTION REQUIREMENTS.

(a) All signs, advertising devices or related structures shall be so constructed and attached as to be able to withstand any usual or unusual force, stress, strain or weight.

(b) No sign, advertising device or related structure permitted to be erected or maintained shall be used in any way or for any purpose which obstructs the line of sight of traffic or any traffic device, endangers the public safety or unreasonably disturbs the public peace, health or welfare.

(c) No sign or billboard shall be erected, repaired, altered or moved unless it is brought into compliance with the requirements of this section. This section shall not prevent repairing or restoring to a safe condition any part of the structural support of any sign or approved alterations of copy or maintenance operations performed thereon. Any sign or billboard or any substantial part thereof now existing which is blown down, destroyed, taken down or removed, shall not be re-erected, reconstructed, rebuilt or relocated unless it complies with this section.

(d) Nothing in this section is intended to prohibit the erection of duly authorized signs or related structures by the Federal, State, County or local government.
(Ord. 4871. Passed 11-6-58.)

1363.99 PENALTY.

(EDITOR'S NOTE: See Section 1305.99 for general Code penalty if no specific penalty is provided.)

CHAPTER 1365
Swimming Pools

1365.01	Definition.	1365.99	Penalty.
1365.02	Fences or covers.		
1365.03	Permits; fees.		

CROSS REFERENCES

Swimming pools - see Ohio R.C. Ch. 3749; OAC Ch. 3701-31

1365.01 DEFINITION.

For purposes of this chapter, "swimming pool" means a body of water of artificial construction, used for swimming, or recreational bathing, which is over eighteen inches in depth at any point and has more than 100 square feet of area on the water surface when filled to capacity, and includes the sides and bottom of such pool and the equipment and appurtenances thereof.

(Ord. 92-63. Passed 8-20-92.)

1365.02 FENCES OR COVERS.

Every swimming pool in the City and the premises upon which the swimming pool is located shall be enclosed by a fence at least forty-two inches in height, and constructed so as to prevent access to such pool by small children. As an alternative, a swimming pool may be equipped with a cover which may be securely fastened and locked and which shall be of sufficient strength to support the weight of an adult.

At all times when a swimming pool is not in use, the gates in such fence shall be kept locked or a securely fastened cover shall be kept over the pool.

Freestanding above-ground pools with sides not less than forty-eight inches high, from the ground on which it rests, shall not require additional fencing, insofar as the side of the pool itself constitutes a barrier, equal to a fence, and ladders used to enter the pool shall be removed when not in use.

(Ord. 92-63. Passed 8-20-92.)

1365.03 PERMITS; FEES.

No person shall locate, construct or install any swimming pool or make any changes therein or in the appurtenances thereof without first having submitted an application and plans therefor to, and having obtained a permit from, the Code Administrator and the Health Commissioner. The fee for such permit which shall be collected by the Code Administrator shall be not less than twenty dollars (\$20.00) in any case, and in the event of new construction, shall be at the rate of two dollars (\$2.00) for each 100 square feet of surface area, or fraction thereof, of the pool proper.

The permit shall not be issued until the plans and specifications have been approved as to structural safety and compliance with this chapter by the Code Administrator, and the pool shall not be used until the construction thereof has been so approved by the Code Administrator.

(Ord. 92-63. Passed 8-20-92.)

1365.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00). Each day a violation continues shall be deemed a separate offense.

(Ord. 92-63. Passed 8-20-92.)

CHAPTER 1366
Garages and Other Structures

1366.01 Building requirements.

1366.02 Filing of plans and
specifications.

1366.01 BUILDING REQUIREMENTS.

Any garage or other structure that is added to an existing structure, or which is built on vacant property, and which is adjacent to any alley must be built at least eighteen inches from any adjoining property. Further, the garage or other structure must have at least a ten inch overhang, with gutters and downspouts attached.
(Ord. 2007-18. Passed 6-27-07.)

1366.02 FILING OF PLANS AND SPECIFICATIONS.

Complete plans and specifications for the garage or other structure must be filed with the Department of Public Service/Safety prior to the commencement of construction.
(Ord. 2007-18. Passed 6-27-07.)

CHAPTER 1367
Erosion and Sediment Control Regulations

EDITOR'S NOTE: Pursuant to Resolution 2006-15, passed March 16, 2006, the City has adopted the Belmont County and City of Martins Ferry Erosion and Sediment Control Regulations. A copy of such Regulations is attached to Resolution 2006-15 as Exhibit A, and incorporated therein. Copies are on file at City Hall.

CHAPTER 1369
Source Water Protection Area

EDITOR'S NOTE: Pursuant to Ordinance 2007-03, passed January 18, 2007, the City has created the Martin's Ferry Source Water Protection Area to prevent contamination of its wellfield areas, including groundwater. A copy of the administrative regulations for the program is attached to Ordinance 2007-03, marked as Exhibit A and made a part of such Ordinance.

Copies are on file at City Hall.

CHAPTER 1370 Vacant Property

1370.01	Adoption; purpose.	1370.06	Additional enforcement
1370.02	Applicability.		provisions.
1370.03	Definitions.	1370.07	Appeals.
1370.04	Owner required to act; enforcement authority.	1370.08	Miscellaneous.
1370.05	Registration required and penalty.		

CROSS REFERENCES

Unsafe structures - see BLDG. Ch. 1359

1370.01 ADOPTION; PURPOSE.

(a) The purpose of this Chapter is to establish a vacant property registration program and to further regulate the maintenance of properties which are in the foreclosure process, abandoned or vacant. This Chapter is intended to reduce and prevent neighborhood blight, to avoid the creation and continuance of public nuisances, to ameliorate conditions that threaten the public health, safety and welfare, to promote neighborhood stability and occupancy by preserving the condition and appearance of residential properties and the worth and activity of commercial and industrial properties, and to maintain property values and assessments.

(b) There is hereby adopted, then, for the aforementioned purposes and for the purpose of providing a means of identifying the owner and/or responsible entities of vacant and/or abandoned properties within the corporate limits of the City of Martins Ferry having complete contact information on record for these properties and responsible parties, a registration and maintenance requirement for vacant and/or abandoned properties.

(c) Nothing in this Chapter shall be construed to waive, relieve or otherwise excuse an owner of property from compliance with all applicable codes, ordinances, statutes or laws and the owner shall at all times remain responsible and liable therefore. Nothing in this Chapter shall be construed to prevent the enforcement of other provisions of the Codified Ordinances of the City of Martins Ferry or the Ohio Revised Code; and nothing in this Chapter shall be construed to relieve an owner or interested party from duties imposed pursuant to any regulatory code, ordinance, statute, or law of the City of Martins Ferry or the State of Ohio. (Ord. 2015-17. Passed 11-5-15.)

1370.02 APPLICABILITY.

This Chapter shall be applicable to all residential, commercial, and industrial structures located within the corporate limits of the City of Martins Ferry.
(Ord. 2015-17. Passed 11-5-15.)

1370.03 DEFINITIONS.

As used in this section:

- (a) "Abandoned" means a structure that is unoccupied as the result of the relinquishment of possession or control by an owner or other person with the right of possession or control of the structure, a mortgagor or the mortgagor's assigns whether or not the mortgagor or mortgagor's assigns have relinquished equity and title. A structure may be deemed abandoned when there is evidence of conditions, taken separately or as a whole, that would lead a reasonable person to conclude that the property was abandoned, including, but not limited to, evidence of overgrown or dead vegetation, accumulation of newspapers, circulars, flyers, mail, past due utility notices, or other means of notice by publication, the accumulation of junk, litter, trash, or debris, absence of windows or window treatments, absence of furnishings and personal items, statements of neighbors, delivery agents or similarly situated persons that the property is abandoned.
- (b) "Code Administrator" means the Code Administrator of the City of Martins Ferry or his or her designee. If there is no currently serving Code Administrator, the term will refer to the Safety Director of the City of Martins Ferry or his or her designee.
- (c) "Codes" means the Codified Ordinances of the City of Martins Ferry or those adopted by said Codified Ordinances.
- (d) "Inspector" means a person employed by or under contract to the City of Martins Ferry to perform inspections to determine compliance with Codes and to order corrective measures and/or initiate administrative, civil, or criminal proceedings.
- (e) "Vacant" means a structure that is not lawfully occupied or that otherwise qualifies as "Abandoned" under this Section. Multi-family residential structures shall be considered vacant when substantially all of the dwelling units are not lawfully occupied or that otherwise qualifies as "Abandoned" under this Section. Commercial structures shall be considered vacant when all commercial activity has ceased at the site or that otherwise qualifies as "Abandoned" under this Section. Multi-tenant commercial structures shall be considered vacant when substantially all of the units are not lawfully occupied or engaging in commercial activity, or that otherwise qualifies as "Abandoned" under this Section. Industrial structures shall be considered abandoned when all industrial or manufacturing activity has ceased at the site or that otherwise qualifies as "Abandoned" under this Section. Multi-tenant industrial structures shall be considered vacant when substantially all of the units are not lawfully occupied or engaging in industrial or manufacturing activity, or that otherwise qualifies as "Abandoned" under this Section. In determining whether a structure is vacant, it is also relevant to consider, among other factors, the percentage of the overall square footage of the building or floor not in use to the occupied space; the condition and value of any items in the structure and the presence of rental or for sale signs on the property.

A property that is temporarily unoccupied and is in the process of being lawfully renovated under proper and unexpired permits shall not be considered vacant. A property that is listed for sale with a licensed realtor under a fully executed listing agreement shall not be considered vacant for the first six months of the listing agreement under which the property was first listed for sale. Such property shall be considered vacant for purposes of this Section upon the expiration of the first six month period for which it is first listed for sale or upon a subsequent re-listing with the same or a different licensed realtor. Unoccupied property listed as "For Sale by Owner" shall be considered vacant for purposes of this Section.

- (f) "Owner" means the person, persons, or entity holding title to the freehold estate, a mortgagee or vendee in possession, a receiver, an executor, a trustee and any other person, public or private entity, lessee or holder of a lesser estate in the premises or its duly authorized agents with the authority to bring the property into compliance with the provisions of this code, including, but not limited to any mortgagee that has filed an action in foreclosure on the property at issue.

A mortgagee who has filed a foreclosure action pursuant to a mortgage agreement secured by a lien on the property shall be considered an Owner until (1) the mortgagee releases all liens encumbering the property; (2) a Court issues a final Confirmation of Sale of the property to a person other than the mortgagee; or (3) the property is no longer vacant. The mere dismissal of a foreclosure action shall not be construed to terminate the mortgagee's status as an Owner. Under this definition, there may be more than one "Owner" of a property for purposes of this Chapter.
(Ord. 2015-17. Passed 11-5-15.)

1370.04 OWNER REQUIRED TO ACT; ENFORCEMENT AUTHORITY.

(a) The Owner of any structure that has become vacant as defined above shall, within thirty (30) days after the structure first becomes vacant, or within thirty (30) days of receiving notice that a structure is vacant, or within thirty (30) days after the effective date of this Chapter, whichever is later, file a registration statement for each such structure with the Code Administrator or his or her designee on forms provided for such purposes.

- (1) The registration statement shall remain valid for one year from the date of registration. The registering party shall be required to annually renew the registration as long as the structure remains vacant and shall pay an annual registration fee of one hundred dollars (\$100.00) for each residential structure and two hundred and fifty dollars (\$250.00) for each commercial or industrial structure; provided, however, that all religious, educational, benevolent or charitable associations, and all governmental agencies shall be exempt from the payment of the annual registration fee. The registering party shall not be entitled to a refund of all or any part of the registration fee should the structure no longer be deemed vacant during the annual registration period.
- (2) The owner shall notify the Code Administrator or his or her designee within twenty (20) days of any change in the registration information by filing an amended statement on a form provided for such purposes. The registration statement shall be deemed prima facie proof the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City of Martins Ferry against the owner of the structure. An owner shall be liable under this section for failing to register a vacant structure, failing to pay an appropriate annual registration fee, or failing to timely update any change in registration.

- (b) (1) In addition to other information required by the Code Administrator, the registration statement shall include the name, street address and telephone number of a natural person twenty-one years of age or older, designated by the owner as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner in connection with the enforcement of this Chapter. This person must maintain an office in or reside in Ohio. An owner who is a natural person and who meets the requirements of this subsection as to location of residence or office may designate him- or herself as agent.
- (2) By designating an authorized agent under the provisions of this subsection the owner is consenting to receive any and all notices of code violations concerning the registered building and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered structure by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this subsection shall be deemed to consent to the continuation of the agent's designation for the purposes of this subsection until the owner notifies the Code Administrator or his or her designee in writing of a change of authorized agent or until the owner files a new annual registration statement. An owner shall be liable under this Section for failing to register an authorized agent.

(c) The owner of any vacant structure shall, within fifteen (15) days of registering a vacant structure, cause a physical inspection of the structure to be made and secure all exterior openings to prevent intrusion by birds, vermin and trespassers, and shall cause photographs to be taken of the property that accurately portrays the condition of the structure. Photographs shall be dated and preserved by owner. An owner shall be liable under this Section for failing to inspect the property or structure, failing to secure the structure or for failing to maintain the inspection photographs as required by this Section. The property shall be maintained free of debris and litter. Further, any standing water on the property, including but not limited to standing water in swimming pools, shall be eliminated within the fifteen day period.

(d) Any owner who fails to register a vacant structure under the provisions of this subsection shall further be deemed to consent to receive, by posting at the structure, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the structure and premises.

(e) The Code Administrator may issue rules and regulations for the administration of this Section. These rules may designate board-up materials and methods which must be used when securing a structure beyond the standards provided so that the boarding is reasonably incapable of being removed by trespassers or others acting without the owner's consent. (Ord. 2015-17. Passed 11-5-15.)

1370.05 REGISTRATION REQUIRED AND PENALTY.

(a) The Owner of any vacant structure shall file a registration statement for each such structure with the Code Administrator or his or her designee on forms provided for such purposes. Any such registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City against the owner or owners of the structure.

(b) The owner of any vacant structure who fails to file a registration statement for each such structure within the timeframes established by this Chapter or who fails to update a change in registration information within the timeframes established by this Chapter shall be subject to a fifty dollar (\$50.00) per day administrative penalty with a maximum penalty of one thousand dollars (\$1,000).

(c) Notwithstanding any other language in this Chapter and unless otherwise specified, any person who violates any provision of this Chapter or of the rules and regulations issued hereunder and fails to maintain the property according to the Codes shall be guilty of an unclassified misdemeanor and, upon conviction, shall be fined not less than two hundred dollars (\$200.00) for each offense and pursuant to Ohio R.C. 2929.27(B), additionally may be ordered to serve a term of community service of up to five hundred hours. Every day that a violation continues shall constitute a separate and distinct offense.
(Ord. 2015-17. Passed 11-5-15.)

1370.06 ADDITIONAL ENFORCEMENT PROVISIONS.

(a) Unless otherwise specifically provided, the owner, the owner's agent for the purpose of managing, controlling or collecting rents, and any other person managing or controlling a structure or premises in any part of which there is a violation of the provisions of this code, shall be liable for any violation therein, existing or occurring, or which may have existed or occurred, at or during any time when such person is or was the person owning or managing, controlling, or acting as agent in regard to said structure or premises and is subject to injunctions, abatement orders or other remedial orders.

(b) The liabilities and obligations hereunder imposed on an owner shall attach to a trustee under a trust holding title to such building, structure or premises without the right of possession, management or control, unless said trustee in a proceeding under said provisions of this code discloses in a verified pleading or in an affidavit filed with the court, the name and last known address of each person who was a beneficiary of the trust at the time of the alleged violation and of each person, if any, who was then acting as agent for the purpose of managing, controlling or collecting rents, as the same may appear on the records of the trust.

(c) The liabilities and obligations imposed on an owner shall attach to any financial institution, mortgage company, or any other person or entity with or without an interest in the structure or premises who knowingly takes any action in any judicial or administrative proceeding that is intended to delay issuance or enforcement of any remedy for any violation of the Codes, provided that with respect to fines such person shall be liable only for fines which accrue on or after the date of such action and further provided that no liability shall be imposed under this section for any action taken in any proceeding, including a proceeding to foreclose on a lien, that does not delay or prevent the prosecution of any action brought by the Municipality to enforce the adopted Codes.

(d) In the event the City of Martins Ferry, due to lack of response of an owner or agent, is required to take action, through its own efforts or via a contract for such services, to abate a nuisance at a vacant property the owner will be billed for the cost of the abatement to include all labor and materials needed to correct the violation. Nuisance abatements shall include, but are not to be limited to, elimination of hazardous conditions, cutting of weeds and overgrowth, securing and/or boarding of a structure, trash cleanup and disposal and demolition. All expenses and labor costs incurred shall be paid out of municipal funds. Council shall make a written return to the Belmont County Auditor of the City's action, with a

statement of charges for its services, the amount paid for labor, the applicable administrative fees, and a proper description of the premises. Such amounts, when allowed, shall be entered upon the tax duplicate and shall be a lien upon such lands from and after the date of the entry, and be collected as other taxes and returned to the City and be deposited into the appropriate fund. (Ord. 2015-17. Passed 11-5-15.)

1370.07 APPEALS.

Appeals from administrative actions shall be processed in accordance with Ohio Revised Code, Section 2506 et seq.
(Ord. 2015-17. Passed 11-5-15.)

1370.08 MISCELLANEOUS.

(a) Severability. If any section, subsection, clauses, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

(b) Savings Clause. The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this chapter, as amended.
(Ord. 2015-17. Passed 11-5-15.)

CHAPTER 1371 Recreational Vehicle Park

1371.01	Location.	1371.03	Minimum specifications.
1371.02	Recreational vehicle defined.	1371.04	Conflict.

CROSS REFERENCES Parking generally - see TRAF. 351.13

1371.01 LOCATION.

A Recreational Vehicle Park (RV) is hereby permitted, to be located only in the industrial park area, east of the railroad tracks that run parallel to Route 7 north and south. A map of the designated area is attached hereto, and incorporated herein, marked as 'Exhibit A' to Ordinance 2013-14.

(Ord. 2013-14. Passed 5-15-13.)

1371.02 RECREATIONAL VEHICLE DEFINED.

For purposes of this chapter, a Recreational Vehicle shall be defined as any licensed camp trailer, travel trailer, motor home or fifth wheel designed to provide temporary living quarters for recreational camping or travel use, constructed with integral wheels to make it mobile and/or towable by motor vehicle.

(Ord. 2013-14. Passed 5-15-13.)

1371.03 MINIMUM SPECIFICATIONS.

The following minimum specifications shall be maintained within the Recreational Vehicle Park (RV) at all times:

- (a) The RV park must include a minimum of 5 parking sites or more, and must comply with the Ohio Department of Health rules: OAC 3701-26.
- (b) Only Recreation Vehicles with self-contained facilities will be permitted in the park. No dropped house trailers, pop-up campers, or tents will be permitted.
- (c) The RV park must be enclosed with a minimum chain link fence or higher grade privacy fence erected at a minimum height of 6 feet.
- (d) The RV park must supply separate and permanent water, sewer and electric hookups for all individual units buried underground with a minimum 30 amp electrical service to each unit.
- (e) The RV park site shall be underlain with a geotextile fabric with 1's and 2's with crush run #57 on the surface with a total minimum thickness of 6 inches.

- (f) Only pre designed or manufactured skirting materials may be used around the RV units.
- (g) No straw, hay bales or other flammable type materials may be used as insulating materials under or around any of the recreational vehicles.
- (h) No pets are permitted in the RV park area.
- (i) No open burning shall be permitted in RV park area at any time.

All being subject to further direction from the City of Martins Ferry.

(Ord. 2013-14. Passed 5-15-13.)

1371.04 CONFLICT.

All other Ordinances or Resolutions, or portions thereof, which are in conflict with this Ordinance are hereby repealed, only as they may relate to the above-referenced Recreational Vehicle Park. (Ord. 2013-14. Passed 5-15-13.)

CHAPTER 1372
False Alarms

1372.01	Adoption; purpose.	1372.05	False alarm determination.
1372.02	Applicability.	1372.06	Service fees.
1372.03	Definitions.	1372.07	Appeals.
1372.04	System standards.	1372.08	Miscellaneous.

CROSS REFERENCES

Making false alarms - see GEN. OFF. 509.07

1372.01 ADOPTION; PURPOSE.

The purpose of this Chapter is to reduce the number of false alarms and protect the police and fire emergency services of the City from misuse.
(Ord. 2015-21. Passed 12-16-15.)

1372.02 APPLICABILITY.

This Chapter shall be applicable to all residential, commercial, and industrial alarm systems structures located within the corporate limits of the City of Martins Ferry.
(Ord. 2015-21. Passed 12-16-15.)

1372.03 DEFINITIONS.

As used in this section:

- (a) "Alarm system" means any assembly of equipment, mechanical, audible or electrical, designed to signal any fire or occurrence of an illegal entry or other illegal activity requiring emergency response by the police or fire division, but does not include alarms installed in motor vehicles, or security devices carried on the person.
- (b) "False alarm" means an alarm signal requesting an emergency response by the police or fire department when an emergency situation does not exist. False alarms do not include signals:
 - (1) Caused by tornadoes, blizzards or other catastrophic acts of God;
 - (2) That have been cancelled by the dispatcher prior to arrival of the police or fire division.
- (c) "Service fee" means penalty charges assessed for false alarms.
(Ord. 2015-21. Passed 12-16-15.)

1372.04 SYSTEM STANDARDS.

(a) Alarm systems capable of being activated by any failure in the electrical current are prohibited.

- (1) Systems shall be equipped with a secondary power source which shall hold the alarm readiness for a minimum of fifteen (15) minutes or shall be rendered inoperable by such power interruption.

(b) Audible alarm systems which do not have an automatic cutoff within fifteen (15) minutes after initial activation shall be prohibited.

(c) The sensory mechanisms used in connection with alarm systems shall be adjusted so that the device will not be activated by forces unrelated to genuine alarms, including but not limited to the following:

- (1) Short flashes of light;
(2) Wind noises, such as the rattling or vibrating of doors or windows;
(3) Vehicular noise adjacent to the installation.

(d) All fire systems must at all times, remain within the standards set forth by the Ohio Department of Commerce, Division of State Fire Marshal.
(Ord. 2015-21. Passed 12-16-15.)

1372.05 FALSE ALARM DETERMINATION.

(a) When a police officer or firefighter responds to the scene of an emergency alarm signal, it shall be the responsibility of that officer or firefighter to determine the validity of the emergency signal.

(b) If the responding police officer or firefighter determines the emergency signal to be false, that officer or firefighter shall make a report of the false alarm and forward it to the Director of Public Safety. A notification of the false alarm report shall be delivered to the address of the false alarm occurrence immediately by posted notice or U.S. postal service within five (5) business days.

(c) Each false alarm notice shall constitute a separate violation of this chapter.
(Ord. 2015-21. Passed 12-16-15.)

1372.06 SERVICE FEES.

(a) The following schedule sets forth applicable Service Fees for False Alarms:

False Alarms in One Calendar Year Period	Service Fee
1,2,each	No charge
3,4,each	\$100.00
5,6,each	\$200.00
7,8,9,each	\$400.00
10,11,12 and above each	\$800.00

(b) If payment of the Service Fee is not received within thirty days, the amount of the bill shall be entered upon the tax duplicate, shall be a lien upon the real estate from the date of the entry, and shall be collected as other taxes and returned to the City. (Ord. 2015-21. Passed 12-16-15.)

1372.07 APPEALS.

An appeals board will be created consisting of 2 members of the fire department, 2 members of the police department and the Director of Public Safety. The board will review appeals to the enforcement provisions of the Chapter. All appeals must be filed in writing with the Director of Public Safety within 30 days of the issuance of a Service Fee. The board will then schedule a hearing to review the matter. All decisions of the board to uphold or reverse the issuance of the Service Fee will be final. (Ord. 2015-21. Passed 12-16-15.)

1372.08 MISCELLANEOUS.

(a) Severability. If any section, subsection, clauses, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

(b) Savings Clause. The repeal or amendment herein shall not abrogate or affect any offense or act committed or done, or any penalty or forfeiture incurred, or any pending litigation or prosecution of any right established or occurring prior to the effective date of this chapter, as amended. (Ord. 2015-21. Passed 12-16-15.)

TITLE SEVEN - Housing
Chap. 1375. BOCA Basic/National Existing Structures Code.
Chap. 1379. Rat Control.

CHAPTER 1375
BOCA Basic/National Existing Structures Code

1375.01 Adoption.

1375.02 File and distribution copies.

CROSS REFERENCES
Adoption of technical codes - see Ohio R.C. 731.231
Health, safety and sanitation - see GEN. OFF. Ch. 521
Unsafe structures - see BLDG. Ch. 1355

1375.01 ADOPTION.

There is hereby adopted, and incorporated by reference as if set out at length herein, for the purpose of establishing minimum standards for the structure, equipment, sanitation, maintenance, use or occupancy of premises, dwellings, dwelling units, rooming units or parts thereof, that certain code known as The BOCA Basic/National Existing Structures Code, 1984 edition, as published by Building Officials and Code Administrators International, Inc.

1375.02 FILE AND DISTRIBUTION COPIES.

Copies of the BOCA Basic/National Existing Structures Code adopted herein are on file with the Clerk of Council for inspection by the public and in the County Law Library. The Clerk of Council also has copies available for distribution to the public at cost.

CHAPTER 1379 Rat Control

1379.01	Rat-free premises required.	1379.09	Receptacles.
1379.02	Definitions.	1379.10	Feeding of birds, animals or domesticated fowl.
1379.03	Inspection; notice.	1379.11	Rodent harborage in plants.
1379.04	Maintenance.	1379.12	Open burning of garbage.
1379.05	Rat-stoppage not to be removed.	1379.99	Penalty.
1379.06	Structural changes.		
1379.07	Dumping prohibited.		
1379.08	Accumulations of materials or junk.		

CROSS REFERENCES

Littering and deposit of garbage, rubbish, etc. - see
GEN. OFF. 521.08

Storage of materials and vehicles - see GEN. OFF. 543.02
BOCA Housing Code adopted - see BLDG. Ch. 1375

1379.01 RAT-FREE PREMISES REQUIRED.

Every premises, building or structure within the City shall be rat stopped, freed of rats and maintained in a rat-stopped and rat-free condition.
(Ord. 6298. Passed 3-16-73.)

1379.02 DEFINITIONS.

As used in this chapter:

- (a) "Building" means any business building or structure and one-business building or structure.
- (b) "Rat-stoppage" applies to a form of rat proofing to prevent the ingress of rats into or under buildings or other structures from the exterior or from one building or structure to another. It consists essentially of the closing of all openings in the exterior walls, ground or first floors, basements and foundations, that may be reached by rats from the ground by climbing or by burrowing, with concrete, sheet iron, hardware cloth or other types of rat-proofing material impervious to rat gnawing, approved by the Health Commissioner. Hardware cloth means wire screen of such thickness and spacing as to afford reasonable protection against the entrance of rats.
- (c) "Rat-harborage" means any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under or outside a structure of any kind.
- (d) "Health Commissioner" means the person occupying the office in the health district which is created by Ohio R.C. 3709.11 and 3709.14 or his authorized representative.

- (e) "Owner" means the actual owner of the building, whether an individual, partnership or corporation. In the case of a leased building, with a clause in the lease specifying that the lessee is responsible for maintenance and repair, the lessee will be considered in such cases as the owner for the purposes of this chapter.
- (f) "Garbage" means the putrescible animal and vegetable wastes resulting from the handling, processing, preparation, cooking or serving of food.
- (g) "Refuse" means combustible and noncombustible waste materials except garbage, and the term includes the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, plastics, glass, crockery and dust.
- (h) "Person" means an individual, partnership, association, syndicate, company, firm, trust, corporation, government corporation, department, bureau, agency or any entity recognized by law.
- (i) "Occupant" means the individual, partnership or corporation that has the use of or occupies any building or a part or fraction thereof, whether the actual owner or tenant. In the case of a vacant building or any vacant portion of a building, the owner, lessee, agent or custodian shall have the responsibilities of an occupant. (Ord. 6298. Passed 3-16-73.)

1379.03 INSPECTION; NOTICE.

The Health Commissioner shall cause inspection of buildings or other structures to determine evidence of rat infestation and the existence of new breaks or leaks in the rat stoppage. When any evidence is found indicating the presence of rats or openings through which rats may enter such buildings or structures, he shall serve the owner, agent or occupant of such building or structure with written notice to abate the conditions found. The owner, agent or occupant of every building or structure shall give the Health Commissioner free access to his building or structure for the purpose of such inspection. (Ord. 6298. Passed 3-16-73.)

1379.04 MAINTENANCE .

The owner, agent or occupant in charge of each rat-stopped building or structure shall maintain the building or structure in a rat-stopped condition and repair all breaks or leaks that may occur in the rat-stoppage. (Ord. 6298. Passed 3-16-73.)

1379.05 RAT -STOPPAGE NOT TO BE REMOVED.

No owner, occupant, contractor, public utility company, plumber or any other person shall remove the rat-stoppage from any building or structure for any purpose and fail to restore the same in satisfactory condition, or make any new openings that are not closed or sealed against the entrance of rats. (Ord. 6298. Passed 3-16-73.)

1379.06 STRUCTURAL CHANGES.

Whenever conditions of the building or structure provide such extensive harborage for rats that the Health Commissioner deems it necessary to eliminate such harborage, he may require the owner in charge of any such building or structure to install suitable cement floors in the basement, or to require the owner to correct such rat harborage as may be necessary in order to facilitate the eradication of rats. (Ord. 6298. Passed 3-16-73.)

1379.07 DUMPING PROHIBITED.

No person shall place, leave, dump or permit to accumulate any garbage or refuse in or around any building, structure or premises so that the same shall afford food or harborage for rats, or dump or place on any premises, land or waterway any dead animals or waste vegetable or animal matter of any kind.

(Ord. 6298. Passed 3-16-73.)

1379.08 ACCUMULATIONS OF MATERIALS OR JUNK.

No person shall accumulate or permit the accumulation on any open lot or other premises any lumber, boxes, barrels, bricks, stones, scrap metal, motor vehicle bodies or parts or similar materials, rubbish or any articles of junk, which provide rat-harborage, unless the same is placed on open racks that are elevated not less than eighteen inches above the ground, evenly piled or stacked.

(Ord. 6298. Passed 3-16-73.)

1379.09 RECEPTACLES.

Every person occupying or having charge of or owning any building or structure shall provide receptacles for the reception of garbage and refuse. The receptacles shall be provided with covers so that they are rat-proof and it shall be the duty of such persons to have the contents of the receptacle removed from the premises whenever such receptacles are full. No person occupying, owning or having charge of any premises shall put garbage or refuse in any place other than in the receptacles defined herein.

(Ord. 6298. Passed 3-16-73.)

1379.10 FEEDING OF BIRDS, ANIMALS OR DOMESTICATED FOWL.

No person shall place food in the open for the feeding of any birds, animals or domesticated fowl except in such containers as will prevent the scattering of such food upon the ground. After such feeding, the food shall not be allowed to remain where it is accessible to rats. Food for birds, animals and domesticated fowl shall be stored in such a manner as to not be accessible to rats.

(Ord. 6298. Passed 3-16-73.)

1379.11 RODENT HARBORAGE IN PLANTS.

No owner or occupant shall permit conditions whereby grasses, weeds or other plants may provide a rodent harborage on his property.

(Ord. 6298. Passed 3-16-73.)

1379.12 OPEN BURNING OF GARBAGE.

No person shall burn garbage in open containers. Such putrescible wastes shall be placed in covered garbage receptacles and shall be hauled away and disposed of in a satisfactory manner.

(Ord. 6298. Passed 3-16-73.)

1379.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than one hundred dollars (\$100.00).

(Ord. 6298. Passed 3-16-73.)

CODIFIED ORDINANCES OF MARTINS FERRY
PART FIFTEEN - FIRE PREVENTION CODE

Chap. 1501. Ohio Fire Code.

Chap. 1511. Open Burning.

Chap. 1515. Local Regulations.

Chap. 1519. Fireworks.

CODIFIED ORDINANCES OF MARTINS FERRY

PART FIFTEEN - FIRE PREVENTION CODE

CHAPTER 1501

Ohio Fire Code

1501.01	Adoption.	1501.09	Disclosure of true Fire
1501.02	Purpose.		Safety Inspector status.
1501.03	Application.	1501.10	Fire equipment sale or
1501.04	Enforcement.		use; certification of
1501.05	Compliance.		installers.
1501.06	Posting arson laws.	1501.11	Copies.
1501.07	Setting fires which	1501.12	Conflict.
	spread.	1501.99	Penalty.
1501.08	Unfriendly fires in		
	buildings; alarm duties.		

CROSS REFERENCES

See sectional histories for similar State law
 Appeals of orders - see Ohio R.C. 119.12
 State certification of firefighters - see Ohio R.C. 737.08,
 737.22, 737.33
 State certification of Fire Safety Inspectors - see Ohio R.C.
 3737.01(C), 3737.34
 Fire investigation - see Ohio R.C. 737.27, 737.24 et seq.
 Entry and Inspection - see Ohio R.C. 737.34 et seq.,
 3737.14, 3737.41, 3737.42
 Common Pleas Court jurisdiction - see Ohio R.C. 3737.44(A),
 3737.51(H)
 Ohio Fire Code - see Ohio R.C. 3737.82 et seq.; OAC Ch.
 1301:7-1 et seq.
 Fire extinguishing and alarm systems in rest and nursing
 homes - see Ohio R.C. 3721.071
 Self-service filling stations - see Ohio R.C. 3741.14
 Fireworks exhibitions - see Ohio R.C. 3743.50 et seq.

1501.01 ADOPTION.

There is hereby adopted by the Municipality, the 2011 Ohio Fire Code (OFC) as adopted by the Ohio Division of State Fire Marshal, Department of Commerce, effective November 1, 2011, and as published in Division 1301:7 of the Ohio Administrative Code (OAC).

1501.02 PURPOSE.

The purpose of the Ohio Fire Code as adopted herein is to prescribe minimum standards and regulations governing conditions hazardous to life and property from fire or explosion.

1501.03 APPLICATION.

The Ohio Fire Code as adopted herein applies to the use of all lands and properties within the Municipality and such other lands or properties owned by the Municipality which are situated outside the corporate limits thereof.

1501.04 ENFORCEMENT.

(a) No person shall serve as Municipal Fire Safety Inspector unless he has received a certificate issued by the State Board of Emergency Medical Services under former Ohio R.C. 3303.07 or 4765.55 evidencing his satisfactory completion of a fire safety inspection training program. (ORC 3737.34)

(b) For Municipal criminal proceedings, the complaint, warrant or summons, or the issuance of a citation in minor misdemeanor cases shall be, as is prescribed in the Ohio Rules of Criminal Procedure, by referencing the numerical designation of the applicable Municipal ordinance, including the specific provision of the Ohio Fire Code, or any order issued pursuant thereto, provided such order fixes a reasonable time for abatement of the violation. State enforcement proceedings for violation of Ohio R.C. Chapter 3737 or the Ohio Fire Code shall be as is prescribed in Ohio R.C. 3737.41 to 3737.46.

(c) A copy of such complaint or citation shall be prominently posted at or near each place a violation referred to occurs.

(d) Upon request of the Municipal Fire Safety Inspector, the Municipal Legal Officer shall institute and prosecute any necessary action or proceeding to enforce this chapter or Ohio R.C. Chapter 3737.

1501.05 COMPLIANCE.

(a) No person shall knowingly violate any provision of the Ohio Fire Code as adopted herein or any order issued pursuant thereto.
(ORC 3737.51(A))

(b) No person shall fail to comply with the fire prevention measures or fire protection activities as prescribed in the Ohio Fire Code, or fail to obtain a permit or license for the various uses or activities as required by such Code, or fail to comply with the Municipal application and plan submission and processing requirements including payment of the fees designated therefor.

1501.06 POSTING ARSON LAWS.

The owner, operator or lessee of any transient residential building shall post the provisions of Ohio R.C. 2909.02 and 2909.03 in a conspicuous place in each room occupied by guests in such building. The owner, operator or lessee of any nontransient residential building, institution, school or place of assembly shall post the provisions of such sections in conspicuous places upon such premises. No person shall fail to comply with this section. (ORC 3737.61)

1501.07 SETTING FIRES WHICH SPREAD.

No person shall set, kindle or cause to be set or kindled any fire, which through his negligence, spreads beyond its immediate confines to any structure, field or wood lot. (ORC 3737.62)

1501.08 UNFRIENDLY FIRES IN BUILDING; ALARM DUTIES.

(a) The owner, operator or lessee, an employee of any owner, operator or lessee, an occupant, and any person in direct control of any building regulated under the Ohio Basic Building Code, upon the discovery of an unfriendly fire, or upon receiving information that there is an unfriendly fire on the premises, shall immediately, and with all reasonable dispatch and diligence, call or otherwise notify the Fire Department concerning the fire, and shall spread an alarm immediately to all occupants of the building.

(b) For the purposes of this section, "unfriendly fire" means a fire of a destructive nature as distinguished from a controlled fire intended for a beneficial purpose.

(c) No person shall fail to comply with this section. (ORC 3737.63)

1501.09 DISCLOSURE OF TRUE FIRE SAFETY INSPECTOR STATUS.

No person who is not a certified Fire Safety Inspector shall act as such or hold himself out to be such, unless prior to commencing any inspection function, he discloses the purpose for which he is making such inspection and the fact that he is not employed by any state or local fire service or agency, and that he is not acting in an official capacity for any governmental subdivision or agency. (ORC 3737.64)

1501.10 FIRE EQUIPMENT SALE OR USE; CERTIFICATION OF INSTALLERS.

(a) No person shall sell, offer for sale, or use any fire protection or fire fighting equipment that does not meet the minimum standards established by the Ohio Fire Marshal in the Ohio Fire Code.

(b) Except for public and private mobile fire trucks, no person shall service, test, repair or install for profit any fire protection or fire fighting equipment without a certificate issued by the Ohio Fire Marshal. (ORC 3737.65)

1501.11 COPIES.

Copies of Codes as adopted in this chapter are on file with the Council Clerk for inspection by the public, and also on file in the County Law Library, and the Clerk has copies available for distribution to the public at cost.

1501.12 CONFLICT.

(a) The rules of the Ohio Board of Building Standards including the Ohio Building Code shall supersede and govern any order, standard or rule of the Department of Commerce, Division of State Fire Marshal including the Ohio Fire Code, in all cases where such orders, standards or rules are in conflict with such rules or the Ohio Building Code, except that rules adopted and orders issued by the State Fire Marshal pursuant to Ohio R.C. Chapter 3743 entitled "Fireworks" prevail in the event of conflict.
(OAC 4101:2-1-04(B))

(b) In all other cases of conflict between the Ohio Fire Code and any other Municipal ordinance or technical code adopted thereby, the more restrictive provision shall govern.

1501.99 PENALTY.

(a) Criminal Penalties.

- (1) Whoever violates Section 1501.05(a) is guilty of a misdemeanor of the first degree. (ORC 3737.99(B))
- (2) Whoever violates Sections 1501.05(b) or 1501.06 is guilty of a minor misdemeanor. (ORC 3737.99(C))
- (3) Whoever violates Sections 1501.07 or 1501.09 is guilty of a misdemeanor of the fourth degree. (ORC 3737.99(D))
- (4) Whoever violates Sections 1501.08 or 1501.10 is guilty of a misdemeanor of the third degree. (ORC 3737.99(E))

(b) Civil Penalties.

- (1) Any person who has received a citation for a serious violation of the Ohio Fire Code or any order issued pursuant to it, shall be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each such violation.
- (2) Any person who has received a citation for a violation of the Ohio Fire Code or any order issued pursuant to it, and such violation is specifically determined not to be of a serious nature, may be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each such violation.
- (3) Any person who fails to correct a violation for which a citation has been issued within a period permitted for its correction, may be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each day during which such failure or violation continues.
- (4) Any person who violates any of the posting requirements, as prescribed by Section 1501.04(c), shall be assessed a civil penalty of not more than one thousand dollars (\$1,000) for each violation.
- (5) Due consideration to the appropriateness of the penalty with respect to the gravity of the violation, the good faith of the person being charged, and the history of the previous violations shall be given whenever a penalty is assessed under this chapter.

- (6) For purposes of this section, a serious violation shall be considered to exist if there is a substantial probability that an occurrence causing death or serious physical harm to persons could result from a condition which exists, or from one or more practices, means, methods, operations or processes which have been adopted or are in use, unless the person did not and could not with the exercise of reasonable diligence, know of the presence of the violation.
- (7) Civil penalties imposed by this chapter shall be paid to the Municipal Chief Fiscal Officer for deposit into the General Revenue Fund. Such penalties may be recovered in a civil action in the name of the Municipality brought in the Court of Common Pleas.
(ORC 3737.51(B) to (H))

CHAPTER 1511 Open Burning

1511.01	Definitions.	1511.04	Permission to individuals and notification to the Ohio EPA.
1511.02	Relations to other prohibitions.	1511.05	Open burning; recreational fires; portable outdoor fireplaces.
1511.03	Open burning in restricted areas.	1511.99	Penalty.

CROSS REFERENCES

See sectional histories for similar State law
 Air pollution control - see Ohio R.C. Ch. 3704
 Permit to burn construction debris - see Ohio R.C. 3704.11(C)
 Spreading fire through negligence - see Ohio R.C. 3737.62
 Open burning - see OAC Ch. 3745

1511.01 DEFINITIONS.

As used in Chapter 3745-19 of the Ohio Administrative Code and this chapter:

- (a) "Agricultural waste" means any waste material generated by crop, horticultural, or livestock production practices, and includes such items as woody debris and plant matter from stream flooding, bags, cartons, structural materials, and landscape wastes that are generated in agricultural activities, but does not include land clearing waste; buildings (including dismantled/fallen barns); garbage; dead animals; animal waste; motor vehicles and parts thereof; nor economic poisons and containers thereof, unless the manufacturer has identified open burning as a safe disposal procedure.
- (b) "Economic poisons" include but are not restricted to pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants; herbicides; seed disinfectants; and defoliants.
- (c) "Garbage" means any waste material resulting from the handling, processing, preparation, cooking and consumption of food or food products.
- (d) "Landscape waste" means any plant waste material, except garbage, including trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings and crop residues.
- (e) "Land clearing waste" means plant waste material which is removed from land, including plant waste material removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial, or industrial development. Land clearing waste also includes the plant waste material generated during the clearing of land for new agricultural development.

- (f) "Ohio EPA" means the Ohio Environmental Protection Agency Director or agencies delegated authority by such Director pursuant to Ohio R.C. 3704.03 or the Chief of any Ohio Environmental Protection Agency district office.
- (g) "Open burning" means the burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney. Open burning includes the burning of any refuse or salvageable material in any device not subject to or designed specifically to comply with the requirements of Ohio Administrative Code 3745-17-09 or 3745-17-10.
- (h) "Residential waste" means any waste material, including landscape waste, generated on the property of a one-, two- or three-family residence as a result of residential activities, but not including garbage, rubber, grease, asphalt, liquid petroleum products, or plastics.
- (i) "Restricted area" means the area within the boundary of any municipal corporation established in accordance with the provisions of Title 7 of the Ohio Revised Code, plus a zone extending 1,000 feet beyond the boundaries of any such municipal corporation having a population of 1,000 to 10,000 persons and a zone extending one mile beyond any such municipal corporation having a population of 10,000 persons or more according to the latest federal census.
- (j) "Unrestricted area" means all areas outside the boundaries of a restricted area as defined in subsection (i) hereof.
(OAC 3745-19-01)
- (k) "Bonfire" means an outdoor fire utilized for ceremonial purposes.
- (l) "Recreational fire" means an outdoor fire burning materials other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbecue grill or barbecue pit and has a total fuel area of 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.
(OAC 1301:7-7-03)

1511.02 RELATIONS TO OTHER PROHIBITIONS.

(a) Notwithstanding any provision in Ohio Administrative Code Chapter 3745-19, no open burning shall be conducted in an area where an air alert, warning or emergency under Ohio Administrative Code Chapter 3745-25 is in effect.

(b) No provisions of Ohio Administrative Code Chapter 3745-19, permitting open burning, and no permission to open burn granted by the Ohio EPA, shall exempt any person from compliance with any section of the Ohio Revised Code, or any regulation of any State department, or any local ordinance or regulation dealing with open burning.
(OAC 3745-19-02)

1511.03 OPEN BURNING IN RESTRICTED AREAS.

(a) No person or property owner shall cause or allow open burning in a restricted area except as provided in subsections (b) to (d) hereof; in Ohio R.C. 3704.11 and in compliance with Section 1511.05 of this chapter.

(b) Open burning shall be allowed for the following purposes without notification to or permission from the Ohio EPA:

- (1) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots and similar occupational needs.

- (2) Bonfires, campfires and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes, if the following conditions are met:
 - A. They are fueled with clean seasoned firewood, natural gas, or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood;
 - B. They are not used for waste disposal purposes; and
 - C. They shall have a total fuel area of three feet or less in diameter and two feet or less in height.
- (3) Disposal of hazardous explosive materials, military munitions or explosive devices that require immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to paragraph (D)(1)(d) of Rule 3745-50-45 of the Ohio Administrative Code.
- (4) Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.
- (5) Fires set at the direction of federal, state, and local law enforcement officials for the purpose of destruction of cannabis sativa (marijuana) plant vegetation, processed marijuana material and/or other drugs seized by federal, state or local law enforcement officials.

Fires allowed by subsections (b)(1), (b)(2) and (b)(4) hereof shall not be used for waste disposal purposes and shall be of minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants.

(c) Open burning shall be allowed for the following purposes with prior notification to the Ohio EPA in accordance with subsection (b) of Section 1511.04:

- (1) Prevention or control of disease or pests, with written or oral verification to the Ohio EPA from the Ohio Department of Health or local health department, the centers for disease control and prevention, cooperative extension service, Ohio Department of Agriculture, or U.S. Department of Agriculture, that open burning is the only appropriate disposal method.
- (2) Bonfires or campfires used for ceremonial purposes that do not meet the requirements of subsection (b)(2) hereof, provided the following conditions are met:
 - A. They have a total fuel area no greater than five feet in diameter by five feet in height and burn no longer than three hours;
 - B. They are not to be used for waste disposal purposes; and
 - C. They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood.
- (3) Disposal of agricultural waste generated on the premises if the following conditions are observed:
 - A. The fire is set only when atmospheric conditions will readily dissipate contaminants;
 - B. The fire does not create a visibility hazard on the roadways, railroad tracks, or air fields;

- C. The fire is located at a point on the premises no less than one thousand feet from any inhabited building not located on said premises;
- D. The wastes are stacked and dried to provide the best practicable condition for efficient burning; and
- E. No materials are burned which contain rubber, grease, asphalt, liquid petroleum products, plastics or building materials.

(d) Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with subsection (a) of Section 1511.04, provided that any conditions specified in the permission are followed:

- (1) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternate method of disposal, excluding those materials identified in subsection (b)(3) hereof;
- (2) Instruction in methods of fire fighting or for research in the control of fire as recognized by the State Fire Marshal Division of the Ohio Department of Commerce and the guidelines set forth in the National Fire Protection Association's (NFPA) publication 1403: "Standard on Live Fire Training Evolutions, Chapter 4, Acquired Structures", provided that the application required in subsection (a)(1) of Section 1511.04 is submitted by the commercial or public entity responsible for the instruction;
- (3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Director and, if required, performed as identified in the appendix to Rule 3745-19-03 of the Ohio Administrative Code. If deemed necessary, the open burning may be authorized with prior oral approval by the Director followed by the issuance of a written permission to open burn within seven working days of the oral approval;
- (4) Recognized horticultural, silvicultural (forestry), range or wildlife management practices; and
- (5) Fires and/or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television. (OAC 3745-19-03)

1511.04 PERMISSION TO INDIVIDUALS AND NOTIFICATION TO THE OHIO EPA.

(a) Permission.

- (1) An application for permission to open burn shall be submitted in writing to Ohio EPA. The applicant shall allow Ohio EPA at least ten working days to review the permit. Applicant may proceed with burn upon receipt of written permission from Ohio EPA. Saturday, Sunday and legal holidays shall not be considered working days. The application shall be in such form and contain such information as required by the Ohio EPA.
- (2) Except as provided in subsection (a)(6) and (a)(7) hereof, such applications shall contain, as a minimum, information regarding:
 - A. The purpose of the proposed burning;
 - B. The quantity or acreage and the nature of the materials to be burned;
 - C. The date or dates when such burning will take place;

- D. The location of the burning site, including a map showing distances to residences, populated areas, roadways, air fields, and other pertinent landmarks; and
 - E. The methods or actions which will be taken to reduce the emissions of air contaminants.
- (3) Permission to open burn shall not be granted unless the applicant demonstrates to the satisfaction of the Ohio EPA that open burning is necessary to the public interest; will be conducted in a time, place and manner as to minimize the emission of air contaminants, when atmospheric conditions are appropriate; and will have no serious detrimental effect upon adjacent properties or the occupants thereof. The Ohio EPA may impose such conditions as may be necessary to accomplish the purpose of Chapter 3745-19 of the Ohio Administrative Code.
 - (4) Except as provided in subsection (a)(6) hereof, permission to open burn must be obtained for each specific project. In emergencies where public health or environmental quality will be seriously threatened by delay while written permission is sought, the fire may be set with oral permission of the Ohio EPA.
 - (5) Violations of any of the conditions set forth by the Ohio EPA in granting permission to open burn shall be grounds for revocation of such permission and refusal to grant future permission, as well as for the imposition of other sanctions provided by law.
 - (6) The Ohio Department of Commerce, Division of State Fire Marshal, may request permission to open burn on an annual basis for the purpose of training firefighters on pre-flashover conditions using the Ohio fire academy's mobile training laboratory at either the academy or at other training sites in Ohio. The annual application required pursuant to subsection (a)(1) hereof shall contain information as required in paragraph (a)(2) of this rule, except the information required in subsections (a)(2)C. and (A)(2)D. hereof need not be provided unless it is available at the time of submittal of the application. The academy shall contact the appropriate Ohio EPA district office or local air agency at least five working days before each training session of the date or dates when the training session will take place and its location. Saturday, Sunday and legal holidays shall not be considered working days.
 - (7) For open burning defined under subsection (d)(2) of Section 1511.03, and paragraph (C)(2) of Rule 3745-19-04 of the Administrative Code, permission to open burn shall not be granted unless the applicant provides proof of written notice of intent to demolish received by the appropriate Ohio EPA field office in accordance with Rule 3745-20-03 of the Ohio Administrative Code.
- (b) Notification.
- (1) Notification shall be submitted in writing at least ten working days before the fire is to be set. Saturday, Sunday and legal holidays shall not be considered working days. It shall be in such form and contain such information as shall be required by the Ohio EPA.
 - (2) Such notification shall inform the Ohio EPA regarding:
 - A. The purpose of the proposed burning;
 - B. The nature and quantities of materials to be burned;

- C. The date or dates when such burning will take place; and
- D. The location of the burning site.
- (3) The Ohio EPA, after receiving notification, may determine that the open burning is not allowed under Chapter 3745-19 of the Administrative Code and the Ohio EPA shall notify the applicant to this effect.
(OAC 3745-19-05)

1511.05 OPEN BURNING; RECREATIONAL FIRES; PORTABLE
OUTDOOR FIREPLACES.

(a) General. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved in accordance with this section.

(b) Prohibited Open Burning. Open burning that is offensive or objectionable because of smoke emissions or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.

(c) Permit Required. A permit shall be obtained from the Fire Code Official in accordance with Rule 1301:7-7-01 of the Ohio Fire Code prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.

(d) Authorization. Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.

(e) Extinguishment Authority. The Fire Code Official is authorized to order the extinguishment by the permit holder, another person responsible or the Fire Department of open burning that creates or adds to a hazardous or objectionable situation.

(f) Location. The location for open burning shall not be less than 50 feet (15,240 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 50 feet (15,240 mm) of any structure.

(g) Exceptions.

- (1) Fires in approved containers that are not less than 15 feet (4572 mm) from a structure.
- (2) The minimum required distance from a structure shall be 25 feet (7620 mm) where the pile size is 3 feet (914 mm) or less in diameter and 2 feet (610 mm) or less in height.
 - A. Bonfires. A bonfire shall not be conducted within 50 feet (15,240 mm) of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions which could cause a fire to spread within 50 feet (15,240 mm) of a structure shall be eliminated prior to ignition.
 - B. Recreational fires. Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions which could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition.

- C. Portable outdoor fireplaces. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within 15 feet (3048 mm) of a structure or combustible material.
Exception: Portable outdoor fireplaces used at one- and two-family dwellings.

(h) Attendance. Open burning, bonfires, recreational fires and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one portable fire extinguisher complying with paragraph (F)(906) of rule 1301:7-7-09 of the Administrative Code with a minimum 4-A rating or other approved on-site fire-extinguishing equipment, such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization. (OAC 1301:7-7-03)

1511.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both.

CHAPTER 1515 Local Regulations

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|---------|---|---------|----------|
| 1515.01 | Rubbish and leaf fires. | 1515.99 | Penalty. |
| 1515.02 | Fire hydrants. | | |
| 1515.03 | Fire-damaged structures;
removal or repair securing
fund. | | |

CROSS REFERENCES

Fire hydrants - see Ohio R.C. 743.09
 Fire Department - see ADM. Ch. 133
 Public safety vehicle defined - see TRAF. 301.27
 Following fire truck - see TRAF. 331.27
 Driving over fire hose - see TRAF. 331.28
 Disposal of rubbish - see S.U. & P.S. Ch. 945
 Fireworks - see FIRE PREV. Ch. 1519

1515.01 RUBBISH AND LEAF FIRES.

(EDITOR'S NOTE: The provisions of former Section 1515.01 were repealed by implication by the adoption of Chapter 1511 which regulates open burning within the City.)

1515.02 FIRE HYDRANTS.

No person shall, in any manner, obstruct or cause to be obstructed any fire hydrant or plug, or place or cause to be placed in or upon any public place or street of the City within ten feet of any fire hydrant or plug, any material, dirt, snow or other substance so as to obstruct the use of the hydrant or plug.
(1941 Code, Sec. 5-53.)

1515.03 FIRE-DAMAGED STRUCTURES; REMOVAL OR REPAIR
SECURING FUND.

The Municipality hereby authorizes the procedure described in Ohio R.C. 3929.86(C) and (D) to be implemented 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 Municipality unless the applicable provisions of Ohio R.C. 3929.86 are fully complied with. The Fire Chief is hereby designated as the officer authorized to carry out the duties of Ohio R.C. 3929.86. The Fire Chief shall file a certified copy of this section with the State Superintendent of Insurance.

1515. 99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than fifty dollars (\$50.00). (Ord. 4871. Passed 11-6-58.)

CHAPTER 1519 Fireworks

1519.01	Definitions.	1519.04	Possession, sale or discharge prohibited; exceptions.
1519.02	Public exhibition permit required; fee; bond; records.	1519.05	Application.
1519.03	Unlawful conduct by exhibitor.	1519.99	Penalty.

CROSS REFERENCES

Manufacturers to comply with building and zoning ordinances - see Ohio R.C. 3743.06(F)
 Wholesalers to comply with building and zoning ordinances - see Ohio R.C. 3743.19(G)
 Arrests, seizure of fireworks by certified fire safety inspector - see Ohio R.C. 3743.68
 Conflict of Fire Marshal's rules with rules of Ohio Board of Building Standards - see Ohio R.C. 3781.11(D)

1519.01 DEFINITIONS.

As used in this chapter:

- (a) "Beer" and "intoxicating liquor" have the same meanings as in Ohio R.C. 4301.01.
- (b) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition and that is ignited by pulling the ends of the string.
- (c) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.
- (d)
 - (1) "1.3 G fireworks" means display fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.3" in Title 49, Code of Federal Regulations.
 - (2) "1.4 G fireworks" means consumer fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.4" in Title 49, Code of Federal Regulations.
- (e) "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.

- (f) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration or detonation, except ordinary matches and except as provided in Section 1519.05.
- (g) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to Ohio R.C. 3743.50 to 3743.55.
- (h) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to Ohio R.C. 3743.02 to 3743.08.
- (i) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to Ohio R.C. 3743.15 to 3743.21.
- (j) "Novelties and trick noisemakers" include the following items:
 - (1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers and snappers;
 - (2) Snakes or glow worms;
 - (3) Smoke devices;
 - (4) Trick matches.
- (k) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling string protruding from the item, and from which paper streamers are expelled when the item is ignited.
- (l) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs and sidings installed and primarily used in serving a mine, quarry or plant.
- (m) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.
- (n) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.
- (o) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.
- (p) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.
- (q) "Wire sparkler" means a sparkler consisting of a wire or stick coated with a non-explosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture. (ORC 3743.01)

1519.02 PUBLIC EXHIBITION PERMIT REQUIRED; FEE; BOND; RECORDS.

(a) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition within the Municipality shall apply for approval to conduct the exhibition to the Fire Chief and from the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

The required approval shall be evidenced by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer, signing a permit for the exhibition, the form for which shall be prescribed by the State Fire Marshal. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the Fire Marshal or, if it is available, from the Fire Chief, Fire Prevention Officer, Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or similar chief law enforcement officer.

(b) Before a permit is signed and issued to a licensed exhibitor of fireworks, the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show the applicant's license as an exhibitor of fireworks to the Fire Chief or Fire Prevention Officer.

The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) and that the applicant is, in fact, a licensed exhibitor of fireworks. The Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke the permit for noncompliance with the rules.

(c) The Fire Chief or Fire Prevention Officer and the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the applicant pays a permit fee of twenty-five dollars (\$25.00) plus any necessary costs of investigation of the applicant and of inspecting the premises on which the exhibition will be conducted.

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars (\$1,000,000), with surety satisfactory to the Fire Chief or Fire Prevention Officer and to Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars (\$1,000,000) for liability arising from injury, death or loss to persons or property emanating from the fireworks exhibition. The Legislative Authority may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this subsection. The Fire Chief or Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this subsection.

- (d) (1) Each permit for a fireworks exhibition issued by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall contain a distinct number, designate the Municipality, and identify the certified Fire Safety Inspector, Fire Chief or Fire Prevention Officer who will be present before, during, and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the Fire Chief or Fire Prevention Officer and by the Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, issuing it to the Fire Marshal, who shall keep a record of the permits received. A permit is not transferable or assignable.

- (2) The Fire Chief, Fire Prevention Officer and Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, Fire Prevention Officer, Police Chief or other similar chief law enforcement officer, or a designee of such Police Chief or similar chief law enforcement officer, shall list the name of the exhibitor, the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition and the number of the permit issued to the exhibitor for the exhibition.

(e) The governing authority having jurisdiction in the location where an exhibition is to take place shall require that a certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer be present before, during, and after the exhibition, and shall require the certified Fire Safety Inspector, Fire Chief, or Fire Prevention Officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this chapter and Ohio R.C. Chapter 3743. (ORC 3743.54)

1519.03 UNLAWFUL CONDUCT BY EXHIBITOR.

- (a) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the Fire Marshal pursuant to Ohio R.C. 3743.53(B) and (E) or to comply with Divisions (C) and (D) of that section.
- (b) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Section 1519.02 or if a permit so secured is revoked by the Fire Chief or Fire Prevention Officer in consultation with the Police Chief or other similar chief law enforcement official or a designee of such Police Chief or other similar law enforcement official pursuant to that section.
- (c) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with Ohio R.C. 3743.54 and 3743.55.
- (d) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer or controlled substance while on the premises on which the exhibition is being conducted.
- (e) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the Fire Marshal under Ohio R.C. 3743.56. (ORC 3743.64)

1519.04 POSSESSION, SALE OR DISCHARGE PROHIBITED; EXCEPTIONS.

- (a) No person shall possess fireworks in this Municipality or shall possess for sale or sell fireworks in this Municipality, except a licensed manufacturer of fireworks as authorized by Ohio R.C. 3743.02 to 3743.08, a licensed wholesaler of fireworks as authorized by Ohio R.C. 3743.15 to 3743.21, a shipping permit holder as authorized by Ohio R.C. 3743.40, an out-of-state resident as authorized by Ohio R.C. 3743.44, a resident of this State as authorized by Ohio R.C. 3743.45, or a licensed exhibitor of fireworks as authorized by Ohio R.C. 3743.50 to 3743.55 and Section 1519.02 and except as provided in Section 1519.05.

(b) Except as provided in Section 1519.05 and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 to 3743.55 and Section 1519.02, no person shall discharge, ignite or explode any fireworks in this Municipality.

(c) No person shall use in a theater or public hall, what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.

(d) No person shall sell fireworks of any kind to a person under eighteen years of age. No person under eighteen years of age shall enter a fireworks sales showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under eighteen years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.

(e) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder, shall possess 1.3 G fireworks.
(ORC 3743.65)

1519.05 APPLICATION.

This chapter does not prohibit or apply to the following:

- (a) The manufacture, sale, possession, transportation, storage or use in emergency situations, of pyrotechnic signaling devices and distress signals for marine, aviation or highway use;
- (b) The manufacture, sale, possession, transportation, storage or use of fuses, torpedoes or other signals necessary for the safe operation of railroads;
- (c) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals or for ceremonial purposes;
- (d) The manufacture for, the transportation, storage, possession or use by, or sale to the Armed Forces of the United States and the militia of this State of pyrotechnic devices;
- (e) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage or use of those caps;
- (f) The manufacture, sale, possession, transportation, storage or use of novelties and trick noisemakers, auto burglar alarms or model rockets and model rocket motors designed, sold and used for the purpose of propelling recoverable aero models;
- (g) The manufacture, sale, possession, transportation, storage or use of wire sparklers.

- (h) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges, provided that the exhibition complies with all of following:
- (1) No explosive aerial display is conducted in the exhibition;
 - (2) The exhibition is separated from spectators by not less than two hundred feet;
 - (3) The person conducting the exhibition complies with regulations of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury and the United States Department of Transportation with respect to the storage and transport of the explosive black powder used in the exhibition.
(ORC 3743.80)

1519.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for a first offense and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both. (ORC 3743.99(C))